

ACTS
OF THE
FIFTY-SECOND
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION 1955

**FIRST EXTRAORDINARY
SESSION 1955**

REGULAR SESSION 1956

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.



FOREWORD

This volume includes the Acts of the 1955 Regular Session, the First Extraordinary Session of 1955 and the 1956 Regular Session of the Fifty-second West Virginia Legislature. It also includes resolutions of general interest adopted by the Legislature and the two Houses thereof during the three sessions.

Regular Session 1955

The 60-day regular session convened on January 12 and adjourned sine die March 14, 1955. There was a total of 931 bills introduced—533 House Bills and 398 Senate Bills. The Legislature passed 139 House Bills and 77 Senate Bills.

Of the 216 enactments of the session, the Governor approved 206, vetoed six and permitted three to become law without approval. The Budget Bill does not require executive action. The Acts vetoed were: H. B. 31 (Audits by Legislative Auditor), H. B. 153 (Board of Chiropractic Examiners), S. B. 29 (Lists and Records of Department of Public Assistance), S. B. 141 (Reorganization of State Road Commission), S. B. 334 (Special Fund, Department of Purchases) and S. B. 336 (Control of Expenditures by Director of the Budget).

During the session there were 29 House Concurrent, 15 House Joint and 31 House Resolutions, of which 10 House Concurrent, two House Joint and 28 House Resolutions were adopted. Twenty-nine Senate Concurrent, 9 Senate Joint and 12 Senate Resolutions were offered, of which 17 Senate Concurrent, one Senate Joint and 12 Senate Resolutions were adopted.

Ninety-nine House Bills, passed by the House, failed of passage by the Senate; and 28 Senate Bills, passed by the Senate, failed of passage by the House. Two bills (H. B. 48, fees for special motor vehicle license plates, and S. B. 14, use of micro-waves in checking speed of motor vehicles) died in conference.

First Extraordinary Session of 1955

This extraordinary session was called by the Governor "For the purpose of considering and acting upon measures to meet the grave financial problems confronting public schools and state supported higher education in this State, including salary increases for teaching personnel, social security coverage for all employees, and necessary revenue measures."

The session started on May 9 and adjourned sine die on May 13, 1955.

During the session there was a total of 37 bills introduced—21 House Bills and 16 Senate Bills. The Legislature passed two bills—S. B. 3 and S. B. 4—which were approved by the Governor.

There were one House Concurrent, one House Joint and seven House Resolutions, of which one Concurrent, no House Joint and seven House Resolutions were adopted. The Senate had six Concurrent, no Joint and six Senate Resolutions, of which five Concurrent and six Senate Resolutions were adopted.

The House did not pass a single one of the 21 bills introduced. Eight Senate Bills, passed by the Senate, failed of passage by the House.

Regular Session 1956

The first regular thirty-day session of the Legislature, under the Constitutional Amendment approved by the voters in 1954, convened on January 11 and adjourned sine die February 10, 1956.

During the session there was a total of 60 bills introduced—35 House Bills and 25 Senate Bills. The Legislature passed 11 House Bills and 5 Senate Bills. The Governor approved all enactments of the session, with the exception of the Budget Bill which does not require his approval.

There were 14 House Concurrent, one House Joint and 14 House Resolutions, of which six Concurrent, no House Joint and 14 House Resolutions were adopted. The Senate had eight Concurrent, two Joint and 11 Senate Resolutions, of which three Concurrent, no Joint and 10 Senate Resolutions were adopted.

Five House Bills, passed by the House, failed of passage by the Senate, and one Senate Bill, passed by the Senate, failed of passage by the House.

This volume may be purchased from the State Department of Purchases, State Capitol, Charleston 5, W. Va.

**C. A. BLANKENSHIP, Clerk,
House of Delegates**

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LEGISLATURE OF WEST VIRGINIA

MEMBERS, OFFICERS AND STANDING COMMITTEES

FIFTY-SECOND LEGISLATURE

SENATE OFFICERS

President—RALPH J. BEAN, Moorefield
President Pro Tempore—FRED C. ALLEN, Marlinton
Clerk—J. HOWARD MYERS, Martinsburg
Sergeant-at-Arms—DAVE CAUDLE, Welch
Doorkeeper—PAUL BABICH, Beckley

District	Name	Address
First	*Frank L. Campbell (D)	Wheeling
	Herbert Traubert (D)	Follansbee
Second	Theodore M. Bowers (R)	New Martinsville
	*John E. Carrigan (R)	Moundsville
Third	Harry E. Moats (R)	Harrisville
	*Andy Swearingen (R)	Parkersburg
Fourth	Bartow Jones (R)	Point Pleasant
	*Brad Sayre (R)	Ripley
Fifth	C. H. McKown (D)	Wayne
	*Lyle A. Smith (D)	Huntington
Sixth	William Mitchell (D)	Welch
	*Glenn Taylor (D)	Matewan
Seventh	Glenn Jackson (D)	Logan
	*Lloyd G. Jackson (D)	Hamlin
Elighth	John E. Amos (D)	Charleston
	*A. Carl Carey (D)	Charleston
Ninth	*Jack A. Nuckols (D)	Beckley
	Ward Wylie (D)	Mullens
Tenth	O. H. Ballard (D)	Princeton
	*O. Roy Parker (D)	Union
Eleventh	*W. N. Jasper, Jr. (D)	Lewisburg
	J. Alfred Taylor, Jr. (D)	Fayetteville
Twelfth	Fred C. Allen (D)	Marlinton
	*John B. Chenoweth (D)	Elkins
Thirteenth	*Walter A. Holden (D)	Salem
	Raymond J. Vassar (R)	Weston
Fourteenth	O. G. Hedrick (D)	Fairmont
	*Don K. Marchand (D)	Morgantown
Fifteenth	A. L. Reed (R)	Newburg
	*Dayton R. Stemple (R)	Phillippi
Sixteenth	Ralph J. Bean (D)	Moorefield
	*Clarence E. Martin, Jr. (D)	Martinsburg
(D) Democrats		23
(R) Republicans		9
Total		32

*Hold-over Senators, elected in 1954, who will be members of the 53rd Legislature.

HOUSE OF DELEGATES

OFFICERS

Speaker—W. E. FLANNERY, Man

Clerk—C. A. BLANKENSHIP, Pineville

Sergeant-at-Arms—DON YOAK, Grantsville

Doorkeeper—CLYDE W. REINHART, Gauley Bridge

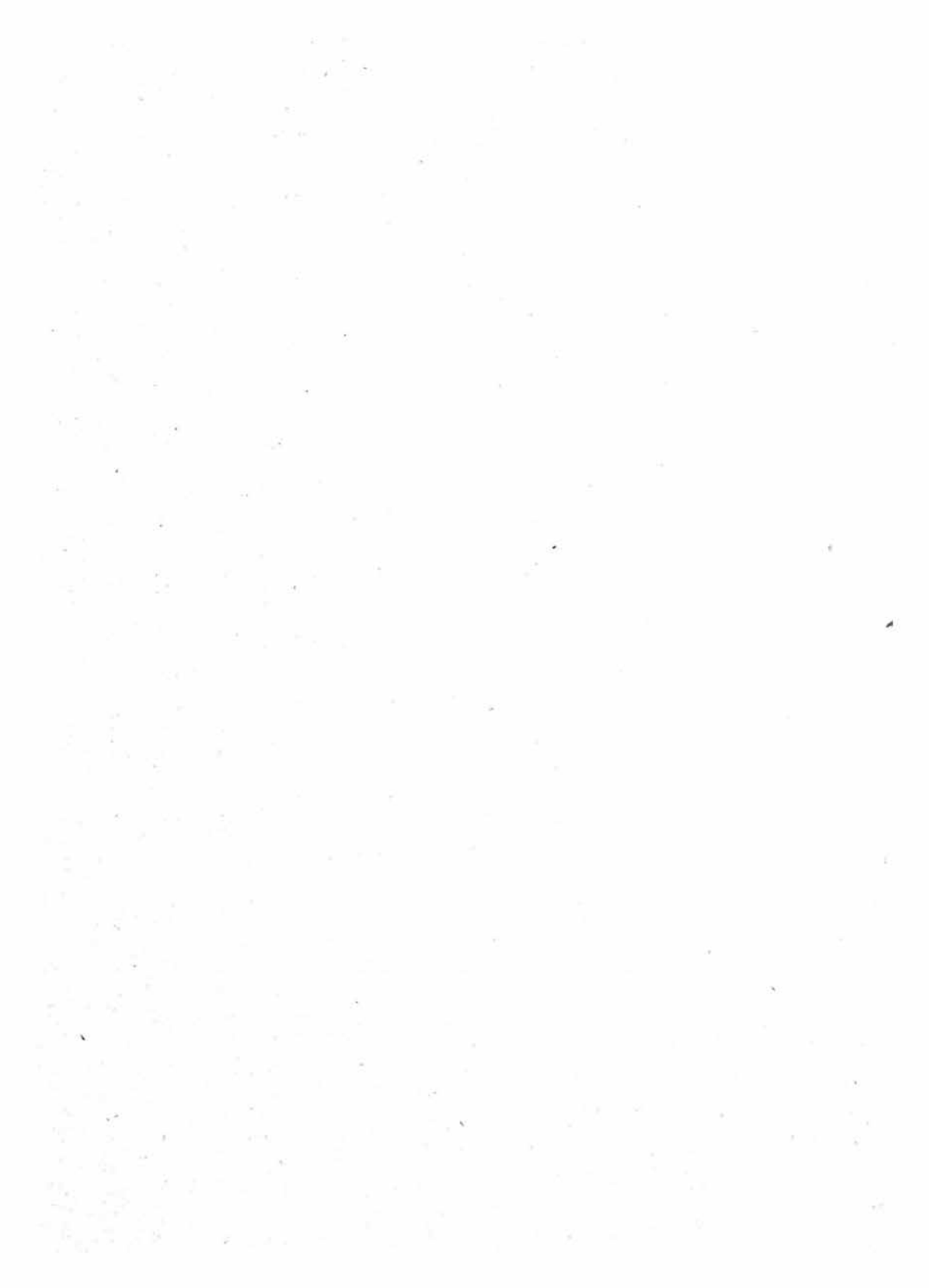
County	Name	Address
Barbour	Denzel Smith (D)	Philippi, Rt. 3
Berkeley	Stewart A. Wright (D)	Martinsburg
Boone	E. E. White (D)	Madison
Braxton	Ralph L. Warner (R)	Gassaway
Brooke	W. R. Curtis (D)	Wellsburg
Cabell	Tennynson J. Bias (D)	Huntington
	Joe G. Gentry (D)	Huntington
	T. E. Holderby (R)	Huntington
	Hugh A. Kincaid (D)	Huntington
	J. B. Poindexter (D)	Huntington
Calhoun	C. O. Bower (D)	Big Bend
Clay	J. C. Cruikshank (D)	Ivydale
Doddridge	Clay D. Hammond (R)	West Union
Fayette	Hobart Booth, Jr. (D)	Oak Hill
	P. H. Kelly (D)	Montgomery
	Joe Lilly (D)	Oak Hill
	*T. E. Myles	Fayetteville
Gilmer	Paul H. Kidd (D)	Glenville
Grant	Larkin B. Ours (R)	Dorcas
Greenbrier	Richard H. Bowman (D)	Rainelle
	John A. Lile (D)	Lewisburg
Hampshire	John R. Blue (D)	Romney
Hancock	C. Dayton King (R)	Weirton
Hardy	James M. Miley (D)	Moorefield
Harrison	Ralph J. Keister (D)	Clarksburg
	Frank J. Maxwell, Jr. (D)	Clarksburg
	Harry C. Morrison, Jr. (D)	Clarksburg
	Fred H. Scanes, Jr. (D)	Clarksburg
Jackson	Vernon McCoy (R)	Millwood, R. F. D.
Jefferson	Wm. P. C. Perry (D)	Charles Town
Kanawha	Larry W. Andrews (D)	Charleston
	John R. Barnes (D)	Clendenin
	Pat Board, Jr. (D)	Charleston
	Martin C. Bowles (D)	Charleston
	W. T. Brotherton, Jr. (D)	Charleston
	W. E. Chilton (D)	Charleston
	J. Horner Davis, II (D)	Charleston
	J. Henry Francis, Jr. (D)	Charleston
	John L. Goshorn (D)	Charleston
	Edward W. Hiserman (D)	Charleston
	James W. Loop (D)	Charleston
Lewis	Mrs. Helen Holt (R)	Weston
Lincoln	L. E. Thompson (D)	Hamlin
Logan	John C. Barber (D)	Holden
	Grover C. Combs (D)	Man
	W. E. Flannery (D)	Man
	†Earl B. Hager	Logan

*Appointed by the Governor on August 22, 1955, to succeed Mrs. Nell W. Walker of Winona, who resigned to become State Banking Commissioner.

†Appointed by the Governor on December 16, 1955, to succeed Charles L. Williams of Man, who resigned to become a member of the West Virginia Liquor Control Commission.

County	Name	Address
Marion	Nicola Fantasia (D)	Kingmont
	William J. Parker (D)	Fairmont
	J. E. Watson (D)	Fairmont
Marshall	Edward C. Pastilong (D)	Moundsville
	Thomas E. Welch (R)	McMechen
Mason	C. W. Stevens (R)	Apple Grove
McDowell	Vernon Q. Callaway (D)	Welch
	Mrs. Elizabeth Drewry (D)	Northfork
	W. L. Mills (D)	Welch
	William H. Richardson (D)	Kimball
	Irvine Saunders (D)	Welch
Mercer	Andrew L. Clark (D)	Princeton
	G. T. Johnston (D)	Bluefield
	Robert M. Richardson (D)	Bluefield
Mineral	Joseph W. Kessel (R)	Keyser
Mingo	Noah E. Floyd (D)	Williamson
	Everett R. Thompson (D)	Williamson
Monongalia	George Fumich, Jr. (D)	Pursglove
	Walter Holdsworth (D)	Morgantown
	Charles W. Lloyd (D)	Morgantown
Monroe	T. G. Matney (D)	Peterstown
Morgan	Ward M. Dawson, Sr. (R)	Berkeley Springs
Nicholas	Don Crislip (R)	Richwood
Ohio	Jack R. Adams (D)	Wheeling
	George F. Beneke (R)	Wheeling
	George H. Seibert, Jr. (R)	Wheeling
Pendleton	William McCoy, Jr. (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	Frank P. McLaughlin (D)	Marlinton, R. F. D.
Preston	Richard Whetsell (R)	Kingwood
Putnam	Dorsel E. Smith (D)	Buffalo
Raleigh	J. E. Blackburn (D)	Bradley
	W. A. Burke (D)	Beckley
	Everett R. Shafer (D)	Beckley
	Paul J. Vennari (D)	Beckley
Randolph	Earl H. Stalnaker (D)	Elkins
Ritchie	J. F. Deem (R)	Harrisville
Roane	Mark K. Hersman (R)	Spencer
Summers	C. D. McCormick (D)	Hinton
Taylor	Glenn Sapp (D)	Grafton
Tucker	Joseph R. Gilmore (D)	Parsons
Tyler	Cecil H. Underwood (R)	Sistersville
Upshur	Richard L. Young (R)	Buckhannon
Wayne	Julius C. Fry (D)	Stiltner
	H. T. Tucker (D)	Huntington
Webster	Orvan Hammon (D)	Webster Springs
Wetzel	Herbert Schupbach (D)	New Martinsville
Wirt	G. R. West (R)	Elizabeth
Wood	Spencer K. Creel (R)	Parkersburg
	Wm. P. A. Nicely (R)	Parkersburg
	George H. Whaley (R)	Parkersburg
Wyoming	Paul Bower (D)	Mullens
	J. Paul England (D)	Pineville

(D) Democrats 76
 (R) Republicans 24
 Total 100



LEGISLATURE OF WEST VIRGINIA

ACTS OF 1955

REGULAR SESSION

CHAPTER 1

(House Bill No. 93—By Mr. Brotherton and Mr. Whaley)

AN ACT to amend and reenact section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to plaintiff, amount of damages, distribution of amount recovered and limitation on time in which action shall be commenced where death of a person is caused by wrongful act, neglect or default.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Actions for Injuries.

Section

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

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Party Plaintiff in Such Action; Damages; Distribution; Limitation.*—Every such action shall be brought by and in the name of the personal representative of such deceased person, and the amount recovered in every such

5 action shall be distributed to the parties and in the pro-
6 portion provided by law in relation to the distribution of
7 personal estate, left by persons dying intestate. In every
8 such action the jury may give such damages as they shall
9 deem fair and just, not exceeding ten thousand dollars:
10 *Provided, however,* If the plaintiff in such action shall
11 prove by a preponderance of the evidence financial or
12 pecuniary loss sustained by a distributee or distributees
13 of such deceased person in an amount exceeding the sum
14 of ten thousand dollars the jury may give such damages
15 as shall equal such financial or pecuniary loss, not exceed-
16 ing twenty thousand dollars as the total of all damages
17 recoverable in such action, and the amount so recovered
18 shall not be subject to any debts or liabilities of the
19 deceased. Every such action shall be commenced within
20 two years after the death of such deceased person.

CHAPTER 2

(House Bill No. 420—By Mr. Andrews and Mr. Whaley)

AN ACT to amend and reenact section six, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to objections to claims, and when claims to be proved by other evidence, and funeral expenses.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

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

Section

6. Objections to claims, and when claims to be proved by other evidence; funeral expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Objections to Claims, and When Claims to be Proved by other Evidence; Funeral Expenses.*—Every claim so itemized, so accompanied by proper vouchers, and so verified, shall be taken to be proved, and shall be allowed, unless before the commissioner shall make up his report of claims the personal representative or a distributee, or a legatee, or, in the case of estates that appear to be insolvent, a creditor, shall file before the commissioner a counter affidavit, denying the claim in whole or in part; and when said counter affidavit is so filed the commissioner shall fix a time and place for hearing evidence for and against such claim and give reasonable notice of such time and place to the claimant, the party objecting, and the personal representative. Claims for funeral expenses shall be made and determined in the same manner as any other claims.

CHAPTER 3

(Senate Bill No. 316—By Mr. Martin)

AN ACT to amend and reenact section three, article five, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to non-resident fiduciaries.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. General Provisions as to Fiduciaries.

Section

3. Nonresident not to be appointed.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Nonresident Not to Be Appointed.*—Notwithstanding any other provision of law, no person not

3 a resident of this state nor any nonresident banking
4 institution nor any corporation having its principal of-
5 fice or place of business outside of the state of West
6 Virginia shall be appointed or act as executor, adminis-
7 trator, curator, guardian, or committee, except that a
8 testator who is a nonresident of the state at the time
9 of his death may name, and there may be appointed and
10 act, a nonresident as his executor, and except that for
11 the guardian of an infant who is a nonresident of the
12 state there may be appointed the same person who was
13 appointed guardian at the domicile of the infant.

CHAPTER 4

(Senate Bill No. 231—By Mr. Martin)

AN ACT to amend and reenact section two, article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to securities in which fiduciaries may invest trust funds.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Investments by Fiduciaries.

Section

2. In what securities fiduciaries may invest trust funds.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *In What Securities Fiduciaries May Invest*

2 *Trust Funds.*—Any executor, administrator, guardian,
3 curator, committee, trustee, or other fiduciary whose duty
4 it may be to loan or invest money intrusted to him as
5 such, may without any order of any court, invest the
6 same or any part thereof in any of the following securi-
7 ties, and without liability for any loss resulting from in-
8 vestments therein: *Provided*, That such fiduciary shall

9 exercise the judgment and care under the circumstances
10 then prevailing which men of prudence, discretion and
11 intelligence exercise in the management of their own
12 affairs, not in regard to speculation, but in regard to the
13 permanent disposition of their funds, considering the
14 probable income as well as the probable safety of their
15 capital:

16 (a) In bonds or interest-bearing notes or obligations
17 of the United States, or those for which the faith of the
18 United States is distinctly pledged to provide for the
19 payment of the principal and interest thereof, including
20 bonds issued under the federal farm loan act;

21 (b) In bonds or interest-bearing notes or obligations
22 of this state;

23 (c) In bonds of any state of the United States which
24 has not within ten years previous to the making of such
25 investment defaulted in the payment of any part of
26 either principal or interest on any of its bonds issued by
27 authority of the legislature of such state;

28 (d) In the bonds or interest-bearing notes or obliga-
29 tions of any county, district, school district or independent
30 school district, municipality, or any other political divi-
31 sion of this state that have been issued pursuant to the
32 authority of any law of this state, since the ninth of May
33 of the year one thousand nine hundred seventeen;

34 (e) In bonds and negotiable notes secured by first
35 mortgage or first trust deed upon improved real estate
36 in this state where the amount secured by such mort-
37 gage or trust deed shall not at the time of making the
38 same exceed eighty per cent of the assessed value, or
39 fifty per cent of the appraised value as determined by
40 wholly disinterested and independent appraisers, which-
41 ever value shall be the higher, of the real estate covered
42 by such mortgage or trust deed, and when such mortgage
43 or trust deed is accompanied by a satisfactory abstract
44 of title, certificate of title, or title insurance policy, show-
45 ing good title in the mortgagor when making such mort-
46 gage or trust deed, and by a fire insurance policy in an
47 old line company with loss, if any, payable to the mort-
48 gagee or trustee as his interest may appear: *Provided,*
49 That the rate of interest upon the above enumerated

50 securities in this subsection (e), in which such invest-
51 ment may be made, shall not be less than two per cent,
52 nor more than seven per cent, per annum;

53 (f) In savings accounts and time deposits of bank or
54 trust companies to the extent that such deposits are in-
55 sured by the federal deposit insurance corporation, or
56 by any other similar federal instrumentality that may be
57 hereafter created, provided there shall be such an in-
58 strumentality in existence and available for the purpose,
59 or, by bonds of solvent surety companies: *Provided*, That
60 the rate of interest upon such savings accounts or time
61 deposits shall not be less than the rate paid other de-
62 positors in such bank or trust company;

63 (g) In shares of state building and loan associations,
64 or federal savings and loan associations, to the extent
65 that such shares are insured by the federal savings and
66 loan insurance corporation, or by any other similar
67 federal instrumentality that may be hereafter created,
68 provided that there shall be such an instrumentality in
69 existence and available for the purpose, or by bonds of
70 solvent surety companies: *Provided*, That the dividend
71 rate upon such shares shall not be less than the rate
72 paid to other shareholders in such associations.

73 (h) In other securities of corporations organized and
74 existing under the laws of the United States or of the
75 District of Columbia or any state of the United States
76 including, but not by way of limitation, bonds, debentures,
77 notes, equipment trust obligations or other evi-
78 dences of indebtedness, and shares of common and preferred
79 stocks of such corporations and securities of any
80 open end or closed end management type investment company
81 or investment trust registered under the federal
82 investment company act of 1940, as from time to time
83 amended, which men of prudence, discretion and intelligence
84 acquire or retain for their own account, provided
85 and upon condition, however, that: (1) no investment
86 shall be made pursuant to the provisions of this subsection
87 (h) which, at the time such investment shall be made, will
88 cause the aggregate market value thereof to exceed
89 thirty-five per cent of the aggregate market value at that
90 time of all of the property of the fund held by such

91 fiduciary; (2) no bonds, debentures, notes, equipment
92 trust obligations or other evidence of indebtedness of
93 such corporations shall be purchased under authority of
94 this subsection (h) unless such obligations, if other than
95 issues of a common carrier subject to the provisions of
96 section 20a of the interstate commerce act as amended,
97 shall be obligations issued, guaranteed or assumed by
98 corporations which have any securities currently regis-
99 tered with the securities and exchange commission; and
100 (3) no common or preferred stocks, other than bank and
101 insurance company stocks, shall be purchased under
102 authority of this subsection (h) unless currently fully
103 listed and registered upon an exchange registered with
104 the securities and exchange commission as a national
105 securities exchange. No sale or other liquidation of any
106 investment shall be required solely because of any change
107 in the relative market value of those investments made
108 eligible by this subsection (h) and those made eligible
109 by the preceding paragraphs of this section. In determin-
110 ing the aggregate market value of the property of a fund
111 and the percentage of a fund to be invested under the
112 provisions of this subsection, a fiduciary may rely upon
113 published market quotations as to those investments for
114 which such quotations are available, and upon such valu-
115 ations of other investments as in the fiduciary's best
116 judgment seem fair and reasonable according to avail-
117 able information.

118 Trust funds received by executors, administrators,
119 guardians, curators, committees, trustees and other fidu-
120 ciaries may be kept invested in the securities originally
121 received by them, unless otherwise ordered by a court
122 having jurisdiction of the matter, as hereinafter provided,
123 or unless the instrument under which the trust was
124 created shall direct that a change of investment be made,
125 and any such fiduciary shall not be liable for any loss
126 that may occur by depreciation of such securities.

127 This section shall not apply where the instrument
128 creating the trust, or the last will and testament of any
129 testator, or any court having jurisdiction of the matter,
130 specially directs in what securities the trust funds shall

131 be invested, and every such court is hereby given power
132 specially to direct by order or orders, from time to time,
133 additional securities in which trust funds may be in-
134 vested, and any investment thereof made in accordance
135 with any such special direction shall be legal, and no
136 executor, administrator, guardian, curator, committee,
137 trustee or other fiduciary, shall be held for any loss re-
138 sulting in any such case.

CHAPTER 5

(Senate Bill No. 253—By Mr. Martin and Mr. Stemple)

AN ACT to amend and reenact section thirty-five, article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to tests for bovine tuberculosis and disposition of infected bovine animals.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Diseases Among Domestic Animals.

Section

35. Tests for bovine tuberculosis and disposition of infected bovine animals.

Be it enacted by the Legislature of West Virginia:

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

Section 35. *Tests for Bovine Tuberculosis and Disposition of Infected Bovine Animals.*—The commissioner, or his agent, or the inspectors of the United States department of agriculture shall possess authority to test with tuberculin any bovine animal kept within the state, subject to such rules and regulations as the commissioner may prescribe. The tuberculin test shall be applied to bovine animals at such times as may be designated by the commissioner in the control and eradication of bovine

10 tuberculosis in this state, and all cows whose milk is
11 sold for human consumption or manufacture, and all
12 uncastrated beef animals, shall be tested with tuberculin
13 insofar as may be possible.

14 When a bovine animal is found by the officer making
15 the test to give what the commissioner shall have pre-
16 scribed by his rules and regulations to be a clearly de-
17 fined reaction to such test, the animal shall be considered
18 to be infected with bovine tuberculosis, and shall be
19 marked or branded upon the left jaw with a capital "T"
20 not less than two inches high, one and one-half inches
21 wide, with mark one-fourth of an inch wide, and such
22 branding shall not be construed as cruelty to animals
23 within the meaning of the penal laws of the state.

24 All bovine animals within the state which are deemed
25 tuberculous, either as a result of a physical examination
26 or the tuberculin test, shall be slaughtered, and if the
27 owner of any such animal shall demand indemnity there-
28 for, he shall execute the agreement provided for in sec-
29 tion twenty-eight of this article, and such animal shall
30 be appraised as provided in section thirty, and appraisal
31 certificate issued as provided in section thirty-one, and
32 the slaughter supervised and certificate of same issued
33 as provided in section thirty-two of this article.

C

CHAPTER 6

(Com. Sub. for House Bill No. 192—Originating in the House Committee on
Agriculture)

AN ACT to amend chapter nineteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, to be designated twenty-a,
relating to the vaccination of dogs and the prevention of
rabies.

[Passed March 8, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 20-a. Vaccination of Dogs for Rabies.**Section**

1. Purpose and policy.
2. Vaccination of dogs.
3. Vaccination record and report.
4. Vaccination tag and certificate.
5. Vaccine furnished by person administering same; fee.
6. Penalties.
7. Enforcement of law.
8. Dogs vaccinated may run at large; confinement may be required.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Purpose and Policy.*—This article is hereby declared to be an emergency measure to dispose of a surplus lot of dogs and to check the spread of rabies for the immediate preservation of life, health and safety for the reason that rabies is spreading among dogs, and becoming a menace and danger to people, livestock, poultry and game, and the provisions herein are designated to prevent the spread of rabies and its menace to all living things.

Sec. 2. *Vaccination of Dogs.*—Whoever owns, keeps or harbors a dog or dogs within the boundaries of any county in the state of West Virginia shall, on or before the first day of June, one thousand nine hundred fifty-five, have such dog or dogs properly vaccinated or immunized against rabies, and shall each year thereafter have such dog or dogs revaccinated. After the first day of June, one thousand nine hundred fifty-five, whoever obtains an unvaccinated dog or dogs shall at once have such dog or dogs properly vaccinated against rabies and shall have such vaccination repeated yearly: *Provided, however,* That dogs need not be vaccinated before the age of three months: *Provided further,* That dogs entering the state of West Virginia temporarily cannot be kept and maintained within the state of West Virginia for a period of more than thirty days unless properly vaccinated. Any one owning a dog or dogs can have them vaccinated by

18 any veterinarian, or doctor of medicine or any substitute
19 working with or under any veterinarian or doctor of
20 medicine, subject to the approval of the county court or
21 the county health department.

Sec. 3. *Vaccination Record and Report.*—Whoever vac-
2 cinates or revaccinates a dog or dogs against rabies shall
3 keep a record of such vaccination or revaccination, and
4 on or before the first day of each calendar month there-
5 after, shall mail to or deliver to the county clerk of the
6 county where the vaccination takes place a report of such
7 vaccination or revaccination which shall include a number
8 identifying the individual record of the dog vaccinated,
9 a complete description of the dog, place where the dog
10 is kept or harbored, name of the owner, keeper or har-
11 borer, his or her address, date and type of vaccination
12 or revaccination and such other information as may be
13 required by the county health department or the county
14 court over the signature of the person reporting.

Sec. 4. *Vaccination Tag and Certificate.*—There shall
2 be provided by the state department of agriculture uni-
3 form certificates to be approved by the commis-
4 sioner of agriculture, and which shall be furnished to
5 each county so that the veterinarian or doctor of medi-
6 cine, or the person vaccinating each animal can make
7 his proper reports, and he shall retain one for himself,
8 give a certificate to the owner for whom he does the work,
9 and file one copy with the clerk of the county court. Tags
10 to be furnished by the county court shall be of a dis-
11 tinctive and easily recognized color, and shall have there-
12 on engraved, or stamped, the year of vaccination and the
13 number indicating the record above described. Such
14 tag shall be securely fastened to the collar worn by
15 the dog and shall be given to the owner by the veterinar-
16 ian, the doctor of medicine or the person vaccinating
17 the dog at the time of vaccination.

Sec. 5. *Vaccine Furnished by Person Administering*
2 *Same; Fee.*—It shall be the duty of the veterinarian,
3 doctor or person vaccinating each animal to furnish the
4 vaccine which he administers and he shall charge and

5 collect for his services a fee not to exceed one dollar and
6 fifty cents for each animal vaccinated.

Sec. 6. *Penalties.*—Whoever owns, keeps or harbors a
2 dog or dogs and fails to have such dog or dogs vaccinated
3 or revaccinated against rabies; and whoever vaccinates
4 a dog or dogs against rabies and fails or refuses to keep
5 and report the required record of such vaccination, or
6 fails or refuses to provide the required tag, or whoever
7 obstructs or interferes in any way with the enforcement
8 of any section of this article, shall, upon conviction, be
9 fined not less than ten dollars nor more than fifty dollars,
10 or be confined in the county jail not less than ten days
11 nor more than sixty days, or both.

Sec 7. *Enforcement of Law.*—The enforcement of the
2 provisions of this article shall be in the hands of the
3 sheriff of each county, any of his deputies, constables,
4 conservation commission officers, commonly known as
5 game wardens, and, if deemed necessary, there shall be
6 a special officer to be appointed by the county court, who
7 is authorized, empowered, and directed to inspect rabies,
8 pick up dogs and dispose of dogs which are not taxable
9 or not vaccinated according to this article. The sheriff of
10 each county can have one or more sittings, if deemed
11 necessary, in each district of the county, at which he shall
12 be present or have present one of his deputies or the
13 special officer above provided for, to take charge of all
14 delinquent dogs and homeless dogs that are not vac-
15 cinated. The assessor of each county, or one of his deputies,
16 shall accompany the veterinarian, doctor, or the one who
17 administers the vaccine in these sittings for the purpose
18 of collecting taxes on dogs. All dogs that are not vac-
19 cinated and taxes paid upon shall become the responsi-
20 bility of the sheriff to catch and dispose of as is provided
21 by law.

Sec. 8. *Dogs Vaccinated May Run at Large; Confine-
2 ment May Be Required.*—Dogs vaccinated in compliance
3 with the provisions of this article may run at large in any
4 area or locality subject to a quarantine established by the
5 commissioner of agriculture pursuant to article nine of

6 this chapter, but the commissioner may, in his discre-
7 tion, require all such vaccinated dogs, as well as dogs
8 not vaccinated, within the limits of any such quarantined
9 area or locality to be confined as provided in said article
10 nine.

CHAPTER 7

(Senate Bill No. 133—By Mr. Traubert)

AN ACT to amend and reenact section seventeen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to handling and disposition of moneys collected by the West Virginia liquor control commission.

[Passed February 22, 1955; in effect from passage. Approved by the Governor.]

Article 3. Sales by Commission.

Section

17. Regulations as to handling and depositing of moneys collected; monthly remittances.

Be it enacted by the Legislature of West Virginia:

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

Section 17. *Regulations as to Handling and Depositing of Moneys Collected; Monthly Remittances.*—The commission, with the approval of the governor and the state treasurer, shall prescribe regulations for the handling and depositing of all moneys collected by the commission. All receipts accruing to and available for the general revenue fund as profits from the commission shall be remitted by the commission to the state treasury monthly within fifteen days next after the end of each calendar month.

CHAPTER 8

(Senate Bill No. 335—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact sections fifteen, eighteen and nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to regulation and control of the stock and funds of the West Virginia liquor control commission.

[Passed March 8, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 3. Sales by Commission.

Section

15. Amount of stock allowed; contract for manufacture of state brand.
18. Operating fund; continuation and use.
19. Amount of operating fund; payment into veterans' bonus sinking fund; disposition of excess.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Amount of Stock Allowed; Contract for*
2 *Manufacture of State Brand.*—In order to avoid the ac-
3 cumulation of excessive stocks in warehouses and stores,
4 the commission shall so plan its purchases of alcoholic
5 liquors for sale in state stores and agencies that the
6 stock on hand at any time does not exceed the estimated
7 requirements for sixty days' sales, and the amount of
8 operating fund and the value of inventory stock shall not
9 exceed six million dollars.

10 The commission may, with the consent of the governor,
11 contract for the manufacture of alcoholic liquors for sale
12 in state stores and agencies. Such liquors shall bear a
13 special designation as a "state brand".

14 Listed brands and sizes of spirituous liquors shall not be
15 reordered in quantities greater than at the rate of com-
16 parative gross sales as determined by the last weekly re-
17 port published prior to each reorder: *Provided, however,*

18 That listed brands on allocation by the respective sup-
19 pliers may be reordered upon the basis of anticipated
20 needs to be determined by projecting the adjusted sales
21 records to the period of allocation as fixed by the respec-
22 tive suppliers.

23 The initial order of any new or unlisted brand of
24 spirituous liquor, excepting wine, shall not exceed five
25 hundred (500) cases. The initial order of new or unlisted
26 wine brands shall not exceed fifteen hundred cases.

Sec. 18. *Operating Fund; Continuation and Use.*—The
2 operating fund of the commission, heretofore created in
3 the state treasury, is hereby continued and shall be a
4 revolving fund from which all operation and administra-
5 tion expenses of the commission shall be paid.

6 The reserve fund of the commission, heretofore created
7 and existing in the state treasury, is hereby abolished
8 and discontinued and all moneys in or belonging, owing
9 or accruing to said fund shall be paid into the state
10 treasury in accordance with the provisions of section
11 seventeen of this article.

Sec. 19. *Amount of Operating Fund; Payment into
2 Veterans' Bonus Sinking Fund; Disposition of Excess.*—
3 All moneys collected by the commission shall be credited
4 to the operating fund until that fund reaches an amount
5 sufficient for the current and routine requirements of
6 the department, this amount to be not in excess of the
7 amount hereinbefore provided in section fifteen of this
8 article.

9 On or after the first day of July, one thousand nine
10 hundred fifty-five, from receipts in excess of the require-
11 ment of the operating fund, the sum of four hundred
12 thousand dollars shall, upon requisition of the governor,
13 be paid each quarter into the veterans' bonus sinking
14 fund. If in any fiscal year the amount so paid shall be
15 less than fifteen per cent of such excess, an additional
16 amount sufficient to make the total payments equal to
17 fifteen per cent of such excess shall at the end of the
18 fiscal year be paid into the sinking fund, upon requisi-
19 tion of the governor. Whenever in any fiscal year the
20 amount of money accumulated in the veterans' bonus

21 sinking fund shall be sufficient to pay at maturity all
22 outstanding bonus bonds, together with the interest due
23 or payable thereon, no further transfers to such sinking
24 fund shall be made after the end of such fiscal year.

25 All receipts of the commission, not otherwise disposed
26 of by this section, shall be paid monthly into the state
27 general revenue fund in accordance with the provisions
28 of section seventeen of this article.

CHAPTER 9

(House Bill No. 390—Originating in the House Committee on Temperance)

AN ACT to amend article four, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-two, relating to the licensing of persons selling alcoholic liquors to the West Virginia liquor control commission and providing penalties for violations thereof.

[Passed March 3, 1955; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 4. Licenses.

Section

22. Licensing of persons selling to commission; persons ineligible; fees; penalties.
-

Be it enacted by the Legislature of West Virginia:

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

- Section 22. *Licensing of Persons Selling to Commission; Persons Ineligible; Fees; Penalties.*—No person, firm or corporation shall be or act or serve as an agent, broker or salesman selling or offering to sell or soliciting or negotiating the sale of alcoholic liquor to the commission without first obtaining a license so to do in accordance with the provisions of this section. The commission shall be

8 the licensing authority and may grant, refuse to grant,
9 suspend or revoke licenses. Licenses shall be on an an-
10 nual basis for the period from the first day of July until
11 the thirtieth day of June next following. New and re-
12 newal licenses shall be granted only upon verified appli-
13 cation to the commission presented on forms provided by
14 the commission. Any person representing more than one
15 producer, manufacturer, or distributor of alcoholic liquors
16 shall file a separate application and shall obtain a separate
17 license for each such representation. The annual license
18 fee shall be ten dollars. The fee for any license granted
19 for the remainder of any license year between the first
20 day of January and the thirtieth day of June of the same
21 calendar year shall be five dollars.

22 No person who is the father, mother, son, daughter,
23 brother, sister, uncle, aunt, nephew or niece of a member
24 of the commission or of any elected or appointive state
25 official, or who is the spouse of any such person so re-
26 lated to a member of the commission or to any elected
27 or appointive state official, may be granted a license here-
28 under. No member of the Legislature or the spouse of any
29 such member may be granted a license hereunder.

30 In addition to all other information which the commis-
31 sion may require to be supplied on the license application
32 forms, each applicant shall be required to state his name
33 and his residence address and the name and business
34 address of the producer, manufacturer or distributor he
35 represents; the name and address of each additional pro-
36 ducer, manufacturer or distributor of alcoholic liquors
37 he represents; the monetary total of all alcoholic liquor
38 sales, if any, made by him to the commission during the
39 fiscal year preceding the license year for which he is
40 seeking a license; the monetary total of the gross income
41 received by him on such sales, if any, during such fiscal
42 year; whether he has, during such fiscal year, made or
43 given, voluntarily or on request, any gift, contribution
44 of money or property to any member or employee of the
45 commission or to or for the benefit of any political party
46 committee or campaign fund; and his relationship, if any,
47 by blood or marriage, to any member of the commission
48 or to any elected or appointive state official. All such

49 applications shall be verified by oath of the applicant and
50 shall be prepared and filed in duplicate. All such appli-
51 cations and a current list of all licensees hereunder shall
52 be matters of public record and shall be available to
53 public inspection at the commission's offices at the state
54 capitol. Every licensee who ceases to be an agent, broker
55 or salesman, as herein contemplated, shall so advise the
56 commission in writing and such person's name shall be
57 immediately removed from the license list and his license
58 shall be cancelled and terminated.

59 All licensees hereunder shall be subject to all other
60 provisions of this chapter and to the lawful rules and
61 regulations promulgated by the commission. Licenses
62 may be refused, suspended or revoked by the commission
63 for cause, including any of the applicable grounds of
64 revocation specified in section nineteen of this article.
65 Provisions of this article relating to notice, hearing and
66 appeals shall, to the extent applicable, govern procedures
67 on suspension and revocation of licenses hereunder.

68 Any person, firm or corporation violating any provi-
69 sion of this section, including knowingly making of any
70 false statement in a verified application for a license, shall
71 be guilty of a misdemeanor offense and shall, upon con-
72 viction thereof, be fined not exceeding one thousand dol-
73 lars or imprisoned in jail not exceeding twelve months,
74 or be subject to both such fine and imprisonment in the
75 discretion of the court.

CHAPTER 10

(Com. Sub. for Senate Bill No. 1—Originating in the Senate Committee
on Finance)

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

[Passed March 14, 1955; in effect from passage.]

Title

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

Title 1. General Provisions.**Section**

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

Be it enacted by the Legislature of West Virginia:

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

Sec. 2. *Definitions.*—For the purpose of this act:

“Board” shall mean the board of public works;

“Spending Unit” shall mean the department, agency, or institution to which an appropriation is made;

The “fiscal year one thousand nine hundred fifty-six” shall mean the period from July first, one thousand nine hundred fifty-five through June thirtieth, one thousand nine hundred fifty-six.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated “from collections” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by chapter thirty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine.

Sec. 3. *Classification of Appropriations.*—An appropriation for:

- “Personal services” shall be expended only for the payment of salaries, wages, fees, and other compensation for skill, work, or employment;
- Unless otherwise specified, appropriations for Personal Services shall include salaries of heads of spending units.
- “Current expenses” shall be expended only for operating

- 9 costs other than personal services or capital outlay;
 10 "Repairs and alterations" shall include all expenditures
 11 for materials, supplies and labor used in repairing and
 12 altering buildings, grounds and equipment;
 13 "Equipment" shall be expended only for things which
 14 have an appreciable and calculable period of usefulness in
 15 excess of one year;
 16 "Buildings" shall include construction and alteration of
 17 structures and the improvements of lands, sewer and water
 18 improvements, and shall include shelter, support, storage,
 19 protection, or the improvement of a natural condition;
 20 "Lands" shall be expended only for the purchase of
 21 lands or interest in lands.
 22 Appropriations otherwise classified shall be expended
 23 only where the distribution of expenditures for different
 24 purposes cannot well be determined in advance or it is nec-
 25 essary or desirable to permit the spending unit freedom to
 26 spend an appropriation for more than one of the above
 27 purposes.

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

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11. Appropriations to pay costs of publication of delinquent corporations.
12. Appropriations for local governments.
13. Total appropriation.
14. General school fund.

Section 1. *Appropriations from General Revenue.*—
 2 From the state fund, general revenue, there is hereby ap-
 3 propriated conditionally upon the fulfillment of the pro-
 4 visions set forth in chapter thirty-nine, acts of the Legisla-
 5 ture, regular session, one thousand nine hundred thirty-
 6 nine, the following amounts, as itemized, for expenditure
 7 during the fiscal year one thousand nine hundred fifty-six.

LEGISLATIVE

1—Senate

Acct. No. 101

	<i>Fiscal Year 1955-56</i>
1 Salary of Members	\$ 48,000.00
2 To pay clerk of the Senate for compiling and	
3 publishing the West Virginia Blue Book,	
4 the distribution of which shall be made	
5 by the Office of the Clerk of the Senate	
6 and shall include seventy-five copies for	
7 each member of the Legislature and two	
8 copies to each classified and approved High	
9 and Junior High School and one to each	
10 elementary school within the state	10,000.00
11 To pay cost of printing the 1955 edition of	
12 Blue Book	41,500.00
13 Joint Committee on Government and Fi-	
14 nance and other Committees	95,000.00
15 To establish bill drafting service and ex-	
16 penses connected therewith	6,000.00
17	<i>Fiscal Year 1954-55</i>
18 Salary of Members	\$ 32,000.00
19 Mileage of Members	789.90
20 Compensation and per diem of officers and	
21 attaches	77,000.00
22 Current Expenses and Contingent funds	80,000.00
23 Joint Committee on Government and Fi-	
24 nance and other Committees	20,000.00
25 The above appropriations for the fiscal year	
26 1954-55 are to remain in full force and	
27 effect until the convening of the regular	
28 session of the Legislature, 1956.	
29 The Clerk of the Senate is authorized to	

30 draw his warrants upon the Auditor, pay-
 31 able out of the contingent fund of the Sen-
 32 ate, for any bills for supplies and services
 33 that may have been incurred by the Sen-
 34 ate and not included in the appropriation
 35 bill, and for bills for supplies and services
 36 incurred after adjournment, and for the
 37 necessary operation of the Senate offices,
 38 the requisition for same to be accompanied
 39 by bills to be filed with the Auditor.

2—House of Delegates

Acct. No. 102

	<i>Fiscal Year 1955-56</i>
1 Salary of Members.....	\$ 150,000.00
2 Joint Committee on Government and Fi-	
3 nance and other authorized Legislative	
4 Committees	95,000.00
5 To establish bill drafting service and ex-	
6 penses connected therewith.....	5,000.00
7	
	<i>Fiscal Year 1954-55</i>
8 Salary of Members.....	\$ 100,000.00
9 Mileage of Members.....	2,424.00
10 Compensation and per diem of officers and	
11 attaches	105,200.00
12 Contingent Fund	72,000.00
13 Joint Committee on Government and Fi-	
14 nance and other authorized Legislative	
15 Committees	20,000.00
16 The above appropriations for the fiscal year	
17 1954-55 are to remain in full force and	
18 effect until the convening of the regular	
19 session of the Legislature, 1956.	
20 With the approval of the Speaker, an amount,	
21 not to exceed \$3,600.00 per year, is hereby	
22 authorized to be expended from the con-	
23 tingent fund of the House of Delegates	
24 for janitor services, etc.	
25 The House Committee on Rules, with the	
26 approval of the Speaker, is hereby author-	

27 ized to expend from the House contingent
 28 fund an amount, not to exceed the sum of
 29 thirty-six thousand dollars (\$36,000.00),
 30 for the purpose of altering the elevator in
 31 the northeast section of the Main Unit of
 32 the Capitol Building so as to provide auto-
 33 matic operation for passenger and freight
 34 service, and for the purchase and installa-
 35 tion of duplicating equipment for use by
 36 the House of Delegates.

37 The Clerk of the House of Delegates is au-
 38 thorized to draw his warrants upon the
 39 Auditor, payable out of the contingent fund
 40 of the House of Delegates, for any bills for
 41 supplies and services that may have been
 42 incurred by the House of Delegates and
 43 not included in the appropriation bill, and
 44 for bills for services and supplies incurred
 45 after adjournment, and for the necessary
 46 operation of the House of Delegates offices,
 47 the requisition for same to be accompanied
 48 by bills to be filed with the Auditor.

49 For duties imposed by law and by the House
 50 of Delegates including the salary allowed
 51 by law as keeper of rolls, the Clerk of
 52 the House of Delegates shall be paid a
 53 monthly salary of \$700.00 per month, pay-
 54 able from the contingent fund of the House
 55 of Delegates, and the Clerk may employ a
 56 secretary at a salary of not to exceed
 57 \$300.00 per month, payable monthly from
 58 the same fund.

3—Joint Expenses

Acct. No. 103

		Fiscal Year 1954-55
1	Commission on Interstate Cooperation.....	\$ 5,000.00
2	For Legislative Printing, including printing,	
3	binding, and stationery.....	125,000.00
4	Total.....	\$ 130,000.00

5		<i>Fiscal Year 1955-56</i>	
6	Commission on Interstate Cooperation.....	\$	10,000.00
7	The above appropriations for the fiscal year		
8	1954-55 are to remain in full force and		
9	effect until the convening of the regular		
10	session of the Legislature, 1956.		

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

1	Salaries of Judges.....	\$	87,500.00
2	Other Personal Services.....		76,620.00
3	Current Expenses.....		20,000.00
4	Equipment		2,000.00
5	Total.....	\$	186,120.00

5—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges of the Circuit Courts.....	\$	291,000.00
2	Current Expenses.....		54,000.00
3	Total.....	\$	345,000.00

6—*Judges' Retirement System*

Acct. No. 112

1	To be transferred to the Judges' Retirement		
2	Fund, in accordance with the law relating		
3	thereto, upon requisition of the State		
4	Auditor	\$	25,000.00

7—*State Law Library*

Acct. No. 114

1	Personal Services.....	\$	12,260.00
2	Current Expenses.....		1,000.00
3	Equipment		10,000.00
4	Total.....	\$	23,260.00

8—Auditor's Office-Criminal Charges

Acct. No. 119

1 Criminal Charges.....	\$	165,000.00
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EXECUTIVE

9—Governor's Office

Acct. No. 120

1 Salary of Governor.....	\$	12,500.00
2 Other Personal Services.....		32,230.00
3 Current Expenses.....		9,500.00
4 Equipment		1,500.00
5 Civil Contingent Fund.....		100,000.00
6 Of this appropriation there may be expended		
7 an amount not to exceed \$5,000.00 to pro-		
8 vide instruction, care and maintenance for		
9 persons who are deaf and blind, and for		
10 whom the state provides no facilities.		
11 Of this appropriation there may be ex-		
12 pended, at the discretion of the Governor,		
13 an amount not to exceed \$1,000.00 as West		
14 Virginia's contribution to the Interstate		
15 Oil Compact Commission.		
16 Custodial Fund.....	\$	31,350.00
17 To be used for current general expenses,		
18 including compensation of servants and		
19 employees, household maintenance, cost of		
20 official functions, and any additional house-		
21 hold expenses occasioned by such official		
22 functions. In the event Napoleon Gardner,		
23 now for many years in the service of the		
24 Governor and his predecessors in office,		
25 shall become unable to perform such serv-		
26 ices for which he may earn compensation,		
27 an amount not in excess of \$50.00 per		
28 month may be expended out of this ap-		
29 propriation by the Governor at his discre-		
30 tion, for the use and benefit of the said		
31 Napoleon Gardner.		

32	Total.....	\$	187,080.00
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10—*Board of Probation and Parole*

Acct. No. 123

1	Personal Services.....	\$	105,000.00
2	Current Expenses.....		30,000.00
3	Total.....	\$	135,000.00

FISCAL

11—*Auditor's Office—General Administration*

Acct. No. 150

1	Salary of State Auditor.....	\$	7,250.00
2	Other Personal Services.....		121,600.00
3	Current Expenses.....		7,900.00
4	Equipment		6,500.00
5	Total.....	\$	143,250.00

12—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer.....	\$	7,250.00
2	Other Personal Services.....		55,000.00
3	Current Expenses.....		8,000.00
4	Equipment		1,100.00
5	Total.....	\$	71,350.00

13—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services.....	\$	12,900.00
2	Current Expenses.....		600.00
3	Total.....	\$	13,500.00

14—*State Tax Commissioner*

Acct. No. 180

1	Personal Services.....	\$	482,000.00
2	Current Expenses.....		134,425.00

APPROPRIATIONS

[Ch. 10]

3	Equipment	8,550.00
4	Property Evaluation.....	50,000.00
5	Total.....	\$ 674,975.00

15—West Virginia Board of Control

Acct. No. 190

1	Salaries of Members.....	\$ 21,000.00
2	Other Personal Services.....	36,480.00
3	Current Expenses.....	9,400.00
4	Equipment	475.00
5	Total.....	\$ 67,355.00

16—Director of the Budget

Acct. No. 210

1	Personal Services.....	\$ 93,700.00
2	Current Expenses.....	11,970.00
3	Equipment	1,000.00
4	Total.....	\$ 106,670.00

17—Director of the Budget—Inventory Control

Acct. No. 211

1	Personal Services.....	\$ 15,680.00
2	Current Expenses.....	4,250.00
3	Total.....	\$ 19,930.00

LEGAL

18—Attorney General

Acct. No. 240

1	Salary of Attorney General.....	\$ 7,500.00
2	Other Personal Services.....	91,500.00
3	Current Expenses.....	3,950.00
4	Equipment	2,000.00

5	To protect the resources or tax structure of	
6	the State in controversies or legal proceed-	
7	ings affecting same.....	4,000.00

8	Total.....	\$ 108,950.00
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19—*Commission on Uniform State Laws*

Acct. No. 245

1	Total.....	\$ 650.00
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INCORPORATING AND RECORDING

20—*Secretary of State*

Acct. No. 250

1	Salary of Secretary of State.....	\$ 7,250.00
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2	Other Personal Services.....	29,140.00
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3	Current Expenses	5,000.00
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4	Equipment	1,000.00
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5	Total.....	\$ 42,390.00
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CUSTODIAL AND SERVICE

21—*Capitol Building and Grounds*

Acct. No. 270

1	Personal Services	\$ 152,988.00
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2	Current Expenses	87,875.00
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3	Repairs and Alterations	23,750.00
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4	Equipment	1,900.00
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5	Total.....	\$ 266,513.00
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22—*Central Mailing Office*

Acct. No. 280

1	Personal Services.....	\$ 11,989.00
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2	Current Expenses.....	1,691.00
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3	Equipment	190.00
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4	Postage	47,000.00
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5	Total.....	\$ 60,870.00
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6 The Workmen's Compensation Commission,
 7 Department of Public Assistance, West Vir-
 8 ginia Public Service Commission, Conser-
 9 vation Commission, Department of Motor
 10 Vehicles, State Road Commission and State
 11 Health Department shall reimburse the
 12 Postage appropriation of the Central Mail-
 13 ing Office monthly for all meter service.
 14 Any spending unit receiving reimburse-
 15 ment for postage costs from the Federal
 16 Government shall refund to the Postage ac-
 17 count of the Central Mailing Office such
 18 amounts. Should this appropriation for
 19 Postage be insufficient to meet the mailing
 20 requirements of the State spending units as
 21 set out above, any excess postage meter
 22 service requirements shall be a proper
 23 charge against the units, and each spending
 24 unit shall refund to the Postage appropri-
 25 ation of the Central Mailing Office any
 26 amounts required for that Department for
 27 postage in excess of this appropriation.

23—Department of Purchases

Acct. No. 290

1	Personal Services.....	\$	73,000.00
2	Current Expenses.....		13,610.00
3	Total.....	\$	86,610.00

EDUCATIONAL

24—Department of Education—State Aid to Schools

Acct. No. 295

1	State aid to supplement the General School		
2	Fund	\$	46,088,707.00
3	To be transferred to the general school fund		
4	upon the requisition of the Governor. To		
5	be distributed according to law except an		
6	amount not to exceed \$100,000.00, which		

7 sum shall be available to the State Board
 8 of School Finance to aid counties in provid-
 9 ing instruction for physically and mentally
 10 handicapped children, and the sum of \$150,-
 11 000.00, which sum shall be transferred by
 12 the Governor to the State Tax Commis-
 13 sioner, for the purpose of making or caus-
 14 ing to be made, an annual survey of the ap-
 15 praised valuations of non public utility
 16 property based on true and actual valua-
 17 tions: *Provided, however,* That from the
 18 amount appropriated herein to the State
 19 Board of School Finance to aid counties in
 20 providing instruction for the physically and
 21 mentally handicapped children, an amount
 22 not to exceed \$6,000.00 may be used to pay
 23 the salary of a director for the physically
 24 and mentally handicapped children's pro-
 25 gram.
 26 In making distribution of state aid to coun-
 27 ties as provided by law, the state board of
 28 school finance shall allocate to each county,
 29 state aid of not less than fifty dollars for
 30 each net enrolled pupil in the county.

25—*Department of Education—Textbook Aid*

Acct. No. 297

1 Textbooks for Schools.....	\$ 150,000.00
2 To be distributed according to chapter fifty-	
3 one, acts of the Legislature, regular ses-	
4 sion, 1939.	

26—*Teachers Retirement Board*

Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers \$	1,367,000.00
2 Employers' Accumulation Fund—To match	
3 contribution of members.....	3,160,000.00
4 Total.....	\$ 4,527,000.00

27—*West Virginia University*

Acct. No. 300

1	Personal Services.....	\$ 3,495,470.00
2	Current Expenses.....	522,500.00
3	Repairs and Alterations.....	190,000.00
4	Equipment	190,000.00
5	State aid to Medical Students.....	62,500.00
6	State aid to Students of Veterinary Medicine	22,000.00
7	Total.....	\$ 4,482,470.00

28—*West Virginia University—Mining and Industrial
Extension*

Acct. No. 301

1	Personal Services.....	\$ 46,500.00
2	Current Expenses.....	18,525.00
3	Equipment	475.00
4	Total.....	\$ 65,500.00

29—*West Virginia University—Agricultural, Horticultural
and Home Economics Extension*

Acct. No. 302

1	Personal Services.....	\$ 85,700.00
2	Current Expenses.....	10,450.00
3	Equipment	475.00
4	Total.....	\$ 96,625.00
5	Out of the above appropriation for personal	
6	services the sum of \$6,000.00 shall be used	
7	only for the employment of a Spray Spe-	
8	cialist who shall be stationed only at West	
9	Virginia University Experimental Farm at	
10	Kearneysville.	

30—*West Virginia University—Jackson's Mill 4-H Camp*

Acct. No. 303

1	Personal Services.....	\$ 24,000.00
2	Current Expenses.....	13,680.00

3	Repairs and Alterations.....	9,500.00
4	Equipment	4,655.00
		<hr/>
5	Total.....	\$ 51,835.00

31—*West Virginia University—Cooperation with Oglebay
Institute*

Acct. No. 304

1	Unclassified—Total	\$ 3,705.00
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32—*West Virginia University—Extension Division*

Acct. No. 305

1	Personal Services.....	\$ 167,100.00
2	Current Expenses.....	28,500.00
		<hr/>
3	Total.....	\$ 195,600.00
4	To pay expenses of County Agricultural	
5	Agents and Home Demonstration Agents.	

33—*West Virginia University—Engineering Experiment
Station*

Acct. No. 306

1	Personal Services.....	\$ 19,500.00
2	Current Expenses.....	2,850.00
3	Equipment	2,375.00
		<hr/>
4	Total.....	\$ 24,725.00

34—*West Virginia University—Gas and Petroleum Research*

Acct. No. 309

1	Personal Services.....	\$ 13,000.00
2	Current Expenses.....	3,040.00
3	Equipment	475.00
		<hr/>
4	Total.....	\$ 16,515.00

**35—West Virginia University—Agricultural Experiment
Station**

Acct. No. 310

1	Personal Services	\$	124,900.00
2	Current Expenses		15,485.00
3	Repairs and Alterations		5,130.00
4	Equipment		7,980.00
5	Total	\$	153,495.00

**36—West Virginia University—Experiment Farm—
Kearneysville**

Acct. No. 311

1	Current Expenses	\$	11,400.00
2	Repairs and Alterations		3,325.00
3	Equipment		4,750.00
4	Total	\$	19,475.00

37—West Virginia University—Reymann Memorial Farm

Acct. No. 312

1	Current Expenses	\$	9,500.00
2	Repairs and Alterations		2,850.00
3	Equipment		1,900.00
4	Total	\$	14,250.00

38—West Virginia University—Ohio Valley Sub-Station

Acct. No. 313

1	Current Expenses	\$	6,080.00
2	Equipment		1,900.00
3	Total	\$	7,980.00

39—*West Virginia University—Experiment Farm—Reedsville*

Acct. No. 314

1	Current Expenses.....	\$	6,650.00
2	Repairs and Alterations.....		3,325.00
3	Equipment		3,325.00
4	Total.....	\$	13,300.00

40—*Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services.....	\$	212,000.00
2	Current Expenses.....		33,782.00
3	Repairs and Alterations.....		19,000.00
4	Equipment		11,400.00
5	Total.....	\$	276,182.00

41—*Marshall College*

Acct. No. 320

1	Personal Services.....	\$	1,250,660.00
2	Current Expenses.....		122,911.00
3	Repairs and Alterations.....		42,750.00
4	Equipment		47,500.00
5	Flood Wall Assessment.....		3,200.00
6	Total.....	\$	1,467,021.00

42—*Fairmont State College*

Acct. No. 321

1	Personal Services.....	\$	418,470.00
2	Current Expenses.....		46,398.00
3	Repairs and Alterations.....		17,433.00
4	Equipment		19,000.00
5	Total.....	\$	501,301.00

43—*Glenville State College*

Acct. No. 322

1	Personal Services.....	\$	261,440.00
2	Current Expenses.....		34,580.00
3	Repairs and Alterations.....		14,250.00
4	Equipment		14,250.00
5	Total.....	\$	324,520.00

44—*West Liberty State College*

Acct. No. 323

1	Personal Services.....	\$	260,890.00
2	Current Expenses.....		30,650.00
3	Repairs and Alterations.....		14,250.00
4	Equipment		38,000.00
5	Total.....	\$	343,790.00

45—*Shepherd College*

Acct. No. 324

1	Personal Services.....	\$	240,000.00
2	Current Expenses.....		34,200.00
3	Repairs and Alterations.....		19,000.00
4	Equipment		11,875.00
5	Total.....	\$	305,075.00

46—*Concord College*

Acct. No. 325

1	Personal Services.....	\$	385,380.00
2	Current Expenses.....		44,080.00
3	Repairs and Alterations.....		18,525.00
4	Equipment		20,900.00
5	Total.....	\$	468,885.00

47—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services.....	\$	318,050.00
2	Current Expenses.....		45,933.00
3	Repairs and Alterations.....		16,150.00
4	Equipment		56,050.00
5	Total.....	\$	436,183.00

48—*West Virginia State College*

Acct. No. 328

1	Personal Services.....	\$	632,350.00
2	Current Expenses.....		93,100.00
3	Repairs and Alterations.....		40,185.00
4	Equipment		27,550.00
5	Total.....	\$	793,185.00

49—*Bluefield State College*

Acct. No. 329

1	Personal Services.....	\$	269,000.00
2	Current Expenses.....		39,853.00
3	Repairs and Alterations.....		13,300.00
4	Equipment		12,825.00
5	Total.....	\$	334,978.00

50—*West Virginia State College—4-H Camp for Colored Boys and Girls*

Acct. No. 330

1	Personal Services.....	\$	11,950.00
2	Current Expenses.....		4,370.00
3	Repairs and Alterations.....		2,613.00
4	Equipment		1,995.00
5	Total.....	\$	20,928.00

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

Acct. No. 333

1	Personal Services.....	\$	311,637.00
2	Current Expenses.....		121,600.00
3	Repairs and Alterations.....		14,250.00
4	Equipment		14,878.00
5	Total.....	\$	462,365.00

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

Acct. No. 336

1	Personal Services.....	\$	9,500.00
2	Current Expenses.....		1,425.00
3	Repairs and Alterations.....		950.00
4	Equipment		950.00
5	Total.....	\$	12,825.00

53—*Department of Archives and History*

Acct. No. 340

1	Personal Services.....	\$	17,440.00
2	Current Expenses.....		3,277.00
3	Equipment		4,380.00
4	Total.....	\$	25,097.00

54—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services.....	\$	40,945.00
2	Current Expenses.....		9,500.00
3	Equipment		500.00
4	Books and Periodicals.....		21,375.00
5	Total.....	\$	72,320.00

CHARITIES AND CORRECTION

55—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services.....	\$	145,000.00
2	Current Expenses.....		76,000.00
3	Repairs and Alterations.....		9,500.00
4	Equipment		8,075.00
5	Total.....	\$	238,575.00

56—*West Virginia Industrial School for Colored Boys*

Acct. No. 371

1	Personal Services.....	\$	37,100.00
2	Current Expenses.....		26,030.00
3	Repairs and Alterations.....		3,420.00
4	Equipment		3,800.00
5	Total.....	\$	70,350.00

57—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services.....	\$	74,700.00
2	Current Expenses.....		54,321.00
3	Repairs and Alterations.....		6,175.00
4	Equipment		5,225.00
5	Total.....	\$	140,421.00

58—*West Virginia Industrial Home for Colored Girls*

Acct. No. 373

1	Personal Services.....	\$	9,310.00
2	Current Expenses.....		7,553.00
3	Repairs and Alterations.....		1,900.00
4	Equipment		2,755.00
5	Total.....	\$	21,518.00

59—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services.....	\$	29,520.00
2	Current Expenses.....		35,340.00
3	Repairs and Alterations.....		4,275.00
4	Equipment		2,280.00
5	Total.....	\$	71,415.00

60—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services.....	\$	435,020.00
2	Current Expenses.....		449,440.00
3	Repairs and Alterations.....		22,500.00
4	Equipment		15,250.00
5	Total.....	\$	922,210.00

61—*Medium Security Prison*

Acct. No. 376

1	Personal Services.....	\$	155,000.00
2	Current Expenses.....		150,052.00
3	Repairs and Alterations.....		12,255.00
4	Equipment		11,448.00
5	Total.....	\$	328,755.00

62—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services.....	\$	29,000.00
2	Current Expenses.....		17,575.00
3	Repairs and Alterations.....		2,470.00
4	Equipment		1,995.00
5	Total.....	\$	51,040.00

63—*West Virginia Colored Children's Home*

Acct. No. 381

1	Personal Services.....	\$	13,580.00
2	Current Expenses.....		13,547.00
3	Repairs and Alterations.....		2,422.00
4	Equipment		2,185.00
5	Total.....	\$	31,734.00

64—*West Virginia Home for Aged and Infirm Colored Men and Women*

Acct. No. 382

1	Personal Services.....	\$	23,480.00
2	Current Expenses.....		35,995.00
3	Repairs and Alterations.....		7,980.00
4	Equipment		3,943.00
5	Total.....	\$	71,398.00

65—*West Virginia Training School*

Acct. No. 383

1	Personal Services.....	\$	134,440.00
2	Current Expenses.....		115,330.00
3	Repairs and Alterations.....		6,935.00
4	Equipment		6,887.00
5	Total.....	\$	263,592.00

66—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services.....	\$	148,940.00
2	Current Expenses.....		140,809.00
3	Repairs and Alterations.....		9,500.00
4	Equipment		5,320.00
5	Total.....	\$	304,569.00

HEALTH AND WELFARE

67—State Health Department

Acct. No. 400

1	Personal Services.....	\$	395,366.00
2	Current Expenses.....		80,000.00
3	Equipment		6,500.00
4	Cancer Control and Treatment.....		90,000.00
5	Tuberculosis Field Clinic and Nursing Service		9,500.00
6	Out-Patient Pneumothorax Treatment.....		23,000.00
7	Hospitalization of Needy Tubercular Children		5,000.00
8	Hospital Survey and Planning.....		10,000.00
9	Total.....	\$	619,366.00

68—State Water Commission

Acct. No. 401

1	Personal Services.....	\$	36,380.00
2	Current Expenses.....		10,402.00
3	Equipment		950.00
4	For cooperation with the U. S. Geological		
5	Survey for a program of stream gauging....		14,488.00
6	Total.....	\$	62,220.00

69—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Personal Services.....	\$	7,680.00
2	Current Expenses.....		2,000.00
3	Total.....	\$	9,680.00

70—West Virginia Department of Veterans Affairs

Acct. No. 404

1	Personal Services.....	\$	131,717.00
2	Current Expenses.....		42,380.00
3	Equipment		475.00

4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	
6	Chapter thirty-nine, Acts of the Legisla-	
7	ture, 1943.....	11,875.00
8	Total.....	\$ 186,447.00

71—Department of Public Assistance

Acct. No. 405

1	Personal Services.....	\$ 807,500.00
2	Current Expenses.....	222,000.00
3	Equipment	7,000.00
4	Public Assistance Grants (Classified Aid)....	7,278,700.00
5	Aid to Crippled Children.....	285,000.00
6	Medical Care for the Indigent.....	213,685.00
7	Hospitalization for the Indigent.....	436,315.00
8	Conservation of Vision and Prevention of	
9	Blindness	33,250.00
10	Child Welfare Services.....	71,250.00
11	General Relief.....	300,000.00
12	Boarding Care.....	350,000.00
13	Merit System.....	11,400.00
14	Social Security Matching Funds.....	20,000.00
15	Total.....	\$ 10,036,100.00

72—Department of Public Assistance—
Commodity Distribution

Acct. No. 406

1	Personal Services.....	\$ 90,000.00
2	Current Expenses.....	50,000.00
3	Total.....	\$ 140,000.00

73—Weston State Hospital

Acct. No. 420

1	Personal Services.....	\$ 893,980.00
2	Current Expenses.....	570,000.00

3	Repairs and Alterations.....	23,750.00
4	Equipment	19,000.00
5	Total.....	\$ 1,506,730.00

74—*Spencer State Hospital*

Acct. No. 421

1	Personal Services.....	\$ 389,740.00
2	Current Expenses.....	277,875.00
3	Repairs and Alterations.....	14,250.00
4	Equipment	9,975.00
5	Water Supply.....	39,900.00
6	Total.....	\$ 731,740.00
7	All revenue collected by the above spending	
8	unit in excess of the amount required to	
9	pay the principal and interest on outstand-	
10	ing Clinic Bonds shall be deposited to the	
11	State Fund-General Revenue.	

75—*Huntington State Hospital*

Acct. No. 422

1	Personal Services.....	\$ 505,760.00
2	Current Expenses.....	399,000.00
3	Repairs and Alterations.....	19,000.00
4	Equipment	11,875.00
5	Total.....	\$ 935,635.00
6	All revenue collected by the above spending	
7	unit in excess of the amount required to	
8	pay the principal and interest on outstand-	
9	ing Clinic Bonds shall be deposited to the	
10	State Fund-General Revenue.	

76—*Lakin State Hospital*

Acct. No. 423

1	Personal Services.....	\$ 238,600.00
2	Current Expenses.....	140,125.00

3	Repairs and Alterations.....	10,688.00
4	Equipment	8,550.00
5	Total.....	\$ 397,963.00

77—Barboursville State Hospital

Acct. No. 424

1	Personal Services.....	\$ 149,500.00
2	Current Expenses.....	114,950.00
3	Repairs and Alterations.....	7,410.00
4	Equipment	6,650.00
5	Total.....	\$ 278,510.00

78—Fairmont Emergency Hospital

Acct. No. 425

1	Personal Services.....	\$ 98,720.00
2	Current Expenses.....	66,452.00
3	Repairs and Alterations.....	6,650.00
4	Equipment	5,225.00
5	Total.....	\$ 177,047.00

79—Welch Emergency Hospital

Acct. No. 426

1	Personal Services.....	\$ 102,260.00
2	Current Expenses.....	118,750.00
3	Repairs and Alterations.....	9,025.00
4	Equipment	5,700.00
5	Total.....	\$ 235,735.00

80—Hopemont Sanitarium

Acct. No. 430

1	Personal Services.....	\$ 424,000.00
2	Current Expenses.....	351,870.00

3	Repairs and Alterations.....	19,000.00
4	Equipment	11,400.00
5	Total.....	\$ 806,270.00

*81—Pinecrest Sanitarium**Acct. No. 431*

1	Personal Services.....	\$ 537,960.00
2	Current Expenses.....	510,292.00
3	Repairs and Alterations.....	25,650.00
4	Equipment	17,100.00
5	Total.....	\$ 1,091,002.00

*82—Denmar Sanitarium**Acct. No. 432*

1	Personal Services.....	\$ 157,000.00
2	Current Expenses.....	127,737.00
3	Repairs and Alterations.....	8,550.00
4	Equipment	6,460.00
5	Total.....	\$ 299,747.00

*83—Berkeley Springs Sanitarium**Acct. No. 436*

1	Personal Services.....	\$ 24,320.00
2	Current Expenses.....	6,887.00
3	Repairs and Alterations.....	1,900.00
4	Equipment	475.00
5	Total.....	\$ 33,582.00

*84—Non-State Institutions**Acct. No. 437*

1	Morris Memorial Hospital.....	\$ 10,000.00
2	Marmet Hospital, Inc.....	7,500.00
3	Total.....	\$ 17,500.00

- 4 To be expended by the Department of Public
 5 Assistance to meet actual per capita costs
 6 for hospitalization of needy West Virginia
 7 patients at these institutions.

85—*State Board of Education—Rehabilitation Division*

Acct. No. 440

1	Vocational Rehabilitation Services.....	\$	423,500.00
2	To provide management and supervisory		
3	services for vending stand program for the		
4	blind		7,420.00
5	Total	\$	430,920.00

BUSINESS AND INDUSTRIAL RELATIONS

86—*Bureau of Labor and Department of Weights and Measures*

Acct. No. 450

1	Personal Services.....	\$	161,500.00
2	Current Expenses		44,370.00
3	Equipment		2,000.00
4	Total	\$	207,870.00

87—*Department of Mines*

Acct. No. 460

1	Personal Services.....	\$	511,000.00
2	Current Expenses.....		141,000.00
3	Equipment		12,500.00
4	Total.....	\$	664,500.00

88—*Commission on Interstate Cooperation*

Acct. No. 472

1	Total	\$	8,500.00
2	Out of the above appropriation the sum of		
3	\$6,000.00 may be made available for West		

- 4 Virginia's membership in the Council of
- 5 State Governments.

89—*Interstate Commission on Potomac River Basin*

Acct. No. 473

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

90—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

- 1 West Virginia's contribution to the Ohio
- 2 River Valley Water Sanitation Commis-
- 3 sion\$ 15,860.00

91—*Department of Banking*

Acct. No. 480

- 1 Personal Services.....\$ 57,000.00
- 2 Current Expenses.....24,035.00
- 3 Equipment475.00
- 4 Total.....\$ 81,510.00

92—*West Virginia State Aeronautics Commission*

Acct. No. 485

- 1 Personal Services.....\$ 8,300.00
- 2 Current Expenses.....2,500.00
- 3 Total.....\$ 10,800.00

93—*West Virginia Industrial and Publicity Commission*

Acct. No. 486

- 1 Personal Services.....\$ 31,958.00
- 2 Current Expenses.....76,000.00
- 3 Equipment475.00
- 4 Total.....\$ 108,433.00

94—*West Virginia Non-Intoxicating Beer Commissioner*

Acct. No. 490

1	Personal Services.....	\$	66,250.00
2	Current Expenses.....		38,296.00
3	Equipment		454.00
4	Total.....	\$	105,000.00

95—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services.....	\$	35,000.00
2	Current Expenses.....		5,000.00
3	Total.....	\$	40,000.00

AGRICULTURE

96—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner.....	\$	7,250.00
2	Other Personal Services.....		118,490.00
3	Current Expenses.....		63,000.00
4	Equipment		8,000.00
5	For the Eradication and Prevention of Live-		
6	stock Diseases.....		111,850.00
7	Aid to Dairy Development Program.....		40,000.00
8	Eradication and Control of Japanese beetle		
9	and other plant pests.....		12,000.00
10	Eradication and Control of White Pine Blister		14,250.00
11	Eradication and Control of Oak Wilt.....		23,750.00
12	Total.....	\$	398,590.00

97—*Department of Agriculture—
Soil Conservation Committee*

Acct. No. 512

1	To pay per diem and travel expenses of Dis-		
2	trict Supervisors and Other General Expen-		
3	ses of the Soil Conservation Committee.....	\$	45,350.00

98—*Department of Agriculture—Marketing and Research*

Acct. No. 513

1	For cooperation with the Federal Govern-	
2	ment in a program of marketing and re-	
3	search	\$ 25,000.00
4	Any part or all of this appropriation may be	
5	transferred to Special Revenue Fund for	
6	the purpose of matching federal funds for	
7	the above named program.	

99—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1	Incorporated County and District Fairs, 4-H	
2	Fairs and Exhibits and Vocational Agricul-	
3	tural Fairs and Exhibits.....	\$ 10,450.00
4	State Agricultural Fairs and Agricultural	
5	and Industrial Exhibits.....	22,325.00
6	West Virginia State Fair.....	19,000.00
7	Mountain State Forest Festival.....	8,550.00
8	Total.....	\$ 60,325.00
9	To be expended at the discretion of the Com-	
10	missioner of Agriculture and in accord-	
11	ance with law.	

CONSERVATION AND DEVELOPMENT

100—*West Virginia Geological Survey*

Acct. No. 520

1	Personal Services.....	\$ 67,000.00
2	Current Expenses.....	16,853.00
3	Equipment	2,850.00
4	Total.....	\$ 86,703.00
5	Of the above appropriation for Current Ex-	
6	penses the sum of \$5,000.00 may be used to	
7	cooperate with the United States Geolog-	

- 8 ical Survey in Ground Waters Resources
9 Study.

101—*Conservation Commission*

Acct. No. 521

1	Personal Services.....	\$ 266,000.00
2	Current Expenses.....	16,000.00
3	Oak Wilt Control.....	4,000.00
4	Total.....	\$ 286,000.00

- 5 Out of the above appropriation the sum of
6 \$80,000.00 under Personal Services and
7 \$16,000.00 Current Expenses shall be used
8 to match federal funds under the Pittman-
9 Robertson and Dingell-Johnson programs.

102—*Conservation Commission—Division of State Parks*

Acct. No. 522

1	Personal Services.....	\$ 60,680.00
2	Current Expenses.....	52,000.00
3	Repairs and Alterations.....	20,000.00
4	Equipment	8,960.00
5	Total.....	\$ 141,640.00

- 6 Out of the above appropriation for current
7 expenses the sum of \$725.00 may be trans-
8 ferred to Special Revenue Acct. No. 8838
9 for reimbursement of an amount used for
10 purchase of property in Harpers Ferry
11 National Park.

103—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	For cooperation with the United States De-	
2	partment of Agriculture in Fire Preven-	
3	tion and Control.....	\$ 75,000.00

104—*Point Pleasant Battle Monument Commission*

Acct. No. 561

1 For maintenance of Historical Monument.....\$	3,000.00
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105—*Rumseyan Society*

Acct. No. 562

1 For maintenance of Historical Monument.....\$	350.00
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106—*Morgan Morgan Memorial*

Acct. No. 563

1 For maintenance of Historical Monument.....\$	25.00
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107—*Grafton G.A.R. Post*

Acct. No. 564

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

PROTECTION

108—*Department of Public Safety*

Acct. No. 570

1 Personal Services.....\$	913,990.00
2 Current Expenses.....	564,473.00
3 Repairs and Alterations.....	14,500.00
4 Equipment.....	204,400.00
5 Total.....\$	1,697,363.00

109—*Adjutant General—State Militia*

Acct. No. 580

1 Personal Services.....\$	50,000.00
2 Current Expenses.....	132,487.00

3	Repairs and Alterations.....	4,750.00
4	Equipment	1,900.00
5	Compensation of Commanding Officers, Cler-	
6	ical Allowances and Uniform Allowances	52,497.00
7	Property Maintenance.....	18,000.00
8	Total.....	\$ 259,634.00

110—*Division of Civilian Defense*

Acct. No. 581

1	Personal Services.....	\$ 15,000.00
2	Current Expenses.....	5,000.00
3	Equipment	3,000.00
4	Total.....	\$ 23,000.00

111—*State Armory Board*

Acct. No. 582

1	For insurance, maintenance, repair, and	
2	equipment for state owned Armories.....	\$ 17,575.00

112—*State Board of Education—Insurance*

Acct. No. 584

1	Fire Insurance Premiums.....	\$ 52,250.00
2	To pay insurance premiums on buildings at	
3	state colleges and institutions under the su-	
4	pervision of the State Board of Education.	
5	The above appropriation is for premiums for	
6	a three-year period.	

113—*West Virginia Board of Control—Insurance*

Acct. No. 585

1	Fire Insurance Premiums.....	\$ 109,250.00
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- 2 To pay Insurance Premiums on buildings at
- 3 state institutions under the supervision of
- 4 the Board of Control.
- 5 The above appropriation is for premiums for
- 6 a three-year period.

114—*State Board of Examiners of Accountants*

Acct. No. 586

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

115—*State Board of Examiners of Registered Nurses*

Acct. No. 588

1 To pay the per diem of members and other		
2 general expenses.....	\$	18,750.00
3 From Collections.....		18,750.00

116—*State Board of Dental Examiners*

Acct. No. 589

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

117—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses.....	\$	12,000.00
3 From Collections.....		12,000.00

118—*State Board of Osteopathy*

Acct. No. 591

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

119—*State Board of Optometry*

Acct. No. 592

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

120—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

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

121—*State Board of Registration for
Professional Engineers*

Acct. No. 594

1 To pay the per diem of members and other		
2 general expenses.....	\$	15,000.00
3 From Collections.....		15,000.00

122—*State Board of Examiners for Architects*

Acct. No. 595

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

123—*State Board of Examiners for Veterinarians*

Acct. No. 596

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

124—*State Board of Law Examiners*

Acct. No. 597

1 To pay the per diem of members and other		
2 general expenses.....	\$	2,400.00

125—Auditor's Office—Social Security

Acct. No. 598

1	To match contributions of state employees	
2	for social security tax.....	\$ 230,000.00
3	The above appropriation is intended to cover	
4	the state's share of social security costs for	
5	those spending units operating from Gen-	
6	eral Revenue Fund and General School	
7	Fund appropriations. The State Road	
8	Commission, Department of Motor Vehi-	
9	cles, Workmen's Compensation Commis-	
10	sion, Public Service Commission, and other	
11	departments operating from Special Reve-	
12	nue Funds and/or Federal Funds shall pay	
13	their proportionate share of the social se-	
14	curity cost for their respective divisions.	
15	Such payments may be made from the bal-	
16	ances in the various Special Revenue Funds	
17	in excess of specific appropriations.	

126—Board of Chiropractors

Acct. No. 599

1	To pay per diem of Members and other gen-	
2	eral expenses.....	\$ 1,000.00
3	From Collections.....	1,000.00

Sec. 2. *Appropriations from Other Funds.*—From the funds designated there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred fifty-six.

127—Department of Agriculture

Acct. No. 655

TO BE PAID FROM SPECIAL REVENUE FUNDS

1	Personal Services.....	\$ 127,480.00
2	Current Expenses.....	51,300.00

3	Equipment	9,070.00
4	Total	\$ 187,850.00
5	The total amount of this appropriation shall	
6	be paid from Special Revenue Fund out of	
7	collections made by the Department of	
8	Agriculture as provided by law. It is the	
9	intention that special funds in excess of the	
10	amounts hereby appropriated shall be made	
11	available by budget amendments upon re-	
12	quest of the Commissioner of Agriculture.	

128—*State Committee of Barbers and Beauticians*

Acct. No. 656

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 18,960.00
2	Current Expenses	6,800.00
3	Total	\$ 25,760.00
4	The total amount of this appropriation shall	
5	be paid from Special Revenue Fund out of	
6	collections made by the State Committee of	
7	Barbers and Beauticians as provided by	
8	law.	

129—*Insurance Commissioner—Fire Marshal*

Acct. No. 660

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 70,820.00
2	Current Expenses	25,750.00
3	Equipment	7,200.00
4	Building Repair and Maintenance	7,500.00
5	Total	\$ 111,270.00
6	The total amount of this appropriation shall	
7	be paid from Special Revenue Fund out of	
8	collections of the special tax of one-half of	
9	one per cent of premium receipts of fire	
10	insurance companies as provided by law.	

130—Public Service Commission

Acct. No. 661

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners.....	\$	22,500.00
2	Other Personal Services.....		232,500.00
3	Current Expenses.....		27,000.00
4	Equipment		4,500.00

5	Total.....	\$	286,500.00
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6 The total amount of this appropriation shall
 7 be paid from Special Revenue Fund out of
 8 collections for special license fees from
 9 public service corporations as provided by
 10 law.

11 Out of the above appropriation \$5,000.00 may
 12 be transferred annually to the State Water
 13 Commission for use in cooperation with
 14 the U. S. Geological Survey in a program
 15 of stream gauging.

131—Public Service Commission—Motor Carrier Division

Acct. No. 662

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	116,260.00
2	Current Expenses.....		35,000.00
3	Equipment		1,000.00

4	Total.....	\$	152,260.00
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5 The total amount of this appropriation shall
 6 be paid from Special Revenue Fund out of
 7 receipts collected for or by the Public
 8 Service Commission pursuant to and in the
 9 exercise of regulatory authority over motor
 10 carriers as authorized by law.

132—*Conservation Commission*

Acct. No. 663

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$ 541,110.00
2	Current Expenses.....	281,165.00
3	Repairs and Alterations.....	20,372.00
4	Equipment	23,503.00
5	Land Purchase.....	22,850.00
6	National Forests.....	65,000.00
7	White Pine Blister Rust Control.....	5,000.00
8	Oak Wilt Control.....	4,000.00
9	For payment of bounties.....	2,000.00
10	For construction of ponds and small lakes	20,000.00
11	For restocking of game.....	5,000.00
12	Total.....	\$ 990,000.00

13 The total amount of this appropriation shall
 14 be paid from Special Revenue Fees col-
 15 lected by the Conservation Commission.
 16 Expenditures shall be limited to the
 17 amounts appropriated except for Federal
 18 Funds received and Special Funds collected
 19 at State Parks.
 20 Special Funds in excess of the amounts
 21 hereby appropriated may be made avail-
 22 able by budget amendment upon request
 23 of the Conservation Commission and ap-
 24 proval of the Board of Public Works for
 25 any emergency which might arise in the
 26 operation of this Division during the fiscal
 27 year.

133—*Insurance Commissioner*

Acct. No. 664

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$ 97,140.00
2	Current Expenses.....	14,840.00
3	Equipment	5,000.00
4	Total.....	\$ 116,980.00

- 5 The total amount of this appropriation shall
 6 be paid from Special Revenue Fund out of
 7 collections by the Insurance Commissioner
 8 as provided by Enrolled House Bill No. 119.

134—*West Virginia Liquor Control Commission*

Acct. No. 667

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Members.....	\$ 21,000.00
2	Other Personal Services.....	2,600,000.00
3	Current Expenses.....	700,000.00
4	Repairs and Alterations.....	19,900.00
5	Equipment	17,600.00

6	Total.....	\$ 3,358,500.00
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- 7 The total amount of this appropriation shall
 8 be paid from the Special Revenue Fund out
 9 of liquor revenues.
 10 The above appropriation includes the salaries
 11 of store personnel, store inspectors, store
 12 operating expenses and equipment, and
 13 equipment for administration offices.
 14 There is hereby appropriated from liquor
 15 revenues, in addition to the above appropri-
 16 ation, the necessary amount for the pur-
 17 chase of liquor.

135—*State Road Commission—General Administration
 and Engineering*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Personal Services.....	\$ 353,000.00
2	Current Expenses.....	81,000.00
3	Equipment	16,500.00
4	Total.....	\$ 450,500.00

5 In addition to the foregoing appropriations or
6 claims, as authorized by this act or by law
7 to be paid from the state road fund, the bal-
8 ance or residue of the annual receipts of the
9 state road fund are hereby appropriated
10 first for the payment of interest on and
11 principal of outstanding road bonds, and
12 thereafter for maintenance, construction
13 and reconstruction of state roads, in accord-
14 ance with the provisions of chapter sev-
15 enteen, Code of West Virginia, 1931, as
16 amended.

136—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1 Personal Services.....	\$ 500,000.00
2 Current Expenses.....	200,000.00
3 Equipment	10,000.00
4 Total.....	\$ 710,000.00

137—*State Tax Commissioner—Gasoline Tax Division*

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1 Personal Services.....	\$ 68,400.00
2 Current Expenses.....	23,000.00
3 Equipment	2,025.00
4 Total.....	\$ 93,425.00

138—*Department of Public Safety—Inspection Division*

Acct. No. 673

TO BE PAID FROM STATE ROAD FUND

1 Personal Services.....	\$ 21,500.00
2 Current Expenses.....	27,200.00
3 Equipment	13,300.00
4 Total.....	\$ 62,000.00

5 The above appropriation — Department of
 6 Public Safety—Inspection Division—shall
 7 be available from date of passage of this
 8 Act.

139—*State Board of Education*

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	23,620.00
2	Current Expenses.....		8,000.00
3	Total.....	\$	31,620.00

140—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	23,310.00
2	Current Expenses.....		6,500.00
3	Equipment		1,000.00
4	Vocational Aid.....		300,000.00
5	Total.....	\$	330,810.00

141—*Department of Education*

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent.....	\$	7,250.00
2	Other Personal Services.....		114,000.00
3	Current Expenses.....		56,000.00
4	Equipment		1,500.00
5	Total.....	\$	178,750.00

142—*State Board of School Finance*

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	12,720.00
2	Current Expenses.....		3,600.00
3	Total.....	\$	16,320.00

143—*Department of Education—School Lunch Program*

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	43,500.00
2	Current Expenses.....		10,400.00
3	Aid to Counties—Includes hot lunches and		
4	canning for hot lunches.....		125,000.00
5	Total.....	\$	178,900.00

144—*Department of Education*

Acct. No. 706

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents—Total...	\$	64,000.00
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145—*Auditor's Office—Land Department*

Acct. No. 709

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	31,980.00
2	Current Expenses.....		1,000.00
3	Equipment.....		500.00
4	Total.....	\$	33,480.00

146—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services.....	\$	512,260.00
2	Current Expenses.....		233,650.00

3	Equipment	5,300.00
4	Total	\$ 751,210.00
5	There is hereby authorized to be paid out of	
6	the above appropriation for Current Ex-	
7	penses the amount necessary for the premi-	
8	ums on bonds given by the State Treasurer	
9	and bond custodian for the protection of	
10	the Workmen's Compensation Fund.	

Sec. 3. *Awards for Claims Against the State.*—From
 2 the fund designated there is hereby appropriated for the
 3 fiscal year 1956, for payment of claims against the state
 4 the following amounts, as itemized.

Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1	Edmonds, Bobby Joe, infant, by Verba Ed-	
2	monds, his mother and next friend	\$ 1,500.00

Claims Versus Public Service Commission

TO BE PAID FROM GENERAL REVENUE FUND

1	Union Carbide and Carbon Corporation ...	\$ 508.55
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Sec. 4. *Reappropriations.*—The date for expiring the
 2 unexpended balances, if any, in items 2, 4, 5, 6, 8, 11, 13,
 3 16, 17, 20, 23, 26, 28, 29, 30, 31, 35, 37, 38, 42, and 43, in the
 4 appropriations made by and under authority of Section 5
 5 of the 1953 Budget Act is extended to June 30, 1956, and
 6 such items are hereby reappropriated from their respec-
 7 tive dates of expiration to June 30, 1956. The Board of
 8 Control may expend from item 31 hereby reappropriated
 9 an amount not to exceed \$10,000.00 for repairs to the
 10 Superintendent's residence at Lakin State Hospital and
 11 such authorization shall be available from date of passage
 12 of this act. The Conservation Commission is hereby au-
 13 thorized to expend from item 42, sub-section "h" hereby
 14 reappropriated an amount not to exceed \$40,000.00 for im-
 15 provements at North Bend State Park in Ritchie County
 16 and Cedar Creek State Park in Gilmer County.

Sec. 5. *Special Revenue Appropriation.*—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred fifty-six appropriations made by general law from special revenue which are not paid into the state fund as general revenue under the provisions of section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one: *Provided, however,* That none of the moneys so appropriated by this section shall be available for expenditure except in compliance with and in conformity to the provisions of articles two and three, of chapter twelve, code of West Virginia, and chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and unless the spending unit has filed with the state director of the budget and the state auditor prior to the beginning of each fiscal year:

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

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

Sec. 6. *Specific Funds and Collection Accounts.*—A fund or collection account, which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account, and shall be expended according to the provisions of article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one.

Sec. 7. *Appropriations for Refunding Erroneous Payments.*—Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid for refund to the proper person.

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

Sec. 8. *Sinking Fund Deficiencies.*—There is hereby appropriated to the board of public works a sufficient amount to meet a deficiency that may arise in the funds of the state sinking fund commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The board of public works is authorized to transfer from time to time such amounts to the state sinking fund commission as may be necessary for this purpose.

The state sinking fund commission shall reimburse the State of West Virginia through the board of public works from the first remittance collected from any state agency or local taxing district for which the board of public works advanced funds, with interest at the rate carried by the bonds for which the advance was made.

Sec. 9. *Appropriations from Taxes and License Fees.*—There is hereby appropriated from all chain store tax fees and general license taxes collected by the state tax commissioner, all necessary salaries and expenses, not to exceed twenty-five per cent of the gross collections authorized by law to be expended in the collection of such chain store tax fees and general license taxes. There is hereby appropriated from the cigarette tax for administration and enforcement of the law relating to said tax a sum not to exceed one and one-half per cent of the tax collected or stamps sold. There is hereby appropriated from the soft drink tax revenues for administration and enforcement of the law relating to said tax, a sum not to exceed two and one-half per cent of the total revenues collected. All such salaries and expenses, authorized by law as aforesaid, shall be paid by the tax commissioner through the state treasurer out of gross collections.

Sec. 10. *Appropriations to Pay Premiums on Bonds of County Clerks.*—There is hereby appropriated out of the general school fund, to be paid upon the requisition of the auditor, a sum sufficient to pay premiums on bonds of county clerks to protect funds belonging to the said general school fund, and out of the special revenue fund of the

7 conservation commission, to be paid upon the requisition
8 of the director, a sum sufficient to pay premiums on bonds
9 of county clerks to protect funds belonging to the said con-
10 servation commission.

Sec. 11. *Appropriations to Pay Costs of Publication of Delinquent Corporations.*—There is hereby appropriated
2 out of the state fund, general revenue, out of funds not
3 otherwise appropriated to be paid upon requisition of the
4 auditor and/or the governor, as the case may be, a sum suf-
5 ficient to pay the cost of publication of delinquent corpora-
6 tions as provided by sections seventy-five and seventy-
7 seven of article twelve, chapter eleven, code of West Vir-
8 ginia.

Sec. 12. *Appropriations for Local Governments.*—There
2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal corp-
5 orations and which have been paid into the treasury:

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

Sec. 13. *Total Appropriation.*—Where only a total sum
2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay, except as otherwise provided in Title I, Section 3.

Sec. 14. *General School Fund.*—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with section six, article
5 nine, chapter eighteen of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

- 1. Appropriations conditional.
- 2. Constitutionality.

Section 1. *Appropriations Conditional.*—The expendi-
2 tures of the appropriations made by this act, except those
3 appropriations made to the legislative and judicial branch-

4 es of the state government, are conditioned upon the com-
5 pliance by the spending unit with the requirements of
6 article five, chapter five, of the code of West Virginia, one
7 thousand nine hundred thirty-one, as amended by chapter
8 thirty-nine, acts of the Legislature, regular session, one
9 thousand nine hundred thirty-nine.

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

CHAPTER 11

(House Bill No. 231—By Mr. Loop)

AN ACT to amend and reenact section twelve, article three,
chapter twelve of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the ex-
piration of unexpended appropriations.

[Passed February 17, 1955; in effect from passage. Approved by the Governor.]

Article 3. Appropriations and Expenditures.

Section

12. Expiration of unexpended appropriations.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Expiration of Unexpended Appropriations.*

- 2 —Every appropriation which is payable out of the general
3 revenue, or so much thereof as may remain undrawn at
4 the end of the year for which made, shall be deemed to
5 have expired at the end of the year for which it is made,
6 and no warrant shall thereafter be issued upon it: *Pro-*

7 *vided, however,* That warrants may be drawn during a
8 period of thirty days after the end of the year for which
9 the appropriation is made if the warrants are in payment
10 of bills for such year and have been encumbered by the
11 budget office prior to July first; but appropriations for
12 buildings and land shall remain in effect, and shall not be
13 deemed to have expired until the end of three years after
14 the passage of the act by which such appropriations are
15 made.

CHAPTER 12

(House Bill No. 47—By Mr. Maxwell and Mr. Watson)

AN ACT to authorize the state auditor to expend from collections of the land department operating fund, an amount not to exceed ten thousand dollars for the compiling, printing, distribution, and sale of a supplement to the official index of land grants, including maps of original boundary lines of counties and changes made therein from the origin of such counties to the present date, copies of all the acts creating counties and changes in the boundaries thereof, and other matter pertinent thereto.

[Passed March 5, 1955; in effect from passage. Approved by the Governor.]

Section

1. Supplement to official index to original land grants.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Supplement to Official Index to Original*
2 *Land Grants.*—The state auditor is hereby authorized to
3 expend from the operating fund of the land department
4 of the state auditor's office, established by section seven,
5 article four, chapter eleven-a of the code of West Vir-
6 ginia, a sum not to exceed ten thousand dollars, for the
7 compiling, printing and distribution of a supplement to
8 the official index to original land grants on file in his
9 office. Such publication shall include, in addition to the
10 land grants indexed therein, maps showing the original

11 boundaries of the counties of the area of this state and
12 changes made in such boundaries by legislative enactment
13 from the beginning until the present day, and other mat-
14 ter pertinent thereto. It shall be the duty of the state
15 auditor to furnish each county clerk and each circuit clerk
16 copies of such supplement for use in the clerk's offices of
17 each county in addition to those for use in the land de-
18 partment. Copies shall also be furnished to the library
19 of each state-maintained college in this state, the state
20 law library, and the department of archives and history.
21 The remaining copies may be sold by his office at a price
22 of not more than five dollars per copy, the proceeds of such
23 sale to be deposited back into the said operating fund.

CHAPTER 13

(House Bill No. 272—By Mr. White)

AN ACT to amend article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-a, relating to verification in lieu of oath of state papers.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.

Section

10-a. Verification in lieu of oath.

Be it enacted by the Legislature of West Virginia:

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

Section 10-a. *Verification in Lieu of Oath.*— Any certificate, return, form, statement, or other document which is required by the state of West Virginia, or any office,

4 department or agency thereof, and which does not require
5 an acknowledgment under this article or other laws of
6 recordation of the state of West Virginia, may be verified
7 by written declaration that it is made under the penalties
8 of perjury and such declaration shall be in lieu of any
9 oath otherwise required.

10 Any person making any false statement in any certifi-
11 cate, return, statement, or other document verified by
12 such written declaration shall be subject to the same
13 penalties as would be applicable had the same been
14 verified by oath duly taken and acknowledged.

CHAPTER 14

(Senate Bill No. 184—By Mr. Martin and Mr. Moats)

AN ACT to amend and reenact section eleven, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recordation of writings and plats and papers annexed, index and interlineations.

[Passed February 23, 1955; in effect from passage. Approved by the Governor.]

Article 1. Authentication and Record of Writings.

Section

11. Recordation of writings and plats and papers annexed; index; interlineations.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Recordation of Writings and Plats and Papers Annexed; Index; Interlineations.*—Every writing, except chattel deeds of trust, authorized by law to be recorded, when admitted to record, shall, with all certificates of acknowledgment, and all plats, schedules and other papers thereto annexed or thereon indorsed, be re-

7 corded by, or under the direction of, the clerk of the
8 county court, in a well-bound book, to be carefully pre-
9 served; and there shall be an index to such book as well
10 in the name of the grantee as of the grantor. After being
11 so recorded, such writing may be delivered to the party
12 entitled to claim under the same. If, except in those cases
13 where such writing is recorded by photography or similar
14 process producing exact facsimile copies, there appear
15 upon such writing, or any paper or certificate annexed
16 thereto, any interlineation, erasure or alteration, of which
17 no memorandum is contained in the writing, paper or
18 certificate, the clerk shall append to the record thereof a
19 memorandum describing as accurately as may be such
20 interlineation, erasure or alteration; and such memoran-
21 dum shall be copied into every such writing, paper or
22 certificate. Every such memorandum shall be prima facie
23 evidence of what is therein stated: *Provided, however,*
24 That the clerk of the county court may refuse to accept
25 for recordation any instrument printed on both sides of
26 the paper or printed in whole or part in smaller than ten
27 point type with at least two points separating each line.
28 Any failure of such instrument to be so accepted by the
29 clerk of the county court shall not affect the validity
30 thereof as to the parties thereto: *Provided further,* That
31 any such instrument shall be accepted by the clerk for
32 recording at one and one-half times the legal fee therefor.

33 The clerk of the county court may, at his discretion,
34 either record chattel deeds of trust in a well-bound book
35 or file the same. If the clerk elects to record chattel deeds
36 of trust in a well-bound book, the index kept in his office
37 shall give the names of the grantors, beneficiary of the
38 lien, date and hour of recording, book and page number
39 in which recorded, amount of principal sum, and brief
40 description of property conveyed. If the clerk elects to
41 file such chattel deeds of trust, the index shall be the
42 same as provided for recorded chattel deeds of trust, ex-
43 cept that the same shall indicate a filing number instead
44 of a book and page number: *Provided,* That any such
45 chattel deed of trust that has been recorded in a well-
46 bound book shall be returned to the beneficiary named
47 therein: *Provided further,* That any such chattel deed of

48 trust that is filed by the clerk shall be retained by said
49 clerk in a proper file kept in his office: *Provided further*,
50 That any chattel deed of trust may after the lapse of a
51 ten-year period from the last payment date provided
52 therein be removed from the files in the office of the
53 clerk of the county court and, at his discretion, be either
54 destroyed or returned to the beneficiary named therein.
55 Interlineations, erasures or alterations appearing in chat-
56 tel deeds of trust or copies thereof shall be dealt with the
57 same as provided for other instruments covered by this
58 section.

CHAPTER 15

(House Bill No. 226—By Mr. Bowles)

AN ACT to amend article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to trustee accounts and funds at state institutions.

[Passed March 8, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Organization; General Powers and Duties; Supervision of State Institutions.

Section

3-a. Trustee accounts and funds.

Be it enacted by the Legislature of West Virginia:

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

Section 3-a. *Trustee Accounts and Funds.*—The board
2 of control is hereby authorized and empowered to estab-
3 lish at each institution under its jurisdiction, except the
4 West Virginia penitentiary at Moundsville, the medium
5 security prison at Huttonsville and the state prison for

6 women at Pence Springs, a "superintendent's trustee
7 fund." The superintendent of each institution, when such
8 is deemed necessary, shall receive and take charge of the
9 money and valuables of all inmates in his institution and
10 all money or valuables sent to such inmates or earned by
11 such inmates as compensation for work performed while
12 he is domiciled there. The superintendent shall credit
13 such money and earnings to the inmate entitled thereto
14 and shall keep an accurate account of all such money and
15 valuables so received, which account shall be subject to
16 examination by the state board of control. The superin-
17 tendent shall deposit such moneys in one or more respon-
18 sible banks in accounts to be designated "superintend-
19 ent's trustee fund." The superintendent shall deliver to
20 the inmate at the time he leaves the institution all val-
21 uables, moneys and earnings then credited to him, or in
22 case of the death of such inmate before leaving the institu-
23 tion, the superintendent shall deliver such property to
24 his personal representative: *Provided, however,* That in
25 case a committee is appointed for such inmate while he is
26 domiciled at the institution, the superintendent shall de-
27 liver to such committee, upon demand, all moneys and
28 valuables belonging to the inmate which are in the custody
29 of the superintendent.

CHAPTER 16

(House Bill No. 77—By Mr. Goshorn)

AN ACT to amend chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article four, relating to the powers and duties of the West Virginia board of control to establish, operate and maintain forestry camps to be operated in connection with the state penal system in order to provide appropriate facilities for the housing of youthful male offenders who are amenable to discipline other than in close confinement.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Forestry Camps for Housing Youthful Male Law Offenders.

Section

1. Legislative purpose.
2. Establishment of forestry camps.
3. Powers of board of control in establishing forestry camps.
4. Superintendent; qualifications; pay; duties.
5. Employees; teachers; physical education director; probation officer; qualification and salaries.
6. Assignment of offenders to camp; period of camp confinement; return to court; sentence or probation; revocation of probation.
7. Physical and mental examination of offenders prior to transfer to board of control; persons not eligible for forestry camps.
8. Work and activities.
9. Wages.
10. Peace officers.
11. Escape; aiding escape; penalty.
12. Independent or cooperative establishment.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Legislative Purpose.*—The purpose of this article is to provide appropriate facilities for the housing of youthful male offenders convicted of or pleading guilty to violation of law before courts with original jurisdiction or juvenile courts, who are amenable to discipline other than in close confinement; to secure a better classification, and segregation of such persons according to their capabilities, interests, and responsiveness to control and responsibility; to reduce the necessity of expanding the existing grounds and housing facilities for the confinement of such persons, and to give better opportunity to youthful offenders for reformation and encouragement of self-discipline.

Sec. 2. *Establishment of Forestry Camps.*—The West Virginia board of control is authorized to establish, operate and maintain forestry camps to be operated in connection with the state penal system as herein provided.

Sec. 3. *Powers of Board of Control in Establishing Forestry Camps.*—The West Virginia board of control is

3 hereby given authority to acquire land and other property
4 by purchase, grant, gift, or otherwise in connection with
5 the establishment of forestry camps, and to construct such
6 buildings, fences and other facilities, and to acquire such
7 personal property as is necessary for the maintenance and
8 operation of such camps; to direct all needed improve-
9 ments and repairs necessary for the proper upkeep of
10 such camps, and to provide for the necessary food, medical
11 treatment, and safekeeping of persons confined therein;
12 to employ personnel to operate the camps, and to provide
13 the necessary work and other programs for the offenders
14 assigned to the camps.

Sec. 4. *Superintendent; Qualifications; Pay; Duties.*—

2 Each forestry camp shall be under the direction of a camp
3 superintendent, who shall have the minimum qualifica-
4 tion of a college degree with a major in sociology or a
5 kindred field, and be trained and experienced in dealing
6 with youths. He shall be paid an annual salary to
7 be fixed by the board of control.

8 The camp superintendent shall provide a training pro-
9 gram which shall include four separate, yet well-integrat-
10 ed sections, embracing the following: (1) work programs;
11 (2) educational program; (3) recreational program, and
12 (4) individual and group counseling.

Sec. 5. *Employees; Teachers; Physical Education Direc-*

2 *tor; Probation Officer; Qualification and Salaries.*—In ad-
3 dition to the superintendents and other employees who
4 may be needed, the camp staff shall include a minimum of
5 one education instructor qualified to teach in the second-
6 ary schools of this state, one physical education director
7 qualified to teach in the secondary schools of this state,
8 one trained probation officer who has the minimum quali-
9 fication of a college degree with a major in sociology, or
10 a kindred field.

11 The annual salaries of the education instructor, the
12 physical director and the probation officer shall be fixed
13 by the board of control.

Sec. 6. *Assignment of Offenders to Camp; Period of*
2 *Camp Confinement; Return to Court; Sentence or Pro-*

3 *bation; Revocation of Probation.*—The judge of any court
4 with original criminal jurisdiction, or any juvenile court,
5 may suspend the imposition of sentence of any male youth
6 convicted of or pleading guilty to a criminal offense, other
7 than a capital offense, who has attained his sixteenth
8 birthday but has not reached his twenty-first birthday at
9 the time of the commission of the crime, and commit him
10 to the custody of the West Virginia board of control to be
11 assigned to a forestry camp. The period of confinement in
12 the forestry camp shall be for a period of one year, or
13 longer if it is deemed advisable by the camp superinten-
14 dent, but in any event such period of confinement shall
15 not exceed two years. If, in the opinion of the super-
16 intendent, such male offender proves to be an unfit person
17 to remain in such a camp, he shall be returned to the
18 court which committed him to be dealt further with
19 according to law. In such event, the court may place him
20 on probation or sentence him for the crime for which he
21 has been convicted.

22 In his discretion, the judge may allow the defendant
23 credit on his sentence for time he has spent in the forestry
24 camp. When, in the opinion of the superintendent, any
25 boy has satisfactorily completed the camp training pro-
26 gram and the term for which he was assigned has expired,
27 such male offender shall be returned to the jurisdiction
28 of the court which originally committed him. He shall
29 be eligible for probation for the offense with which he is
30 charged, and the judge of the court shall immediately
31 place him on probation. In the event his probation is
32 subsequently revoked by the judge, he shall be given the
33 sentence he would have originally received had he not
34 been committed to the camp and subsequently placed on
35 probation. The court shall, however, give the defendant
36 credit on his sentence for the time he spent in the camp.

Sec. 7. *Physical and Mental Examination of Offenders*
2 *Prior to Transfer to Board of Control; Persons not Eligible*
3 *for Forestry Camps.*—Before the judge of any court of
4 original jurisdiction or juvenile court can transfer a
5 youthful offender to the custody of the board of control
6 to be assigned to a forestry camp, such offender shall be

7 given a complete medical examination by a doctor desig-
8 nated by the board of control, and the offender must be
9 free of any communicable disease or other physical defects
10 which would prohibit him from participating in the pro-
11 gram of the forestry camp. In the event there is a ques-
12 tion concerning the mental status of an offender, he shall
13 be given an examination by a competent psychiatrist
14 designated by the board of control to determine whether
15 he is fit to participate in the program of the forestry
16 camp.

17 Any offender who is found to have a communicable
18 disease, is feeble minded, psychotic, mentally ill, or has a
19 history of homosexual activities, or arsonist tendencies,
20 shall not be eligible for assignment to a forestry camp.

Sec. 8. *Work and Activities.*—Offenders assigned to
2 forestry camps may be required to labor on the buildings
3 and grounds of the camp, in the making of forest roads,
4 for fire prevention and fire fighting, on forestation and
5 reforestation of public lands, on the making of fire trails
6 and fire breaks, on fire suppression, on building or im-
7 proving public parks or lands, or engage in any studies or
8 activities prescribed or permitted by the camp super-
9 intendent, subject to the approval of the board of control.

Sec. 9. *Wages.*—The West Virginia board of control may
2 provide for the payment of wages to the offenders assign-
3 ed to said forestry camps for the work they perform,
4 which amounts shall not exceed fifty cents for each day's
5 work performed, the sums earned to be paid to the parents
6 or dependents of the offender, or to the offender himself,
7 in such manner and in such proportions as the super-
8 intendent of the camp directs.

Sec. 10. *Peace Officers.*—All officers and employees of
2 a camp shall have the powers of peace officers so far as
3 necessary to arrest camp inmates.

Sec. 11. *Escape; Aiding Escape; Penalty.*—Should any
2 inmate of a forestry camp escape therefrom or from the
3 custody of an officer or employee of the camp, he shall be
4 guilty of a misdemeanor and on conviction shall be

5 punished by a fine of not more than five hundred dollars,
6 or by imprisonment in the county jail for not more than
7 six months, or by both such fine and imprisonment.
8 Any person who knowingly permits or aids any inmate
9 of such camp to escape therefrom, or conceals him with
10 the intent of enabling him to elude pursuit, is guilty of a
11 misdemeanor and punishable in a like manner.

Sec. 12. Independent or Cooperative Establishment.—

2 The West Virginia board of control may establish forestry
3 camps independently or in cooperation with the conser-
4 vation commission of West Virginia on such terms as may
5 be agreed upon by the board of control and the director of
6 conservation.

CHAPTER 17

(Com. Sub. for House Bill No. 352—Originating in the House Committee on
Penal and Correctional Institutions)

AN ACT to amend and reenact section eight-a, article five, chap-
ter twenty-eight of the code of West Virginia; one thousand
nine hundred thirty-one, as amended, relating to manu-
facture of license plates.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 5. The Penitentiary.

Section

8-a. Manufacture of license plates.

Be it enacted by the Legislature of West Virginia:

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

Section 8-a. *Manufacture of License Plates.*—For the
2 purpose of obtaining license plates to be used upon motor
3 vehicles licensed for operation in this state and road signs
4 or markers of any description for state roads, the West

5 Virginia state board of control is hereby authorized and
6 empowered on behalf of the state, to establish and operate
7 a plant for the manufacture of such license plates and road
8 signs or markers at the West Virginia penitentiary, at
9 Moundsville, West Virginia.

10 After this section shall take effect, it shall be unlawful
11 for the state road commissioner to manufacture such
12 license plates for motor vehicles or such road signs or
13 markers of any description at any place and it shall be
14 unlawful for said state road commissioner to obtain such
15 license plates and such road signs or markers otherwise
16 than as herein provided. The provisions of general law
17 relating to the removal and impeachment of the said road
18 commissioner and members of the board of control shall
19 have application to them for their failure to comply with
20 this act.

CHAPTER 18

(House Bill No. 291—By Mr. McLaughlin)

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve, relating to claims against the state.

Article 2. Claims Against the State.

Section

12. Process, payment.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Process, Payment.*—The attorney general
2 shall have authority to subpoena witnesses to attend hear-

ings and place them under oath when testifying: *Provided, however*, That all the expenses involved in compelling a witness to attend a hearing shall be borne by the person or persons requesting that such witness be subpoenaed.

CHAPTER 19

(Senate Bill No. 302—By Mr. Smith)

AN ACT finding and declaring the claim of Bobby Joe Edmonds, an infant, against the state of West Virginia and its agency, the state road commission, to be a moral obligation of the state and directing the auditor to issue a warrant for the payment thereof.

[Passed March 11, 1955; in effect July 1, 1955. Approved by the Governor.]

Section

1. Finding and declaring the payment of the claim of Bobby Joe Edmonds against the state road commission to be the moral obligation of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring the Payment of the Claim of Bobby Joe Edmonds Against the State Road Commission to Be the Moral Obligation of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and the recommendations reported to it by the attorney general of the state of West Virginia, concerning the claim of Bobby Joe Edmonds, an infant, for personal injuries occasioned by the said claimant on October twenty-third, one thousand nine hundred fifty-two, as a direct result of the negligence of employees of the state road commission in permitting gasoline to remain open and unguarded in an empty bucket on Fourth avenue, a public street in the city of Huntington, West Virginia, where children, including the claimant, were rightfully playing; and that this gasoline was ignited and caused severe burns to the right leg of the claimant, caus-

17 ing him permanent injuries and necessitating skin graft-
18 ing, medical and hospital expense, and in respect to the
19 said claim the Legislature declares it to be the moral
20 obligation of the state to pay the said claim of Bobby Joe
21 Edmonds in the amount of one thousand five hundred
22 dollars and hereby directs the auditor to issue a warrant
23 for the payment thereof.

CHAPTER 20

(House Bill No. 181—By Mr. Holderby and Mr. Tucker)

AN ACT authorizing the state tax commissioner to approve, and the state auditor to issue a warrant for the refunding of moneys paid as gasoline taxes to the state of West Virginia, during the period from September first, one thousand nine hundred forty-nine to October first, one thousand nine hundred fifty-two, by Ohio Valley Bus Company.

[Passed March 12, 1955; in effect ninety days from passage. Became a law without the approval of the Governor.]

Section

1. Tax commissioner authorized to refund and auditor empowered to repay certain gasoline taxes paid by Ohio Valley Bus Company.
2. Finding of moral obligation.

WHEREAS, Ohio Valley Bus Company, a corporation, has paid to the state of West Virginia taxes on gasoline used in the commonwealth of Kentucky during the period between September first, one thousand nine hundred forty-nine to October first, one thousand nine hundred fifty-two, in the amount of five thousand eight hundred ninety-three dollars and thirty cents; and

WHEREAS, Said sum of taxes was owed and properly paid by the said Ohio Valley Bus Company to the commonwealth of Kentucky as provided under the reciprocal gasoline tax laws of the states of Kentucky and West Virginia; and

WHEREAS, Ohio Valley Bus Company omitted to make application for the statutorily authorized refund of such taxes by

the state of West Virginia within the statutory time limit specified because of lack of knowledge of the same; and

WHEREAS, Ohio Valley Bus Company has submitted to the tax commissioner properly executed application for the authorized refund of such taxes now being withheld by West Virginia; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Tax Commissioner Authorized to Refund and Auditor Empowered to Repay Certain Gasoline Taxes Paid by Ohio Valley Bus Company.*—The tax commissioner of West Virginia is authorized to approve and the state auditor of West Virginia is empowered to issue a warrant, payable out of any surplus in the general revenue, to Ohio Valley Bus Company, a corporation, of Huntington, West Virginia, for refund of taxes paid on gasoline used by said Ohio Valley Bus Company in the commonwealth of Kentucky, during the period between September first, one thousand nine hundred forty-nine and October first, one thousand nine hundred fifty-two, in the sum of five thousand eight hundred ninety-three dollars and thirty cents, which sum has been lawfully paid to the commonwealth of Kentucky under the reciprocal gasoline tax laws of the two states.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature, based upon its conclusion of fact, that this refund and reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 21

(House Bill No. 62—By Mr. Loop)

AN ACT to make an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Union Carbide and Carbon Corporation certain moneys belonging to said corporation.

[Passed February 18, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Appropriation for Union Carbide and Carbon Corporation.
2. Finding of moral obligation.

WHEREAS, Prior to the enactment of chapter twelve of the acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-three, adopted February eighteenth, one thousand nine hundred fifty-three, there was in the expert engineer fund of the public service commission of West Virginia, the sum of five hundred eight dollars and fifty-five cents belonging to Union Carbide and Carbon Corporation and for which it had made repeated claim; and

WHEREAS, By inadvertence said sum of money was transferred to the state fund general revenue by chapter twelve of said acts of one thousand nine hundred fifty-three; and

WHEREAS, The attorney general of West Virginia by a letter dated November twenty-second, one thousand nine hundred fifty-four, addressed to the director of the budget, has determined that Union Carbide and Carbon Corporation is entitled to said money and that there exists a moral obligation against the state for the payment of the same, and such item has been included in section three of the budget bill (S. B. No. 1); therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Appropriation for Union Carbide and Carbon Corporation.*—There is hereby appropriated from the state fund general revenue the sum of five hundred eight dollars and fifty-three cents to reimburse it for moneys belonging to it in the expert engineer fund of the public service commission and inadvertently transferred to the state fund general revenue.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature that this reimbursement is necessary to discharge a moral obligation of the state of West Virginia.

CHAPTER 22

(Senate Bill No. 289—By Mr. Stemple)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending article three thereof, by adding thereto a new section, to be designated section twenty-one, relating to jury service for women.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Jury Service for Women Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "jury service for women amendment".
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting an Amendment to the State Constitution.*—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:
That article three of the constitution of West Virginia be amended by adding thereto a new section to be designated section twenty-one, to read as follows:

Sec. 21. Regardless of sex, all persons, who are otherwise qualified, shall be eligible to serve as petit jurors, in both civil and criminal cases, as grand jurors and as coroner's jurors.

Sec. 2. *Amendment to Be Known as the "Jury Service for Women Amendment".*—For convenience in referring

3 to said proposed amendment, and in the preparation of
4 the form of the ballot hereinafter provided for, said pro-
5 posed amendment is hereby designated as the "Jury Serv-
6 ice for Women Amendment".

Sec. 3. *Form of Ballot; Election.*—For the purpose of
2 enabling the voters of the state to vote on the question of
3 said proposed amendment to the constitution at the said
4 general election to be held in the year one thousand nine
5 hundred fifty-six, the board of ballot commissioners of
6 each county is hereby required to place upon, and at the
7 foot of, the official ballot to be voted at that election, the
8 following:

9 Ballot on "Jury Service for Women Amendment".

10 ☐ For Jury Service for Women Amendment.

11 ☐ Against Jury Service for Women Amendment.

12 The said election on the proposed amendment at each
13 place of voting shall be superintended, conducted and re-
14 turned, and the result thereof ascertained by the same
15 officers and in the same manner as the election of officers
16 to be voted for at said election, and all the provisions of
17 the law relating to general elections, including all duties
18 to be performed by any officer or board, as far as practi-
19 cable, and not inconsistent with anything herein con-
20 tained, shall apply to the election held under the provi-
21 sions of this act, except when it is herein otherwise
22 provided. The ballots cast on the question of said pro-
23 posed amendment shall be counted as other ballots cast
24 at said election.

Sec. 4. *Certificates of Election Commissioners; Canvass*
2 *of Vote; Certifying Result.*—As soon as the result is as-
3 certained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,
5 at each place of voting, shall make out and sign two
6 certificates thereof in the following form or the following
7 effect:

8 "We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No. _____, in the district of _____,
11 in the county of _____, on the _____ day of
12 _____, one thousand nine hundred fifty-six,

13 upon the question of the ratification or rejection of the
14 proposed constitutional amendment, do hereby certify
15 that the result of said election is as follows:

16 "For ratification of Jury Service for Women Amend-
17 ment votes.

18 "Against ratification of Jury Service for Women Amend-
19 ment votes.

20 "Given under our hands this day of
21, one thousand nine hundred fifty-six."

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true returns
24 of said election at each place of voting on said question.
25 The said commissioners, or any one of them (or said
26 canvassers or any one of them, as the case may be), shall,
27 within four days, excluding Sunday, after that on which
28 said election was held, deliver one of said certificates to
29 the clerk of the county court of his county, together with
30 the ballots, and the other to the clerk of the circuit court
31 of the county.

32 The said certificates, together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the court-
35 house at the same time the ballots, poll books, and the
36 certificates of election of the members of the Legislature
37 are laid before them; and as soon as the result of said
38 election in the county upon the question of such ratifica-
39 tion or rejection is ascertained, two certificates of such
40 result shall be made out and signed by said commissioners
41 as a board of canvassers, in the form or to the following
42 effect:

43 "We, the board of canvassers of the county of
44, having carefully and impartially examined
45 the returns of the election held in said county, in each
46 district thereof, on the day of November, one thou-
47 sand nine hundred fifty-six, do certify that the results of
48 the election in said county, on the question of the ratifi-
49 cation or rejection of the proposed amendment is as
50 follows:

51 "For ratification of Jury Service for Women Amend-
52 ment votes.

53 "Against ratification of Jury Service for Women Amend-

54 ment votes.

55 "Given under our hands this day of
56, one thousand nine hundred fifty-six."

57 One of the certificates shall be filed in the office of the
58 clerk of the county court, and the other forwarded by
59 mail to the secretary of state, who shall file and preserve
60 the same until the day on which the result of said election
61 in the state is to be ascertained, as hereinafter stated.

Sec. 5. *Proclamation of Result of Election by Governor.*

2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to as-
5 certain therefrom the result of said election in the state,
6 and declare the same by proclamation published in one or
7 more newspapers printed at the seat of government. If
8 a majority of the votes cast at said election upon said
9 question be for ratification of said amendment, the pro-
10 posed amendment so ratified shall be in force and effect
11 from and after the time of such ratification, as part of the
12 constitution of the state.

Sec. 6. *Publication of Proposed Amendment by Gover-*

2 *nor.*—The governor shall cause the said proposed amend-
3 ment, with the proper designation for the same as here-
4 inbefore adopted, to be published one time at least three
5 months before such election in some newspaper in every
6 county in which a newspaper is printed, at a price to be
7 agreed upon in advance, in writing, and the cost of such
8 advertising shall in the first instance, if found necessary
9 by him, be paid out of the governor's contingent fund and
10 be afterwards repaid to such fund by appropriation of the
11 Legislature.

CHAPTER 23

(Com. Sub. for House Bill No. 175—Originating in the House Committee on
Veterans Affairs)

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state, to be
know as the "Korean Veterans Bonus Amendment."

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Korean Veterans Bonus Amendment.

Section

1. Submitting "Korean veterans bonus amendment" to state constitution.
2. Amendment to be known as the "Korean veterans bonus amendment".
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting "Korean Veterans Bonus Amendment" to the State Constitution.*—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:

KOREAN VETERANS BONUS AMENDMENT

The Legislature shall by law provide for the issuance and sale of state bonds, which shall be in addition to all other state bonds heretofore issued, for the following purposes:

- (1) The paying of a cash bonus to veterans of the armed forces of the United States who served during the Korean conflict. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States between the twenty-seventh day of June, one thousand nine hundred fifty, and the twenty-seventh day of July, one thousand nine hundred fifty-three, both dates inclusive, who were bona fide residents of the state of West Virginia at the time of their entry into such service and for a period of at least six months prior thereto, who were not dishonorably discharged from such service, and who within the period specified

27 above actively served in such armed forces for a period
28 of at least ninety days. Such a bonus shall also be
29 paid to any disabled veteran, otherwise qualified, who
30 was discharged within ninety days after entering the
31 services because of a service-connected disability.
32 The amount of such bonus shall be calculated on the
33 basis of ten dollars for each month, or major frac-
34 tion thereof, served within the territorial limits of
35 the forty-eight states and the District of Columbia,
36 and fifteen dollars for each month, or major fraction
37 thereof, served outside such limits, but such amount
38 shall in no case exceed three hundred dollars for those
39 who served only within the territorial limits specified
40 above, and four hundred dollars for those who served
41 outside such limits. The bonus to which any deceased
42 veteran would be entitled, if living, shall be paid only to
43 the following surviving relatives of such veteran, if such
44 relatives are residents of this state when application for
45 payment is made: Any unmarried widow, or if none, any
46 child or children under the age of sixteen, or if none,
47 any dependent parent or parents.

48 The principal amount of bonds to be issued for the
49 purpose provided in paragraph (1) above shall not ex-
50 ceed the principal amount of the ninety million dollars
51 bonds authorized by the veterans bonus amendment sub-
52 mitted by chapter nineteen of the acts of the Legislature
53 of West Virginia of one thousand nine hundred forty-nine,
54 regular session, and ratified by the people of West Vir-
55 ginia at the general election held on the seventh day of
56 November, one thousand nine hundred fifty (hereinafter
57 referred to as "Veterans Bonus Amendment of one thou-
58 sand nine hundred fifty"), which shall not have been issued
59 on the date of the ratification of this amendment by the
60 people of West Virginia: *Provided, however,* That such
61 bonds issued under the provisions of paragraph (1) above
62 may be funded or refunded at any time in the manner
63 provided in paragraph (2) below.

64 (2) The funding or refunding of all or any part of
65 the bonds heretofore issued pursuant to said veterans
66 bonus amendment of one thousand nine hundred fifty.

67 Said bonds issued pursuant to said veterans bonus amend-
68 ment of one thousand nine hundred fifty may be so funded
69 or refunded either on the maturity dates of said bonds
70 or on any date on which said bonds are callable prior
71 to maturity, and if any of said bonds have not matured
72 or are not then callable prior to maturity, the Legislature
73 may nevertheless provide at any time for the issuance
74 of refunding bonds to fund or refund such bonds on the
75 dates when said bonds mature or on any date on which
76 said bonds are callable prior to maturity, and for the
77 investment or reinvestment of the proceeds of such re-
78 funding bonds in direct obligations of the United States
79 of America until the date or dates upon which such bonds
80 issued pursuant to said veterans bonus amendment of
81 one thousand nine hundred fifty mature or are callable
82 prior to maturity.

83 The principal amount of bonds issued under the pro-
84 visions of paragraph (2) above shall not exceed the prin-
85 cipal amount of the bonds to be funded or refunded
86 thereby.

87 Such bonds for the purposes authorized in paragraphs
88 (1) and (2) above may be issued from time to time as
89 separate issues for such purposes or as combined issues
90 for such purposes.

91 Whenever the Legislature shall provide for the issuance
92 of any bonds under the authority of this amendment, it
93 shall at the same time provide for the levy and collection
94 of an additional cigarette tax, or an additional tax on
95 nonintoxicating beer, or an additional charge on the sale
96 of each bottle of wine and liquor, or an additional general
97 consumers sales tax, or a graduated income tax, or any
98 two or more thereof, in such amount as may be required
99 to pay annually the interest on such bonds and the prin-
100 cipal thereof within and not exceeding thirty years, and
101 all such taxes or charges so levied shall be irrevocably
102 dedicated for the payment of the principal of and interest
103 on such bonds until such principal of and interest on such
104 bonds is finally paid and discharged, and any of the cove-
105 nants, agreements or provisions in the acts of the Leg-
106 islature levying such taxes or charges shall be enforce-

107 able in any court of competent jurisdiction by any of the
108 holders of said bonds. The additional taxes on cigarettes
109 and nonintoxicating beer and additional charges on the
110 sale of each bottle of alcoholic liquor, provided for in
111 chapter six, one hundred eighty-four and one hundred
112 eighty-seven of the acts of the Legislature of West Vir-
113 ginia, regular session, one thousand nine hundred fifty-
114 one, shall continue to be pledged for the payment of the
115 principal of an interest on bonds issued pursuant to said
116 veterans bonus amendment of one thousand nine hundred
117 fifty, or bonds issued pursuant to this amendment to fund
118 or refund such bonds issued pursuant to said veterans
119 bonus amendment of one thousand nine hundred fifty:
120 *Provided, however,* That upon the funding or refunding
121 of all outstanding bonds issued pursuant to said veterans
122 bonus amendment of one thousand nine hundred fifty,
123 or the deposit in trust of sufficient funds to pay all the
124 principal of and interest on such outstanding bonds issued
125 pursuant to said veterans bonus amendment of one thou-
126 sand nine hundred fifty to their respective dates of ma-
127 turity or to the first date upon which said bonds are call-
128 able prior to maturity, the taxes and charges provided for
129 in said chapter six, one hundred eighty-four and one hun-
130 dred eighty-seven of the acts of the Legislature of West
131 Virginia, regular session, one thousand nine hundred fifty-
132 one, may be pledged to the payment of the principal of and
133 interest on any bonds issued under any of the provisions
134 of this amendment.

Sec. 2. *Amendment to be Known as the "Korean Veterans Bonus Amendment".*—For convenience in referring to said proposed amendment, and in preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the "Korean Veterans Bonus Amendment".

Sec. 3. *Form of Ballot; Election.*—For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the said general election to be held in the year one thousand nine hundred fifty-six, the board of ballot commissioners

6 of each county is hereby required to place upon, and at
7 the foot of, the official ballot to be voted at that election,
8 the following:

9 Ballot on "Korean Veterans Bonus Amendment".

10 ☐ For ratification of "Korean Veterans Bonus Amend-
11 ment."

12 ☐ Against ratification of "Korean Veterans Bonus
13 Amendment."

14 The said election on the proposed amendment at each
15 place of voting shall be superintended, conducted and re-
16 turned, and the result thereof ascertained by the same
17 officers and in the same manner as the election of officers
18 to be voted for at said election, and all the provisions of
19 the law relating to general elections, including all duties
20 to be performed by any officers or board, as far as practic-
21 able, and not inconsistent with anything herein con-
22 tained, shall apply to the election held under the pro-
23 visions of this act, except when it is herein otherwise pro-
24 vided. The ballots cast on the question of said pro-
25 posed amendment shall be counted as other ballots cast
26 at said election.

Sec. 4. *Certificates of Election Commissioners; Canvass
2 of Vote; Certifying Result.*—As soon as the result is
3 ascertained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,
5 at each place of voting, shall make out and sign two
6 certificates thereof in the following form or the follow-
7 ing effect:

8 "We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No., in the district of,
11 in the county of, on the
12 day of, one thousand nine hun-
13 dred fifty-six, upon the question of the ratification or
14 rejection of the proposed constitutional amendment, do
15 hereby certify that the result of said election is as follows:

16 "For ratification of Korean Veterans Bonus Amend-
17 ment votes.

18 "Against ratification of Korean Veterans Bonus Amend-
19 ment votes.

20 "Given under our hands this..... day of
21 one thousand nine hundred fifty-six."

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true returns
24 of said election at each place of voting on said question.
25 The said commissioners, or any one of them (or said
26 canvassers or any one of them, as the case may be), shall,
27 within four days, excluding Sunday, after that on which
28 said election was held, deliver one of said certificates to
29 the clerk of the county court of his county, together with
30 the ballots, and the other to the clerk of the circuit court
31 of the county.

32 The said certificates, together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the
35 courthouse at the same time the ballots, poll books, and
36 the certificates of election of the members of the Legisla-
37 ture are laid before them; and as soon as the result of said
38 election in the county upon the question of such ratifica-
39 tion or rejection is ascertained, two certificates of such
40 result shall be made out and signed by said commissioners
41 as a board of canvassers, in the form or to the following
42 effect:

43 "We, the board of canvassers of the county of.....
44, having carefully and impartially ex-
45 amined the returns of the election held in said county,
46 in each district thereof, on the day of November,
47 one thousand nine hundred fifty-six, do certify that the
48 results of the election in said county, on the question of
49 the ratification or rejection of the proposed amendment
50 is as follows:

51 "For ratification of Korean Veterans Bonus Amend-
52 ment votes.

53 "Against ratification of Korean Veterans Bonus Amend-
54 ment votes.

55 "Given under our hands this day of
56 one thousand nine hundred fifty-six."

57 One of the certificates shall be filed in the office of the
58 clerk of the county court, and the other forwarded by
59 mail to the secretary of state, who shall file and preserve

60 the same until the day on which the result of said elec-
61 tion in the state is to be ascertained, as hereinafter stated.

Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the state,
6 and declare the same by proclamation published in one or
7 more newspapers printed at the seat of government. If
8 a majority of the votes cast at said election upon said
9 question be for ratification of said amendment, the pro-
10 posed amendment so ratified shall be in force and effect
11 from and after the time of such ratification, as part of the
12 constitution of the state.

Sec. 6. Publication of Proposed Amendment by Gov-

2 *ernor.*—The governor shall cause the said proposed
3 amendment, with the proper designation for the same as
4 hereinbefore adopted, to be published one time at least
5 three months before such election in some newspaper in
6 every county in which a newspaper is printed, at a price
7 to be agreed upon in advance, in writing, and the cost
8 of such advertising shall be in the first instance, if found
9 necessary by him, be paid out of the governor's contingent
10 fund and be afterwards repaid to such fund by appro-
11 priation of the Legislature.

— 0 —

CHAPTER 24

(Senate Bill No. 398—By Mr. Amos)

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state, amend-
ing section one, article ten thereof, relating to taxation and
finance.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the
Governor.]

Taxation and Finance Amendment.

Section

1. Submitting "taxation and finance amendment" to the state con-
stitution.

2. Amendment to be known as the "taxation and finance amendment".
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting "Taxation and Finance Amendment" to the State Constitution.*—That the question of ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:

PROPOSED AMENDMENT

Article 10. Taxation and Finance.

Section 1. Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including live stock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other such property situated within municipalities, two dollars; and the Legislature shall further provide by general law, for in-

23 creasing the maximum rates, authorized to be fixed, by
24 the different levying bodies upon all classes of property,
25 by submitting the question to the voters of the taxing
26 units affected, but no increase shall be effective unless at
27 least sixty per cent of the qualified voters shall favor
28 such increase, and such increase shall not continue for a
29 longer period than three years at any one time, and shall
30 never exceed by more than fifty per cent the maximum
31 rate herein provided and prescribed by law, except that,
32 with respect to those levies allocated by law for the sup-
33 port of public schools, such increase may be so approved
34 for a period not to exceed five years and in an amount
35 not to exceed one hundred per cent of such school rates;
36 and the revenue derived from this source shall be appor-
37 tioned by the Legislature among the levying units of the
38 state in proportion to the levy laid in said units upon real
39 and other personal property; but property used for edu-
40 cational, literary, scientific, religious or charitable pur-
41 poses, all cemeteries, public property, the personal prop-
42 erty, including live stock, employed exclusively in agri-
43 culture as above defined and the products of agriculture
44 as so defined while owned by the producers may by law
45 be exempted from taxation; household goods to the value
46 of two hundred dollars shall be exempted from taxation.
47 The Legislature shall have authority to tax privileges,
48 franchises, and incomes of persons and corporations and
49 to classify and graduate the tax on all incomes according
50 to the amount thereof and to exempt from taxation, in-
51 comes below a minimum to be fixed from time to time,
52 and such revenues as may be derived from such tax may
53 be appropriated as the Legislature may provide. The rate
54 of the state tax upon property shall not exceed one cent
55 upon the hundred dollars valuation, except to pay the
56 principal and interest of bonded indebtedness of the state
57 now existing. The maximum rates hereinbefore provided
58 on the several classes of property may be used for cur-
59 rent expense purposes; levies required for the payment
60 of indebtedness contracted under section eight of this
61 article shall be laid separately and apart from, and in
62 addition to, those used for current expense purposes, but
63 in a similar manner.

Sec. 2. *Amendment to Be Known as the "Taxation and Finance Amendment."*—For convenience in referring to said proposed amendment, and in preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the "Taxation and Finance Amendment."

Sec. 3. *Form of Ballot; Election.*—For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the said general election to be held in the year one thousand nine hundred fifty-six, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballot to be voted at that election, the following:

Ballot on "Taxation and Finance Amendment."

☐ For ratification of "Taxation and Finance Amendment."

☐ Against ratification of "Taxation and Finance Amendment."

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, and the result thereof ascertained by the same officers and in the same manner as the election of officers to be voted for at said election, and all the provisions of the law relating to general elections, including all duties to be performed by any officers or board, as far as practicable, and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.

Sec. 4. *Certificates of Election Commissioners; Canvass of Vote; Certifying Result.*—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or the following effect:

"We, the undersigned, who act as commissioners (or

9 canvassers, as the case may be) of the election held at
10 Precinct No. _____, in the district of _____
11 in the county of _____, on the _____ day of
12 _____, one thousand nine hundred fifty-
13 six, upon the question of the ratification or rejection of
14 the proposed constitutional amendment, do hereby certify
15 that the result of said election is as follows:

16 "For ratification of Taxation and Finance Amendment
17 _____ votes.

18 "Against ratification of Taxation and Finance Amend-
19 ment _____ votes.

20 "Given under our hands this _____ day of _____
21 _____, one thousand nine hundred fifty-six."

22 The said two certificates shall correspond with each
23 other in all respects and contain the full and true returns
24 of said election at each place of voting on said question.
25 The said commissioners, or any one of them (or said can-
26 vassers or any one of them, as the case may be), shall,
27 within four days, excluding Sunday, after that on which
28 said election was held, deliver one of said certificates to
29 the clerk of the county court of his county, together with
30 the ballots, and the other to the clerk of the circuit court
31 of the county.

32 The said certificates, together with the ballots cast on
33 the question of said proposed amendment, shall be laid
34 before the commissioners of the county court at the court-
35 house at the same time the ballots, poll books, and the
36 certificates of election of the members of the Legisla-
37 ture are laid before them; and as soon as the result of
38 said election in the county upon the question of such rati-
39 fication or rejection is ascertained, two certificates of such
40 result shall be made out and signed by said commissioners
41 as a board of canvassers, in the form or to the following
42 effect:

43 "We, the board of canvassers of the county of _____
44 _____, having carefully and impartially examined the
45 returns of the election held in said county, in each dis-
46 trict thereof, on the _____ day of November, one thousand
47 nine hundred fifty-six, do certify that the results of the
48 election in said county, on the question of the ratification
49 or rejection of the proposed amendment is as follows:

50 "For ratification of Taxation and Finance Amendment
51 _____ votes.

52 "Against ratification of Taxation and Finance Amend-
53 ment _____ votes.

54 "Given under our hands this _____ day of _____
55 _____, one thousand nine hundred fifty-six."

56 One of the certificates shall be filed in the office of the
57 clerk of the county court, and the other forwarded by
58 mail to the secretary of state, who shall file and preserve
59 the same until the day on which the result of said election
60 in the state is to be ascertained, as hereinafter stated.

Sec. 5. *Proclamation of Result of Election by Governor.*

2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the state,
6 and declare the same by proclamation published in one
7 or more newspapers printed at the seat of government. If
8 a majority of the votes cast at said election upon said
9 question be for ratification of said amendment, the pro-
10 posed amendment so ratified shall be in force and effect
11 from and after the time of such ratification, as part of
12 the constitution of the state.

Sec. 6. *Publication of Proposed Amendment by Gover-*

2 *nor.*—The governor shall cause the said proposed amend-
3 ment, with the proper designation for the same as herein-
4 before adopted, to be published one time at least three
5 months before such election in some newspaper in every
6 county in which a newspaper is printed, at a price to be
7 agreed upon in advance, in writing, and the cost of such
8 advertising shall be in the first instance, if found neces-
9 sary by him, be paid out of the governor's contingent fund
10 and be afterwards repaid to such fund by appropriation
11 of the Legislature.

CHAPTER 25

(House Bill No. 4—By Mr. Richardson, of Mercer)

AN ACT to amend and reenact section twelve, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relative to the amendment of corporate charters.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

12. Same; how made.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Same; How Made.*—Except as hereinafter
2 in this section provided, a resolution or resolutions spe-
3 cifically stating the proposed amendment or amendments
4 shall be adopted by a majority vote of all of the shares of
5 capital stock of the company entitled to vote at a regular
6 or special meeting of the stockholders, and notice of such
7 meeting shall be given as provided by the by-laws of the
8 corporation, or, in the absence of a provision in the by-
9 laws for such notice, in the manner provided in this
10 article. The notice to stockholders shall inform them of
11 the amendments of the charter proposed to be made and
12 that the stockholders at the meeting will vote upon the
13 question or questions of making such amendments:
14 *Provided, however,* That if the corporation have only one
15 class of stock, and any such amendment would increase
16 or decrease the amount of the authorized capital stock,
17 or would increase or decrease the par value thereof, then
18 the affirmative vote of two-thirds of all the stockholders
19 shall be necessary to the adoption thereof: *Provided*
20 *further,* That if the corporation have more than one class

21 of stock, and if any such proposed amendment would
22 alter or change the preferences given to any one or more
23 classes of stock, by the charter, or would increase or
24 decrease the amount of the authorized stock of such class
25 or classes of stock, or would increase or decrease the par
26 value thereof, then the holders of the stock of each class
27 of stock affected by the amendment shall be entitled to
28 vote as a class upon such amendment, whether by the
29 terms of the charter such class be entitled to vote or not,
30 and the affirmative vote of two-thirds in interest of each
31 such class of stock affected by the amendment shall be
32 necessary to the adoption thereof, in addition to the
33 affirmative vote of a majority of every other class of
34 stock entitled to vote thereon: *Provided further*, That the
35 amount of the authorized stock of any such class or
36 classes of stock if more than one class exists, or if only
37 one class that class of stock, may be increased or de-
38 creased by the affirmative vote of the holders of a majority
39 of the stock of the corporation entitled to vote, if so pro-
40 vided in the original charter or in any amendment thereto
41 which created such stock, or class or classes of stock, or
42 in any amendment thereto which was authorized by a
43 resolution or resolutions adopted by the affirmative vote
44 of the holders of two-thirds of such stock, or class or
45 classes of stock: *And provided further*, That any amend-
46 ment to the charter under a right reserved therein to
47 make such amendment may be made in the manner
48 specified in the charter and by a vote of the proportion
49 of the shares of outstanding stock and of the class or
50 classes of stock authorized to amend, as set out in the
51 charter.

52 The president or a vice president of the corporation,
53 under his signature and the seal of the corporation, shall
54 certify the resolution or resolutions and the fact and the
55 manner of the adoption of the same, and of the assenting
56 of all stockholders, the consent of whom is required under
57 this article to the making of such amendment, or amend-
58 ments, to the secretary of state, who shall issue his certifi-
59 cate reciting such resolution, corporate action and facts
60 certified in like manner and with like effect as an original

61 certificate of incorporation and transmit the same to the
62 corporation. Such certificate or a certified copy thereof
63 shall be recorded and received in evidence as provided
64 for the recordation and admission in evidence of an
65 original certificate of incorporation or a certified copy of
66 such original. Such certificate shall declare the changes
67 or amendments as in effect from the date thereof.

CHAPTER 26

(House Bill No. 3—By Mr. Richardson, of Mercer)

AN ACT to amend and reenact section seventy-nine, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the conditions for doing business in this state by foreign corporations.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

79. Foreign corporations; conditions for doing business in this state.

Be it enacted by the Legislature of West Virginia:

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

Section 79. *Foreign Corporations; Conditions for Doing Business in this State.*—Any corporation duly incorporated by the laws of any other state or territory of the United States, the District of Columbia, or of any foreign country, may, unless it be otherwise expressly provided, hold property and transact business in this state, upon complying with the provisions of this section and not otherwise. Such corporations so complying shall have the rights, powers and privileges, and be subject to the same regulations, restrictions and liabilities conferred and im-

11 posed on corporations chartered under the laws of this
12 state. Every such corporation shall file with the secretary
13 of state a copy of its articles of association or certificate
14 of incorporation, with all amendments thereto, certified
15 either by the secretary of state of the state of incorpora-
16 tion or the president or vice president of the corporation.
17 The secretary of state shall thereupon issue to such cor-
18 poration a certificate of the fact of its having done so,
19 which certificate, together with a copy of its articles of
20 association or certificate of incorporation and all amend-
21 ments shall be recorded in the office of the clerk of the
22 county court of the county, or one of the counties, in
23 which its business is to be conducted.

24 Every railroad corporation now or hereafter engaged
25 in business in this state under the provisions of this sec-
26 tion, or under a charter granted by laws passed by the
27 state of Virginia before the formation of this state, or of
28 this state, is hereby declared to be, as to its works, prop-
29 erty, operations, acts and business in this state, a domestic
30 corporation, and shall be so held and treated in all suits
31 and legal proceedings which may be commenced or
32 carried on by or against any such railroad corporation, as
33 well as in all other matters relating to corporations, ex-
34 cept as to the right to sue in, or remove actions into, the
35 courts of the United States, but such corporation shall
36 not be required to file a copy of its charter or any writing
37 with the secretary of state as provided in this section.

38 No corporation chartered under the laws of any other
39 state or jurisdiction shall hold any property or transact
40 any business or bring or maintain any action, suit or pro-
41 ceeding in this state without having complied with the
42 requirements hereinbefore stated, and, in addition thereto,
43 having filed in the office of the secretary of state a writing
44 duly executed under its corporate seal, accepting the pro-
45 visions of this section and agreeing to be governed thereby
46 and by the laws of this state with respect to corporations
47 chartered under the laws of this state for similar purposes;
48 and its failure so to do may be pleaded in abatement of
49 any action, suit or proceeding instituted by it; but nothing
50 herein contained shall be construed to lessen the liability

51 of any corporation which may not have complied with
52 the requirements of this section upon any contract or for
53 any wrong. No such corporation shall hold any property
54 or transact any business, or bring or maintain any action,
55 suit or proceeding in this state, where the cause of action
56 arises out of the holding of property or doing business
57 therein, without first complying with the provisions here-
58 of. Every corporation which shall hold property or do
59 business in this state without having complied with the
60 provisions hereinabove stated shall be guilty of a mis-
61 demeanor, and, upon conviction thereof, shall be fined
62 not less than five hundred nor more than one thousand
63 dollars for each month its failure so to comply shall
64 continue, and prosecutions hereunder shall be in the
65 county in which the seat of government is.

66 A copy of every amendment, certified as hereinabove
67 provided, made to such articles of agreement or certificate
68 of incorporation and becoming effective subsequent to the
69 filing of such articles of association or certificate of incor-
70 poration in the office of the secretary of state of this state,
71 shall also be filed with the secretary of state of this state
72 who shall issue to such corporation a certificate showing
73 the filing of such amendment and collect a fee of five
74 dollars for such certificate. Such certificate together with
75 a copy of the amendment, shall be recorded in the office
76 of the clerk of the county court of the county, or one of
77 the counties, in which its business is to be conducted. A
78 failure to comply with the provisions of this paragraph
79 within six months from the date of such amendment shall
80 subject such corporation to a fine of not more than one
81 thousand dollars.

CHAPTER 27

(House Bill No. 373—By Mr. White)

AN ACT to amend and reenact section thirteen, article four-a, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the return of an item by a bank legally closed for business.

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4-a. Bank Collection Code.

Section

13. Return of item by bank legally closed for business; when item preferred claim on assets of drawee or payor, or agent collecting bank failed or closed for business.

Be it enacted by the Legislature of West Virginia:

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

Section 13. *Return of Item by Bank Legally Closed for Business; When Item Preferred Claim on Assets of Drawee or Payor, or Agent Collecting Bank Failed or Closed for Business.*—First: When the drawee or payor, or any other agent collecting bank shall fail or be closed for business by the commissioner of banking or controller of the currency or by action of the board of directors or by other proper legal action, after an item shall be mailed or otherwise entrusted to it for collection or payment but before the actual collection or payment thereof, it shall be the duty of the receiver or other official in charge of its assets to return such item, if same is in his possession, to the forwarding or presenting bank with reasonable diligence;

Second: Except in cases where an item or items is treated as dishonored by nonpayment as provided in section eleven, when a drawee or payor bank has presented to it for payment an item or items drawn upon or payable by or at such bank and at the same time has on deposit to the credit of the maker or drawer an amount equal to such item or items and such drawee or payor shall fail or close for business as above, after having charged such item or items to the account of the maker or drawer thereof or otherwise discharged his liability thereon but without such item or items having been paid or settled for by the drawee or payor either in money or by an unconditional credit given on its books or on the books of any

28 other bank which has been requested or accepted so as
29 to constitute such drawee or payor or other bank debtor
30 therefor, the assets of such drawee or payor shall be
31 impressed with a trust in favor of the owner or owners
32 of such item or items for the amount thereof, or for the
33 balance payable upon a number of items which have been
34 exchanged, and such owner or owners shall be entitled
35 to a preferred claim upon such assets, irrespective of
36 whether the fund representing such item or items can
37 be traced and identified as part of such assets or has
38 been intermingled with or converted into other assets
39 of such failed bank;

40 Third: Where an agent collecting bank other than
41 the drawee or payor shall fail or be closed for business
42 as above, after having received in any form the pro-
43 ceeds of an item or items entrusted to it for collection,
44 but without such item or items having been paid or re-
45 mitted for by it either in money or by an unconditional
46 credit given on its books or on the books of any other
47 bank which has been requested or accepted so as to con-
48 stitute such failed collecting or other bank debtor there-
49 for, the assets of such agent collecting bank which has
50 failed or been closed for business as above shall be im-
51 pressed with a trust in favor of the owner or owners of
52 such item or items for the amount of such proceeds and
53 such owner or owners shall be entitled to a preferred
54 claim upon such assets, irrespective of whether the fund
55 representing such item or items can be traced and iden-
56 tified as part of such assets or has been intermingled
57 with or converted into other assets of such failed bank.

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CHAPTER 28

(House Bill No. 225—By Mr. Gentry)

AN ACT to amend and reenact section two, article five, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the corporate name or title of indemnity companies.

[Passed February 23, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. Indemnity Companies.

Section

2. Corporate name or title.

Be it enacted by the Legislature of West Virginia:

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

- Section 2. *Corporate Name or Title.*—Every indemnity
- 2 company shall have as a part of its corporate name or
 - 3 title, indicative of its business, one or more of the follow-
 - 4 ing words, namely, "indemnity company," "surety com-
 - 5 pany," "security company," "guaranty company," "fidelity
 - 6 company," "bonding company," "casualty company," "in-
 - 7 surance company," or "title insurance company."

CHAPTER 29

(House Bill No. 36—By Mr. Scanes)

AN ACT to amend and reenact section six, article ten, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit unions.

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 10. Credit Unions.

Section

6. Supervision by and reports to commissioner of banking; examinations; revocation of certificate.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Supervision by and Reports to Commissioner of Banking; Examinations; Revocation of Certificate.*—

Credit unions shall be under the supervision of the commissioner of banking. They shall report to him at least semiannually on or before the first day of January and the first day of July of each calendar year, on blanks supplied by the said commissioner for that purpose. Additional reports may be required by said commissioner. Credit unions shall be examined annually by the commissioner of banking, except that, if a credit union has assets of less than twenty-five thousand dollars, he may accept the audit of a certified public accountant in place of such examination. For credit unions with assets under fifty thousand dollars, the examination fee shall be thirty-five dollars per day or twenty-five cents per one hundred dollars of assets whichever is the lesser but under no circumstances shall the fee be less than twenty dollars per examination.

For credit unions with assets of fifty thousand dollars and over, the examination fee shall be thirty-five dollars per day for one examiner, plus thirty-three dollars per day for each assistant examiner necessary to complete the examination, or twenty-five cents per one hundred dollars of assets whichever is the lesser.

For failure to file reports when due, unless excused for cause, the credit union shall pay to the treasurer of the state five dollars for each day of its delinquency. If the commissioner of banking determines that a credit union is violating any provision of this article, or is insolvent, said commissioner may serve notice on such credit union of his intention to revoke the certificate of approval. If, for a period of fifteen days after such notice, such violation continues, the commissioner of banking may revoke such certificate and take possession of the business and property of such credit union and maintain possession until such time as he shall permit it to continue business or its affairs are finally liquidated. He may take similar action if such report remains in arrears for more than fifteen days.

CHAPTER 30

(House Bill No. 53—By Mrs. Walker)

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, to be designated sections three-e, three-f, and three-g, relating to the power of county courts with respect to the acquisition, operation, and maintenance of trash and garbage disposal facilities and sewerage systems and sewage plants.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

- 3-e. Powers with respect to acquisition of land for, and operation of, public refuse dumps and sanitary land fills.
- 3-f. Powers with respect to establishment and operation of garbage and refuse collection and disposal service.
- 3-g. Powers with respect to acquisition, operation and maintenance of sewerage systems and sewage plants.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, to be designated sections three-e, three-f, and three-g, all to read as follows:

- Section 3-e. *Powers with Respect to Acquisition of*
- 2 *Land for, and Operation of, Public Refuse Dumps and*
 - 3 *Sanitary Land Fills.*—In addition to all other powers and
 - 4 duties now conferred by law upon county courts, such
 - 5 courts are hereby empowered to acquire, by purchase,
 - 6 right of eminent domain, lease, gift, or otherwise, land
 - 7 for the establishment of public refuse dumps and sanitary
 - 8 land fills, and to operate and maintain such dumps and
 - 9 fills, and to pay for such land, and the operation and main-
 - 10 tenance of such dumps and fills, in whole or part, either
 - 11 out of general funds in the county treasury, or out of spe-

12 cial funds to be derived from fees paid by users of such
13 facilities.

Sec. 3-f. *Powers with Respect to Establishment and
2 Operation of Garbage and Refuse Collection and Disposal
3 Service.*—In addition to all other powers and duties now
4 conferred by law upon county courts, such courts are
5 hereby empowered to establish, operate, and maintain,
6 either directly or by contract, garbage and refuse collec-
7 tion and disposal service, and to pay for the establishment,
8 operation, and maintenance thereof out of a special fund
9 to be derived from fees paid by the users of such collec-
10 tion and disposal service: *Provided, however,* That the
11 power and authority hereby conferred upon county courts
12 shall not be exercised in territory included within the
13 boundaries of any municipal corporation.

Sec. 3-g. *Powers with Respect to Acquisition, Opera-
2 tion and Maintenance of Sewerage Systems and Sewage
3 Plants.*—In addition to all other powers and duties now
4 conferred by law upon county courts, such courts are
5 hereby empowered to acquire, by purchase, right of emi-
6 nent domain, lease, gift, or otherwise, and to operate and
7 maintain, sewerage systems and sewage treatment plants,
8 and to pay the cost of operation and maintenance thereof
9 out of a special fund to be derived from sewerage service
10 fees paid by the users of such sewerage system or sewage
11 treatment plant: *Provided, however,* That the power and
12 authority hereby conferred on county courts shall not
13 extend into territory within the boundaries of any mu-
14 nicipal corporation, sanitary district or public service
15 district.

— c —

CHAPTER 31

(House Bill No. 490—By Mr. Booth and Mrs. Walker)

AN ACT to amend and reenact section five and sections five-
(one) through five-(fifty-four), inclusive, article one, chap-
ter seven of the code of West Virginia, one thousand nine
hundred thirty-one, as last amended, relating to compen-

sation of county commissioners for services other than services in court.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. County Courts Generally.

Section

5. Duties of county commissioners and payment for services other than services in court.
5-(1) to 5-(54). Salaries of county commissioners of the various counties of the state.
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Be it enacted by the Legislature of West Virginia:

That section five and sections five-(one) through five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted to read as follows:

Section 5. *Duties of County Commissioners and Payment for Services Other than Services in Court.*—It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to arrange for the feeding and care of the prisoners therein, and to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control; to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance and operation of airport or airports owned and/or operated by the county court; and to supervise and control the purchase, erection and maintenance of airport facilities; to supervise and control the purchase of furniture, fixtures and equipment, and janitors' and other supplies, for their county; to attend the annual meeting of county assessors, and such district meetings as may

23 be called by the state tax commissioner, on matters per-
24 taining to the work of the county assessors and county
25 courts as boards of review and equalization; to review
26 and equalize the assessments made by the assessor; to
27 inspect and review the lists of property both real and
28 personal, made up by the assessor and his deputies for
29 taxable purposes, and to point out to the assessor any
30 property, real or personal, which the said assessors of
31 their respective counties may have overlooked or omitted
32 to place on said tax lists; to call to the attention of the
33 assessor all real estate or personal property belonging
34 to churches, lodges, schools or other charitable institu-
35 tions which may have been overlooked or omitted by the
36 assessor or his deputies in making up his lists of property
37 for entry on the land and personal property books; to
38 cooperate with the county public assistance council and
39 supervise the general management of the fiscal affairs
40 and business of each county; and as a further part of
41 their duties they shall be empowered to purchase, lease,
42 rent, control, supervise, inspect, maintain and erect pub-
43 lic parks, playgrounds, and recreational facilities, to
44 purchase, lease or rent equipment therefor, and to em-
45 ploy qualified recreational directors and personnel; to
46 construct new Four-H camps on county property; to oper-
47 ate stone quarries and sand deposits on county owned or
48 leased property; to construct buildings for or aid in con-
49 structing and/or equipping civilian defense buildings on
50 sites approved by state office of civilian defense; and to
51 operate dog pounds for county-municipalities.

52 Compensation shall be allowed and paid out of the
53 county treasury, in the same manner as salaries are paid,
54 to each county commissioner of each county (except as
55 otherwise provided by law for the county of Ohio), for
56 services performed for such county concerning the visit-
57 ing of the poor, inspection of jails, bridges and bridge
58 approaches, and for visiting detention homes for children;
59 and for providing for and supervising the repair and
60 maintenance of the county courthouse, jails, houses for
61 the poor, and other county property; for supervising
62 and controlling the maintenance and operation of air-

63 port or airports owned by and/or operated by the county
64 court, and supervising and controlling the purchase,
65 erection and maintenance of airport facilities; and for
66 supervising and controlling the purchase of furniture,
67 fixtures and equipment and janitors' and other supplies
68 of their county; and for attending the annual meeting of
69 assessors and such district meetings as may be called by
70 the state tax commissioner, on matters pertaining to the
71 work of assessors and county courts as boards of review
72 and equalization; for reviewing and equalizing the assess-
73 ments made by the assessors; for inspecting and review-
74 ing the lists of property, both real and personal, made up
75 by the assessor and his deputies for taxable purposes,
76 and for pointing out to the assessor any property, real
77 and personal, which the said assessors of their respective
78 counties may have overlooked or omitted to place on said
79 tax lists; for calling to the attention of the assessor all
80 real estate or personal property belonging to churches,
81 lodges, schools or other charitable institutions which may
82 have been overlooked or omitted by the assessor or his
83 deputies in making up his lists of property for entry on
84 the land and personal property books; and for duties of
85 the county commissioners in cooperating with the county
86 public assistance council, for purchasing, leasing, rent-
87 ing, controlling, supervising, inspecting, maintaining and
88 erecting public parks, playgrounds, and recreational fa-
89 cilities, and the purchasing, leasing, or renting the equip-
90 ment therefor, and employing qualified recreational di-
91 rectors and personnel therefor; for constructing new
92 Four-H camps on county property; operating stone quar-
93 ries and sand deposits on county owned or leased prop-
94 erty; constructing buildings for or aiding in construction
95 and/or equipping civilian defense buildings on sites ap-
96 proved by state office of civilian defense; operating dog
97 pounds for county-municipalities, and for supervising
98 the general management of the fiscal affairs and busi-
99 ness of each county, within their counties, and other
100 business by such commissioners, in addition to compen-
101 sation for services in court, the sums of money herein-
102 after provided in the following sections five-(one) to five-
103 (fifty-four), inclusive.

Sec. 5-(1). *Compensation of County Commissioners*—
2 *Barbour County*.—For the county of Barbour, seventy-
3 five dollars per month.

Sec. 5-(2). *Berkeley County*.—For the county of Berke-
2 ley, the president of the court one hundred twenty-five
3 dollars and other members of the court one hundred
4 dollars per month.

Sec. 5-(3). *Boone County*.—For the county of Boone,
2 the president of the court one hundred fifteen dollars and
3 the other members of the court ninety dollars per month.

Sec. 5-(4). *Braxton County*.—For the county of Brax-
2 ton, sixty dollars per month.

Sec. 5-(5). *Brooke County*.—For the county of Brooke,
2 one hundred dollars per month.

Sec. 5-(6). *Cabell County*.—For the county of Cabell,
2 two hundred dollars per month.

Sec. 5-(7). *Calhoun County*.—For the county of Cal-
2 houn, fifty dollars per month.

Sec. 5-(8). *Clay County*.—For the county of Clay,
2 forty-five dollars per month.

Sec. 5-(9). *Doddridge County*.—For the county of
2 Doddridge, fifty dollars per month.

Sec. 5-(10). *Fayette County*.—For the county of Fay-
2 ette, two hundred fifty dollars per month.

Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,
2 fifty dollars per month.

Sec. 5-(12). *Grant County*.—For the county of Grant,
2 thirty-five dollars per month.

Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, seventy-five dollars per month.

Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, the president of the court seventy-five dollars
3 and the other members of the court fifty dollars per
4 month.

2 Sec. 5-(15). *Hancock County*.—For the county of Hancock, one hundred fifty dollars per month.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy, fifty dollars per month.

2 Sec. 5-(17). *Harrison County*.—For the county of Harrison, two hundred seventy-five dollars per month.

2 Sec. 5-(18). *Jackson County*.—For the county of Jackson, seventy-five dollars per month.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, the president of the court one hundred twenty-
3 five dollars and the other members of the court one hundred
4 dollars per month.

2 Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, four hundred seventy-five dollars per month.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis, one hundred dollars per month.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, one hundred twenty-five dollars per month.

2 Sec. 5-(23). *Logan County*.—For the county of Logan, the president of the court, two hundred fifty dollars and
3 the other members of the court two hundred twenty-five
4 dollars per month.

2 Sec. 5-(24). *Marion County*.—For the county of Marion, three hundred fifty dollars per month.

2 Sec. 5-(25). *Marshall County*.—For the county of Marshall, one hundred dollars per month.

2 Sec. 5-(26). *Mason County*.—For the county of Mason, seventy-five dollars per month.

2 Sec. 5-(27). *McDowell County*.—For the county of McDowell, two hundred dollars per month.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer, the president of the court two hundred seventy-five
3 dollars and the other members of the court two hundred
4 twenty-five dollars per month.

2 Sec. 5-(29). *Mineral County*.—For the county of Min-
3 eral, the president of the court eighty-five dollars and the
3 other members of the court seventy-five dollars per month.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo,
2 one hundred seventy-five dollars per month.

2 Sec. 5-(31). *Morgan County*.—For the county of Mor-
2 gan, fifty dollars per month.

2 Sec. 5-(32). *Monroe County*.—For the county of Mon-
2 roe, fifty dollars per month.

2 Sec. 5-(33). *Monongalia County*.—For the county of
2 Monongalia, two hundred dollars per month.

2 Sec. 5-(34). *Nicholas County*.—For the county of
2 Nicholas, fifty dollars per month.

2 Sec. 5-(35). *Pendleton County*.—For the county of Pen-
2 dleton, thirty dollars per month.

2 Sec. 5-(36). *Pleasants County*.—For the county of
2 Pleasants, forty dollars per month.

2 Sec. 5-(37). *Pocahontas County*.—For the county of
2 Pocahontas, twenty-five dollars per month.

2 Sec. 5-(38). *Preston County*.—For the county of Pres-
2 ton, the president of the county court sixty-five dollars,
3 and other members of the court fifty dollars per month.

2 Sec. 5-(39). *Putnam County*.—For the county of Put-
2 nam, one hundred dollars per month.

2 Sec. 5-(40). *Raleigh County*.—For the county of Ra-
2 leigh, the president of the county court two hundred
3 dollars per month, and other members of the court one
4 hundred ninety dollars per month.

2 Sec. 5-(41). *Randolph County*.—For the county of Ran-
2 dolph, one hundred dollars per month.

2 Sec. 5-(42). *Ritchie County*.—For the county of Ritchie,
2 fifty dollars per month.

2 Sec. 5-(43). *Roane County*.—For the county of Roane,
2 sixty-five dollars per month.

Sec. 5-(44). *Summers County*.—For the county of Summers, sixty dollars per month.

Sec. 5-(45). *Taylor County*.—For the county of Taylor, fifty-five dollars per month.

Sec. 5-(46). *Tucker County*.—For the county of Tucker, thirty-five dollars per month.

Sec. 5-(47). *Tyler County*.—For the county of Tyler, sixty-five dollars per month.

Sec. 5-(48). *Upshur County*.—For the county of Upshur, fifty dollars per month.

Sec. 5-(49). *Wayne County*.—For the county of Wayne, one hundred fifty dollars per month.

Sec. 5-(50). *Webster County*.—For the county of Webster, seventy-five dollars per month.

Sec. 5-(51). *Wetzel County*.—For the county of Wetzel, eighty dollars per month.

Sec. 5-(52). *Wirt County*.—For the county of Wirt, thirty dollars per month.

Sec. 5-(53). *Wood County*.—For the county of Wood, two hundred fifty dollars per month.

Sec. 5-(54). *Wyoming County*.—For the county of Wyoming, one hundred fifty dollars per month.

3

CHAPTER 32

(House Bill No. 460—By Mr. Fry)

AN ACT to amend and reenact section two, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to rewards and detection of crime.

[Passed March 12, 1955: in effect ninety days from passage. Approved by the Governor.]

Article 4. Prosecuting Attorney, Rewards and Legal Advice.**Section**

2. Rewards and detection of crime; bounties.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Rewards and Detection of Crime; Bounties.—

2 The prosecuting attorney of any county, with the ap-
3 proval of the county court, or of the governor, or of the
4 court of the county vested with authority to try criminal
5 offenses, or of the judge thereof in vacation, may, within
6 his discretion, offer rewards for the apprehension of
7 persons charged with crime, or may expend money for
8 the detection of crime. Any money expended under this
9 section shall, when approved by the prosecuting at-
10 torney, be paid out of the county fund, in the same man-
11 ner as other county expenses are paid. The county
12 court may also offer reasonable bounties and rewards
13 for the destruction of noxious animals, birds of prey,
14 or weeds in the county, payable out of the county treas-
15 ury: *Provided, however,* That nothing herein shall per-
16 mit or give to the prosecuting attorney of any county,
17 having a population according to the last official census
18 of sixty thousand or less, the right to appoint a full-time
19 investigator or detector of crime, or to expend any money
20 for the investigation of any crime committed in his
21 county beyond the actual expense of the investigation of
22 said crime, except in the county of Wyoming, the prose-
23 cuting attorney with the consent of the circuit judge and
24 the county court therein, may appoint an investigator of
25 crime to be paid an annual salary of not less than one
26 thousand two hundred dollars nor more than twenty-
27 four hundred dollars, and actual expenses, the salary to be
28 fixed within these limits by the county court; except fur-
29 ther in the county of Wayne, the prosecuting attorney
30 may appoint an investigator of crime to be paid an an-
31 nual salary of not less than twenty-four hundred dollars

32 nor more than thirty-six hundred dollars, and actual ex-
33 penses, the salary within these limits to be fixed by the
34 county court; except further in the county of Lincoln,
35 the prosecuting attorney may appoint an investigator
36 of crime to be paid an annual salary of not less than one
37 thousand two hundred dollars nor more than two thou-
38 sand four hundred dollars, and actual expenses, the sal-
39 ary within these limits to be fixed by the prosecuting
40 attorney; except further in the county of Mason, the pros-
41 ecuting attorney with the consent of the county court or
42 the circuit judge, may appoint an investigator of crime
43 to be paid a salary of not less than one hundred dollars
44 nor more than two thousand four hundred dollars, and
45 actual expenses, the salary to be fixed within these
46 limits by the county court.

CHAPTER 33

(House Bill No. 489—By Mr. Booth and Mrs. Walker)

AN ACT to amend and reenact section one, sections one-(one) through one-(fifty-five), inclusive; section two, sections two-(one) through two-(fifty-two), inclusive; section three, sections three-(one) through three-(fifty-two), inclusive; section four; section five, sections five-(one) through five-(fifty-five), inclusive, and section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of certain county officers and assistants.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

1. Salaries of sheriffs.

1-(1) to 1-(55). Salaries of sheriffs of the various counties of the state.

2. Salaries of county clerks.

2-(1) to 2-(52). Salaries of county clerks of the various counties of the state.

3. Salaries of circuit clerks.

3-(1) to 3-(52). Salaries of circuit clerks of the various counties of the state.

4. Salaries of joint clerks of county and circuit courts.
5. Salaries of prosecuting attorneys.
- 5-(1) to 5-(55). Salaries of prosecuting attorneys of the various counties of the state.
6. Assistants, stenographers and clerks for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

Be it enacted by the Legislature of West Virginia:

That section one, sections one-(one) through one-(fifty-five), inclusive; section two, sections two-(one) through two-(fifty-two), inclusive; section three, sections three-(one) through three-(fifty-two), inclusive; section four; section five, sections five-(one) through five-(fifty-five), inclusive, and section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Salaries of Sheriffs.*—The annual compensation of the sheriff of each county shall on and after January first, one thousand nine hundred fifty-seven, be in the amount set forth in sections one-(one) to one-(fifty-five), inclusive, of this article.

Sec. 1-(1). *Barbour County.*—For the county of Barbour, three thousand three hundred dollars.

Sec. 1-(2). *Berkeley County.*—For the county of Berkeley, four thousand eight hundred dollars.

Sec. 1-(3). *Boone County.*—For the county of Boone, four thousand eight hundred dollars.

Sec. 1-(4). *Braxton County.*—For the county of Braxton, four thousand dollars.

Sec. 1-(5). *Brooke County.*—For the county of Brooke, five thousand dollars.

Sec. 1-(6). *Cabell County.*—For the county of Cabell, seven thousand five hundred dollars.

Sec. 1-(7). *Calhoun County.*—For the county of Calhoun, three thousand dollars.

Sec. 1-(8). *Clay County.*—For the county of Clay, four thousand dollars.

2 Sec. 1-(9). *Doddridge County*.—For the county of Doddridge, two thousand eight hundred dollars.

2 Sec. 1-(10). *Fayette County*.—For the county of Fayette, seven thousand five hundred dollars.

2 Sec. 1-(11). *Gilmer County*.—For the county of Gilmer, two thousand seven hundred dollars.

2 Sec. 1-(12). *Grant County*.—For the county of Grant, three thousand dollars.

2 Sec. 1-(13). *Greenbrier County*.—For the county of Greenbrier, four thousand dollars.

2 Sec. 1-(14). *Hampshire County*.—For the county of Hampshire, three thousand three hundred dollars.

2 Sec. 1-(15). *Hancock County*.—For the county of Hancock, four thousand six hundred dollars.

2 Sec. 1-(16). *Hardy County*.—For the county of Hardy, two thousand five hundred dollars.

2 Sec. 1-(17). *Harrison County*.—For the county of Harrison, six thousand dollars.

2 Sec. 1-(18). *Jackson County*.—For the county of Jackson, three thousand two hundred dollars.

2 Sec. 1-(19). *Jefferson County*.—For the county of Jefferson, three thousand two hundred dollars.

2 Sec. 1-(20). *Kanawha County*.—For the county of Kanawha, nine thousand dollars.

2 Sec. 1-(21). *Lewis County*.—For the county of Lewis, three thousand three hundred dollars.

2 Sec. 1-(22). *Logan County*.—For the county of Logan, seven thousand five hundred dollars.

2 Sec. 1-(23). *Lincoln County*.—For the county of Lincoln, four thousand six hundred dollars.

2 Sec. 1-(24). *Marion County*.—For the county of Marion, seven thousand dollars.

2 Sec. 1-(25). *Marshall County*.—For the county of Mar-
shall, four thousand dollars.

2 Sec. 1-(26). *Mason County*.—For the county of Mason,
three thousand four hundred dollars.

2 Sec. 1-(27). *Mercer County*.—For the county of Mercer,
six thousand five hundred dollars.

2 Sec. 1-(28). *Mineral County*.—For the county of Min-
eral, four thousand dollars.

2 Sec. 1-(29). *Mingo County*.—For the county of Mingo,
six thousand dollars.

2 Sec. 1-(30). *Monongalia County*.—For the county of
Monongalia, six thousand dollars.

2 Sec. 1-(31). *Monroe County*.—For the county of Mon-
roe, two thousand four hundred dollars.

2 Sec. 1-(32). *McDowell County*.—For the county of
McDowell, seven thousand dollars.

2 Sec. 1-(33). *Morgan County*.—For the county of Mor-
gan, two thousand dollars.

2 Sec. 1-(34). *Nicholas County*.—For the county of Nicho-
las, three thousand six hundred dollars.

2 Sec. 1-(35). *Ohio County*.—For the county of Ohio, five
thousand dollars.

2 Sec. 1-(36). *Pendleton County*.—For the county of
Pendleton, two thousand three hundred dollars.

2 Sec. 1-(37). *Pleasants County*.—For the county of Pleas-
ants, three thousand dollars.

2 Sec. 1-(38). *Pocahontas County*.—For the county of
Pocahontas, three thousand dollars.

2 Sec. 1-(39). *Preston County*.—For the county of Pres-
ton, four thousand three hundred dollars.

2 Sec. 1-(40). *Putnam County*.—For the county of Put-
nam, three thousand dollars.

2 Sec. 1-(41). *Raleigh County*.—For the county of Raleigh, seven thousand five hundred dollars.

2 Sec. 1-(42). *Randolph County*.—For the county of Randolph, five thousand dollars.

2 Sec. 1-(43). *Ritchie County*.—For the county of Ritchie, three thousand dollars.

2 Sec. 1-(44). *Roane County*.—For the county of Roane, three thousand two hundred dollars.

2 Sec. 1-(45). *Summers County*.—For the county of Summers, three thousand four hundred dollars.

2 Sec. 1-(46). *Taylor County*.—For the county of Taylor, three thousand five hundred dollars.

2 Sec. 1-(47). *Tucker County*.—For the county of Tucker, three thousand two hundred dollars.

2 Sec. 1-(48). *Tyler County*.—For the county of Tyler, three thousand six hundred dollars.

2 Sec. 1-(49). *Upshur County*.—For the county of Upshur, three thousand dollars.

2 Sec. 1-(50). *Wayne County*.—For the county of Wayne, five thousand four hundred dollars.

2 Sec. 1-(51). *Webster County*.—For the county of Webster, three thousand six hundred dollars.

2 Sec. 1-(52). *Wetzel County*.—For the county of Wetzel, three thousand eight hundred dollars.

2 Sec. 1-(53). *Wirt County*.—For the county of Wirt, two thousand five hundred dollars.

2 Sec. 1-(54). *Wood County*.—For the county of Wood, five thousand four hundred dollars.

2 Sec. 1-(55). *Wyoming County*.—For the county of Wyoming, six thousand dollars.

2 Sec. 2. *Salaries of County Clerks*.—The annual compensation of the clerk of the county court of each county shall, on and after January one, one thousand nine hun-

4 dred fifty-seven, be in the amounts set forth in sections
5 two-(one) to two-(fifty-two), inclusive, of this article.

2 Sec. 2-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand two hundred dollars.

2 Sec. 2-(2). *Berkeley County*.—For the county of Berke-
2 ley, three thousand nine hundred dollars.

2 Sec. 2-(3). *Boone County*.—For the county of Boone,
2 four thousand three hundred dollars.

2 Sec. 2-(4). *Braxton County*.—For the county of Brax-
2 ton, four thousand dollars.

2 Sec. 2-(5). *Brooke County*.— For the county of Brooke,
2 four thousand dollars.

2 Sec. 2-(6). *Cabell County*.—For the county of Cabell,
2 seven thousand two hundred dollars.

2 Sec. 2-(7). *Calhoun County*.—For the county of Cal-
2 houn, two thousand eight hundred dollars.

2 Sec. 2-(8). *Clay County*.—For the county of Clay, three
2 thousand six hundred dollars.

2 Sec. 2-(9). *Doddridge County*.—For the county of Dod-
2 dridge, two thousand five hundred dollars.

2 Sec. 2-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars nor
3 more than four thousand eight hundred dollars, to be
4 fixed by the county court.

2 Sec. 2-(11). *Gilmer County*.—For the county of Gilmer,
2 two thousand four hundred dollars.

2 Sec. 2-(12). *Greenbrier County*.—For the county of
2 Greenbrier, four thousand dollars.

2 Sec. 2-(13). *Hampshire County*.—For the county of
2 Hampshire, not less than two thousand four hundred
3 dollars, nor more than three thousand three hundred
4 dollars.

2 Sec. 2-(14). *Hancock County*.—For the county of Han-
2 cock, four thousand four hundred dollars.

Sec. 2-(15). *Harrison County*.—For the county of Harrison, six thousand dollars.

Sec. 2-(16). *Jackson County*.—For the county of Jackson, three thousand dollars.

Sec. 2-(17). *Jefferson County*.—For the county of Jefferson, three thousand dollars.

Sec. 2-(18). *Kanawha County*.—For the county of Kanawha, nine thousand dollars.

Sec. 2-(19). *Lewis County*.—For the county of Lewis, two thousand eight hundred dollars.

Sec. 2-(20). *Lincoln County*.—For the county of Lincoln, four thousand two hundred dollars.

Sec. 2-(21). *Logan County*.—For the county of Logan, six thousand dollars.

Sec. 2-(22). *Marion County*.—For the county of Marion, five thousand six hundred dollars.

Sec. 2-(23). *Marshall County*.—For the county of Marshall, four thousand dollars.

Sec. 2-(24). *Mason County*.—For the county of Mason, three thousand four hundred dollars.

Sec. 2-(25). *McDowell County*.—For the county of McDowell, six thousand dollars.

Sec. 2-(26). *Mercer County*.—For the county of Mercer, six thousand dollars.

Sec. 2-(27). *Mineral County*.—For the county of Mineral, three thousand nine hundred dollars.

Sec. 2-(28). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

Sec. 2-(29). *Monongalia County*.—For the county of Monongalia, five thousand dollars.

Sec. 2-(30). *Monroe County*.—For the county of Monroe, two thousand four hundred dollars.

2 Sec. 2-(31). *Morgan County*.—For the county of Morgan, two thousand four hundred dollars.

2 Sec. 2-(32). *Nicholas County*.—For the county of Nicholas, three thousand fifty dollars.

2 Sec. 2-(33). *Ohio County*.—For the county of Ohio, seven thousand five hundred dollars.

2 Sec. 2-(34). *Pleasants County*.—For the county of Pleasants, three thousand dollars.

2 Sec. 2-(35). *Pocahontas County*.—For the county of Pocahontas, three thousand dollars.

2 Sec. 2-(36). *Preston County*.—For the county of Preston, four thousand dollars.

2 Sec. 2-(37). *Putnam County*.—For the county of Putnam, three thousand two hundred dollars.

2 Sec. 2-(38). *Raleigh County*.—For the county of Raleigh, six thousand dollars.

2 Sec. 2-(39). *Randolph County*.—For the county of Randolph, five thousand dollars.

2 Sec. 2-(40). *Ritchie County*.—For the county of Ritchie, three thousand dollars.

2 Sec. 2-(41). *Roane County*.—For the county of Roane, three thousand dollars.

2 Sec. 2-(42). *Summers County*.—For the county of Summers, two thousand seven hundred dollars.

2 Sec. 2-(43). *Taylor County*.—For the county of Taylor, three thousand two hundred dollars.

2 Sec. 2-(44). *Tucker County*.—For the county of Tucker, two thousand eight hundred dollars.

2 Sec. 2-(45). *Tyler County*.—For the county of Tyler, three thousand dollars.

2 Sec. 2-(46). *Upshur County*.—For the county of Upshur, two thousand eight hundred dollars.

2 Sec. 2-(47). *Wayne County*.—For the county of Wayne,
2 four thousand eight hundred dollars.

2 Sec. 2-(48). *Webster County*.—For the county of Web-
2 ster, three thousand dollars.

2 Sec. 2-(49). *Wetzel County*.—For the county of Wetzel,
2 three thousand eight hundred dollars.

2 Sec. 2-(50). *Wirt County*.—For the county of Wirt, one
2 thousand eight hundred dollars.

2 Sec. 2-(51). *Wood County*.—For the county of Wood,
2 five thousand dollars.

2 Sec. 2-(52). *Wyoming County*.—For the county of Wy-
2 oming, five thousand four hundred dollars.

2 Sec. 3. *Salaries of Circuit Clerks*.—The annual com-
2 pensation of the clerk of the circuit court (or clerk of the
3 circuit and criminal or intermediate or other court of
4 limited jurisdiction) in each county shall, on and after
6 in the amounts set forth in sections three-(one) to three-
5 January one, one thousand nine hundred fifty-seven, be
7 (fifty-two), inclusive, of this article.

2 Sec. 3-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand dollars.

2 Sec. 3-(2). *Berkeley County*.—For the county of Berke-
2 ley, three thousand six hundred dollars.

2 Sec. 3-(3). *Boone County*.—For the county of Boone,
2 four thousand three hundred dollars.

2 Sec. 3-(4). *Braxton County*.—For the county of Brax-
2 ton, four thousand dollars.

2 Sec. 3-(5). *Brooke County*.—For the county of Brooke,
2 four thousand dollars.

2 Sec. 3-(6). *Cabell County*.—For the county of Cabell,
2 seven thousand two hundred dollars.

2 Sec. 3-(7). *Calhoun County*.—For the county of Cal-
2 houn, two thousand four hundred dollars.

2 Sec. 3-(8). *Clay County*.—For the county of Clay, two
2 thousand four hundred dollars.

2 Sec. 3-(9). *Doddridge County*. — For the county of
2 Doddridge, two thousand five hundred dollars.

2 Sec. 3-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars nor
3 more than four thousand eight hundred dollars, to be
4 fixed by the county court.

2 Sec. 3-(11). *Gilmer County*.—For the county of Gilmer,
2 one thousand nine hundred twenty dollars.

2 Sec. 3-(12). *Greenbrier County*.—For the county of
2 Greenbrier, three thousand three hundred dollars.

2 Sec. 3-(13). *Hampshire County*.—For the county of
2 Hampshire, not less than one thousand eight hundred
3 dollars nor more than three thousand dollars.

2 Sec. 3-(14). *Hancock County*.—For the county of Han-
2 cock, three thousand eight hundred dollars.

2 Sec. 3-(15). *Harrison County*.—For the county of Har-
2 rison, six thousand dollars.

2 Sec. 3-(16). *Jackson County*.—For the county of Jack-
2 son, two thousand seven hundred dollars.

2 Sec. 3-(17). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand dollars.

2 Sec. 3-(18). *Kanawha County*.—For the county of Ka-
2 nawha, nine thousand dollars.

2 Sec. 3-(19). *Lewis County*.—For the county of Lewis,
2 two thousand five hundred dollars.

2 Sec. 3-(20). *Lincoln County*.—For the county of Lin-
2 coln, three thousand eight hundred dollars.

2 Sec. 3-(21). *Logan County*.—For the county of Logan,
2 six thousand dollars.

2 Sec. 3-(22). *Marion County*.—For the county of Marion,
2 five thousand six hundred dollars.

2 Sec. 3-(23). *Marshall County*.—For the county of Marshall, three thousand four hundred dollars.

2 Sec. 3-(24). *Mason County*.—For the county of Mason, two thousand nine hundred dollars.

2 Sec. 3-(25). *McDowell County*.—For the county of McDowell, six thousand dollars.

2 Sec. 3-(26). *Mercer County*.—For the county of Mercer, six thousand dollars.

2 Sec. 3-(27). *Mineral County*.—For the county of Mineral, three thousand nine hundred dollars.

2 Sec. 3-(28). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 3-(29). *Monongalia County*.—For the county of Monongalia, five thousand dollars.

2 Sec. 3-(30). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2 Sec. 3-(31). *Morgan County*.—For the county of Morgan, one thousand four hundred dollars.

2 Sec. 3-(32). *Nicholas County*.—For the county of Nicholas, two thousand five hundred dollars.

2 Sec. 3-(33). *Ohio County*.—For the county of Ohio, seven thousand three hundred dollars.

2 Sec. 3-(34). *Pleasants County*.—For the county of Pleasants, two thousand four hundred dollars.

2 Sec. 3-(35). *Pocahontas County*. — For the county of Pocahontas, two thousand five hundred dollars.

2 Sec. 3-(36). *Preston County*.—For the county of Preston, three thousand four hundred dollars.

2 Sec. 3-(37). *Putnam County*.—For the county of Putnam, three thousand dollars.

2 Sec. 3-(38). *Raleigh County*.—For the county of Raleigh, five thousand four hundred dollars.

2 Sec. 3-(39). *Randolph County*.—For the county of Ran-
2 dolf, five thousand dollars.

2 Sec. 3-(40). *Ritchie County*.—For the county of Ritchie,
2 two thousand eight hundred dollars.

2 Sec. 3-(41). *Roane County*.—For the county of Roane,
2 two thousand six hundred dollars.

2 Sec. 3-(42). *Summers County*. — For the county of
2 Summers, two thousand seven hundred dollars.

2 Sec. 3-(43). *Taylor County*.—For the county of Taylor,
2 three thousand two hundred dollars.

2 Sec. 3-(44). *Tucker County*.—For the county of Tucker,
2 two thousand eight hundred dollars.

2 Sec. 3-(45). *Tyler County*.—For the county of Tyler,
2 two thousand seven hundred dollars.

2 Sec. 3-(46). *Upshur County*.—For the county of Up-
2 shur, two thousand eight hundred dollars.

2 Sec. 3-(47). *Wayne County*.—For the county of Wayne,
2 four thousand four hundred dollars.

2 Sec. 3-(48). *Webster County*.—For the county of Web-
2 ster, two thousand seven hundred dollars.

2 Sec. 3-(49). *Wetzel County*.—For the county of Wet-
2 zel, three thousand four hundred dollars.

2 Sec. 3-(50). *Wirt County*.—For the county of Wirt, one
2 thousand two hundred dollars.

2 Sec. 3-(51). *Wood County*.—For the county of Wood,
2 five thousand dollars.

2 Sec. 3-(52). *Wyoming County*.—For the county of Wy-
2 oming, four thousand eight hundred dollars.

2 Sec. 4. *Salaries of Joint Clerks of County and Cir-*
3 *cuit Courts*.—The annual compensation of the clerks of the
4 courts in the counties where both the office of the clerk
5 of the county court and the clerk of the circuit court are
6 held by the same person shall be as follows: Hardy
6 county, three thousand three hundred dollars; Grant

- 7 county, three thousand three hundred dollars; Pendleton
8 county, three thousand two hundred dollars.

Sec. 5. *Salaries of Prosecuting Attorneys.*—The annual compensation of the prosecuting attorney in each county, including the compensation provided by law for his services as attorney for boards of education and other administrative boards and officers in the county, shall, on and after July one, one thousand nine hundred fifty-seven, be in the amounts set forth in sections five-(one) to five-(fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County.*—For the county of Barbour, two thousand seven hundred dollars.

Sec. 5-(2). *Berkeley County.*—For the county of Berkeley, three thousand six hundred dollars.

Sec. 5-(3). *Boone County.*—For the county of Boone, four thousand three hundred dollars.

Sec. 5-(4). *Braxton County.*—For the county of Braxton, two thousand four hundred dollars.

Sec. 5-(5). *Brooke County.*—For the county of Brooke, four thousand dollars.

Sec. 5-(6). *Cabell County.*—For the county of Cabell, seven thousand dollars.

Sec. 5-(7). *Calhoun County.*—For the county of Calhoun, one thousand eight hundred dollars.

Sec. 5-(8). *Clay County.*—For the county of Clay, two thousand dollars.

Sec. 5-(9). *Doddridge County.*—For the county of Doddridge, one thousand eight hundred dollars.

Sec. 5-(10). *Fayette County.*—For the county of Fayette, five thousand four hundred dollars.

Sec. 5-(11). *Gilmer County.*—For the county of Gilmer, one thousand nine hundred twenty dollars.

Sec. 5-(12). *Grant County.*—For the county of Grant, one thousand two hundred dollars.

2 Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, three thousand dollars.

2 Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, two thousand two hundred dollars.

2 Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, three thousand eight hundred dollars.

2 Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 one thousand six hundred dollars.

2 Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, six thousand dollars.

2 Sec. 5-(18). *Jackson County*.—For the county of Jack-
2 son, two thousand dollars.

2 Sec. 5-(19). *Jefferson County*.—For the county of Jef-
2 ferson, three thousand six hundred dollars.

2 Sec. 5-(20). *Kanawha County*.—For the county of Ka-
2 nawha, ten thousand dollars.

2 Sec. 5-(21). *Lewis County*.—For the county of Lewis,
2 not less than two thousand dollars nor more than two
3 thousand four hundred dollars.

2 Sec. 5-(22). *Lincoln County*.—For the county of Lin-
2 coln, three thousand six hundred dollars.

2 Sec. 5-(23). *Logan County*.—For the county of Logan,
2 six thousand dollars.

2 Sec. 5-(24). *Marion County*.—For the county of Marion,
2 six thousand dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Mar-
2 shall, three thousand eight hundred dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason,
2 two thousand six hundred dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of Mc-
2 Dowell, six thousand five hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer,
2 six thousand dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Mineral, three thousand dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, five thousand five hundred dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand two hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Morgan, one thousand four hundred dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, three thousand three hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio, seven thousand five hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of Pendleton, one thousand two hundred dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of Pleasants, one thousand eight hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, two thousand dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Preston, four thousand dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Putnam, three thousand dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, six thousand dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of Randolph, five thousand dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie, one thousand eight hundred dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane, two thousand dollars.

2 Sec. 5-(45). *Summers County*.—For the county of Summers, two thousand four hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor,
3 three thousand two hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker,
3 two thousand eight hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler,
3 two thousand dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Up-
3 shur, two thousand four hundred dollars.

2 Sec. 5-(50). *Wayne County*.—For the county of Wayne,
3 four thousand five hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Web-
3 ster, two thousand seven hundred dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,
3 three thousand dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one
3 thousand two hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood,
3 five thousand dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of Wy-
3 oming, not less than three thousand, nor more than five
4 thousand four hundred dollars.

2 Sec. 6. *Assistants, Stenographers and Clerks for Prose-*
3 *cuting Attorney; Salaries; When Court May Appoint At-*
4 *torney to Prosecute*.—Any prosecuting attorney may, with
5 the assent of the county court of his county, entered of
6 record, except as hereinafter provided, appoint one (and
7 Ohio county three and Fayette, Harrison, Kanawha,
8 Raleigh, Cabell and McDowell counties two each) prac-
9 ticing attorney to assist him in the discharge of his official
10 duties for and during his term of office, and such assistant
11 shall take the same oath and may perform the same
12 duties as his principal; and he may be removed from
13 office as such at any time by his principal; and further
14 he may be removed from his office as such assistant by
15 the circuit court of the county in which he is appointed,

15 for any cause for which his principal might be removed.
16 The compensation of such assistant shall be paid by the
17 principal, except in the counties of Barbour, Berkeley,
18 Boone, Brooke, Cabell, Calhoun, Clay, Fayette, Harrison,
19 Hancock, Kanawha, Lewis, Lincoln, Logan, Marion, Mar-
20 shall, Mason, McDowell, Mercer, Mineral, Mingo, Monon-
21 galia, Nicholas, Ohio, Putnam, Raleigh, Randolph, Sum-
22 mers, Taylor, Upshur, Wayne, Webster, Wetzel, Wood and
23 Wyoming, and in the said counties the county court there-
24 of shall allow annually to such assistants such compensa-
25 tion to be paid out of the county treasury as is deemed
26 reasonable by the court, except that in Hancock county
27 the salary of such assistant shall not be less than one
28 thousand eight hundred dollars nor more than two thou-
29 sand four hundred dollars; in Ohio county for the first
30 assistant four thousand dollars, for the second assistant
31 three thousand five hundred dollars and for the third as-
32 sistant three thousand dollars; in Kanawha county for the
33 two assistants, each, not more than seven thousand six
34 hundred dollars and not less than six thousand dollars;
35 in Cabell county for the two assistants, each five thousand
36 five hundred dollars; in McDowell county, not less than
37 three thousand dollars nor more than four thousand eight
38 hundred dollars for each assistant; in Marion county, not
39 less than four thousand two hundred nor more than four
40 thousand eight hundred dollars; in Raleigh county, four
41 thousand five hundred dollars; in Mingo county, not to
42 exceed four thousand dollars; in Harrison county, for the
43 first assistant four thousand five hundred dollars and
44 for the second assistant four thousand dollars; in Mercer
45 county, five thousand dollars; in Summers county, not
46 less than one thousand nor more than two thousand dol-
47 lars; in Wood county, two thousand five hundred dollars;
48 in Logan county, four thousand five hundred dollars; in
49 Fayette county for the first assistant not less than three
50 thousand six hundred nor more than four thousand five
51 hundred dollars, and for the second assistant not to ex-
52 ceed two thousand eight hundred dollars; in Boone county,
53 not less than two thousand dollars nor more than three
54 thousand dollars; in Wyoming county, not less than one

55 thousand five hundred nor more than two thousand seven
56 hundred dollars; in Barbour county one thousand dollars;
57 in Monongalia county, four thousand dollars; in Wayne
58 county three thousand six hundred dollars; in Lincoln
59 county, not to exceed one thousand eight hundred dollars;
60 in Berkeley county, not to exceed two thousand dollars;
61 in Lewis, Marshall, Mineral, Nicholas and Upshur coun-
62 ties, not to exceed twelve hundred dollars, and in Ran-
63 dolph county, not to exceed two thousand seven hundred
64 dollars; in Webster and Wetzel counties, not less than
65 six hundred nor more than nine hundred dollars; in Put-
66 nam county, not to exceed two thousand dollars; and
67 Calhoun county, three hundred dollars. In each case such
68 compensation shall include the compensation provided by
69 law for such assistant's services as attorney for boards
70 of education, and other administrative boards and officers
71 of the county.

72 In any case in which it would, in the opinion of the
73 court, be improper for the prosecuting attorney and his
74 assistant (if he has one), to act, or if the prosecuting
75 attorney and his assistant be unable to act, such court
76 shall appoint some competent practicing attorney to
77 prosecute such cases; and upon the performance of the
78 service for which he was appointed, the court shall certify
79 that fact, with its opinion of what would be a reasonable
80 allowance to such attorney for the service rendered, to
81 the county court of the county, and such sum, when
82 allowed by the county court, shall be paid out of the
83 county treasury: *Provided*, That nothing in this section
84 shall be construed to prohibit the employment by any
85 person of a competent attorney or attorneys to assist in
86 the prosecution of any person or corporation charged with
87 crime.

88 In each of the counties herein named, except Harrison,
89 Cabell, Wayne and Fayette and including Greenbrier,
90 Hampshire, Pocahontas, Putnam, Ritchie and Upshur, the
91 prosecuting attorney may employ a stenographer for his
92 office at a salary, payable out of the county treasury, of
93 not less than nine hundred nor more than two thousand
94 dollars per annum; except, the annual salary of such

95 stenographer in Greenbrier county shall not exceed two
96 thousand three hundred and forty dollars; except, the
97 annual salary of such stenographer in Pocahontas county
98 shall not exceed one thousand two hundred dollars; in
99 Putnam county shall not exceed two thousand dollars; in
100 Calhoun and Upshur counties, shall not exceed nine hun-
101 dred dollars; in Hampshire county shall not be less than
102 one thousand two hundred nor more than two thousand
103 dollars; in Ritchie county shall not be less than one thou-
104 sand dollars nor more than twelve hundred dollars; in
105 Lewis county, shall not be less than six hundred dollars,
106 nor exceed one thousand five hundred dollars; in Berkeley
107 county, shall be not less than eight hundred dollars nor
108 more than two thousand dollars in the discretion of the
109 county court; in Monongalia county, shall be not less
110 than two thousand four hundred dollars nor more than
111 three thousand six hundred dollars; in Boone county,
112 shall be two thousand four hundred dollars; and in Brax-
113 ton county, shall be fourteen hundred dollars; in Taylor
114 county, shall not be less than one thousand two hundred
115 dollars nor more than two thousand dollars; in Webster
116 county, shall be nine hundred dollars; in Gilmer county,
117 shall not exceed nine hundred dollars: *Provided*, That in
118 each of the last two named counties the prosecuting at-
119 torney may not employ a stenographer except with the
120 consent of the county court entered of record.

121 In the county of Jefferson the prosecuting attorney may
122 employ a stenographer for his office at a salary of not more
123 than one thousand five hundred dollars per annum, pay-
124 able out of the county treasury to be fixed by the said
125 prosecuting attorney of said county of Jefferson.

126 In the county of Harrison, the prosecuting attorney may
127 employ two stenographers for his office at a salary for
128 each stenographer of not less than nine hundred nor
129 more than two thousand four hundred dollars per annum,
130 payable out of the county treasury.

131 In the county of Cabell the prosecuting attorney may
132 employ two stenographers for his office, each at a salary
133 of not more than three thousand six hundred dollars per
134 year, payable out of the county treasury.

135 In the county of Clay, the prosecuting attorney may
136 employ a clerk or stenographer for his office at a salary
137 of one thousand two hundred dollars per annum, payable
138 out of the county treasury; except, that in lieu of the
139 appointment of such clerk or stenographer, the prosecut-
140 ing attorney may employ a practicing attorney of said
141 county as his assistant at a salary of not less than one
142 thousand nor more than one thousand five hundred dollars
143 per annum, payable out of the county treasury.

144 In the counties of Mingo and Preston, the prosecuting
145 attorney may employ one stenographer for his office at
146 a salary not to exceed three thousand six hundred dollars
147 per annum for the county of Mingo and two thousand
148 two hundred eighty dollars per annum for the county of
149 Preston, payable out of the county treasury.

150 In the county of Jackson, the prosecuting attorney may
151 employ one stenographer or clerk for his office at a salary
152 of not to exceed nine hundred dollars per annum, payable
153 out of the county treasury.

154 In the county of Mercer, the prosecuting attorney may
155 employ one stenographer or clerk for his office at a salary
156 of not to exceed the sum of three thousand dollars per
157 annum, payable out of the county treasury.

158 In the county of Hardy, the prosecuting attorney may
159 employ one stenographer or clerk for his office at a salary
160 not to exceed one thousand twenty dollars per annum,
161 to be fixed by the prosecuting attorney, payable out of
162 the county treasury, as salaries of county officials are
163 paid.

164 In the county of Grant, the prosecuting attorney may
165 employ one stenographer or clerk for his office at a salary
166 not to exceed one thousand two hundred dollars per
167 annum, payable out of the county treasury as salaries of
168 county officials are paid. In the county of Pendleton, the
169 prosecuting attorney may employ one stenographer or
170 clerk for his office at a salary not to exceed one thousand
171 eighty dollars per annum, payable out of the county treas-
172 ury as salaries of county officials are paid.

173 In the county of Wyoming, the prosecuting attorney may
174 employ one stenographer at a salary to be fixed by the

175 county court and payable out of the treasury of said
176 county, and in the counties of Mason and Roane the prose-
177 cuting attorney may employ one stenographer at a salary
178 of not less than eleven hundred dollars nor more than
179 fifteen hundred dollars per annum, payable out of the
180 treasury of said county.

181 In the county of Kanawha, the prosecuting attorney
182 may employ two stenographers, each at a salary of three
183 thousand six hundred dollars per annum, payable out of
184 the treasury of said county.

185 In the county of Hancock, the prosecuting attorney may
186 employ one stenographer at a salary of not more than
187 two thousand four hundred dollars per annum, payable
188 out of the treasury of said county.

189 In the county of Wayne, the prosecuting attorney may
190 employ one stenographer at a salary of not less than
191 twenty-seven hundred dollars nor more than three thou-
192 sand dollars per annum, to be fixed by the county
193 court and payable out of the treasury of the county.

194 In the county of Randolph, the prosecuting attorney
195 may employ one stenographer at a salary of not less than
196 one thousand five hundred dollars per annum and not
197 more than two thousand four hundred dollars per annum,
198 to be fixed by the county court and payable out of the
199 treasury of said county.

200 In the county of Fayette, the prosecuting attorney may
201 employ one stenographer at a salary to be fixed by the
202 county court and payable out of the treasury of said
203 county.

204 In the county of McDowell, the prosecuting attorney
205 may employ one stenographer at a salary of not less than
206 one thousand five hundred dollars nor more than three
207 thousand dollars per year, to be fixed by the county court
208 and payable out of the treasury of such county.

209 The prosecuting attorney may employ a clerk or a
210 stenographer for his office in the counties of Tyler, Wetzel
211 and Marshall at an annual salary not to exceed the fol-
212 lowing: In the county of Tyler, one thousand dollars; in
213 the county of Wetzel, twenty-four hundred dollars; in
214 the county of Marshall, not less than two thousand dollars

215 nor more than twenty-four hundred dollars, payable out
216 of the treasury of the respective counties.

217 In the county of Lincoln, the prosecuting attorney may
218 employ one stenographer or clerk for his office at a salary
219 of not to exceed the sum of two thousand two hundred
220 dollars per annum, payable out of the county treasury.

221 In the county of Logan, the prosecuting attorney may
222 employ one stenographer for his office at a salary of not
223 to exceed the sum of three thousand three hundred dollars
224 per annum, payable out of the county treasury. In the
225 county of Marion, the prosecuting attorney may employ
226 one stenographer at a salary not to exceed two thousand
227 eight hundred dollars per annum, payable out of the
228 county treasury.

229 In the county of Raleigh the prosecuting attorney may
230 employ one stenographer at a salary not to exceed three
231 thousand dollars per annum, payable out of the county
232 treasury.

233 In the county of Ohio, the prosecuting attorney may
234 employ one stenographer for his office at a salary not to
235 exceed two thousand seven hundred dollars per annum,
236 payable out of the county treasury.

237 In the county of Barbour, the prosecuting attorney may
238 employ a stenographer for his office at a salary of not
239 less than one thousand two hundred nor more than one
240 thousand eight hundred dollars per annum, to be fixed
241 by the county court of said county, payable out of the
242 county treasury.

243 In the county of Doddridge the prosecuting attorney
244 may employ a stenographer for his office at a salary not
245 to exceed nine hundred dollars per annum, to be fixed by
246 the county court of said county, payable out of the county
247 treasury.

248 In the county of Taylor, the prosecuting attorney may
249 employ a stenographer for his office at a salary of not less
250 than one thousand two hundred nor more than two thou-
251 sand dollars per annum, to be fixed by the county court
252 of said county, payable out of the county treasury.

253 In the county of Monroe, the prosecuting attorney may
254 employ a stenographer for his office at a salary not to

255 exceed six hundred dollars per annum, payable out of
256 the county treasury.

257 In the county of Pleasants, the prosecuting attorney
258 may employ a stenographer for his office at a salary not
259 to exceed five hundred dollars per annum, to be fixed
260 by the county court of said county, payable out of the
261 county treasury.

262 In the county of Brooke, the prosecuting attorney may
263 employ a stenographer for his office at a salary not to
264 exceed two thousand five hundred dollars per annum, to
265 be fixed by the county court of said county, payable out
266 of the county treasury.

CHAPTER 34

(House Bill No. 11—By Mr. Beneke)

AN ACT to amend and reenact section eight, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the sheriff, clerk of the county court, clerk of the circuit court (criminal, common pleas or intermediate courts), and prosecuting attorney, and the compensation of their deputies, assistants and other employees, duly appointed or employed.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

8. Payment of salaries monthly or semi-monthly; prerequisites.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Payment of Salaries Monthly or Semi-Monthly; Prerequisites.*—The compensation of the sheriff,
clerk of the county court, clerk of the circuit court (crim-

4 inal, common pleas or intermediate courts), and prosecut-
5 ing attorney, and the compensation of their deputies,
6 assistants and other employees, duly appointed or em-
7 ployed, after being so fixed, shall be paid monthly or
8 semi-monthly at the option of the county court, in the man-
9 ner provided by law to those entitled to the same out of
10 the county fund. The county court, or other tribunal in
11 lieu thereof, after the filing of the statement provided for
12 by the preceding section, showing the names of the depu-
13 ties, assistants and other employees, the time for which
14 employed and their compensation, may, by order of re-
15 cord, authorize and direct orders or drafts on the trea-
16 surer, payable out of the general county fund, to be drawn
17 in favor of the officer, his deputy, assistant, or employee
18 named in such statement, in payment of the monthly sal-
19 ary to which such officer is entitled, and when such order
20 has been entered of record, the president and clerk of the
21 county court, or other tribunal in lieu thereof, shall be
22 authorized to sign such orders and drafts, for the purposes
23 aforesaid: *Provided, however,* That no orders shall be is-
24 sued to the officer or deputy, assistant or other employees
25 until the officer has filed a detailed monthly statement
26 with the county treasurer and has filed with the county
27 clerk a duplicate copy thereof, together with a receipt
28 from the county treasurer, showing that he has paid into
29 the county treasury all fees, costs, percentages, commis-
30 sions, allowances, compensation, income and all other
31 perquisites of whatever kind that have been collected
32 during such month, as shown by such statement.

CHAPTER 35

(House Bill No. 496—By Mr. Booth and Mrs. Walker)

AN ACT to amend and reenact section five and sections five-
(one) through section five-(fifty-six), inclusive, article
two, chapter eleven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to salaries of assessors.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section

5. Annual salary of assessors.

5-(1) to 5-(55). Salaries of assessors in the various counties of the state.

5-(56). Additional compensation; salaries paid out of county fund.

Be it enacted by the Legislature of West Virginia:

That section five and sections five-(one) through section five-(fifty-six), inclusive, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Annual Salary of Assessors.*—The annual
2 salary of the assessor in each county shall, on and after
3 January one, one thousand nine hundred fifty-seven, be
4 in the amounts set forth in sections five-(one) to five-
5 (fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County.*—For the county of Bar-
2 bour, two thousand four hundred dollars.

Sec. 5-(2). *Berkeley County.*—For the county of Berk-
2 eley, three thousand six hundred dollars.

Sec. 5-(3). *Boone County.*—For the county of Boone,
2 four thousand three hundred dollars.

Sec. 5-(4). *Braxton County.*—For the county of Brax-
2 ton, three thousand dollars.

Sec. 5-(5). *Brooke County.*—For the county of Brooke,
2 four thousand two hundred dollars.

Sec. 5-(6). *Cabell County.*—For the county of Cabell,
2 five thousand dollars.

Sec. 5-(7). *Calhoun County.*—For the county of Cal-
2 houn, two thousand five hundred dollars.

Sec. 5-(8). *Clay County.*—For the county of Clay,
2 two thousand seven hundred dollars.

Sec. 5-(9). *Doddridge County*.—For the county of
2 Doddridge, two thousand five hundred dollars.

Sec. 5-(10). *Fayette County*.—For the county of Fay-
2 ette, not less than four thousand two hundred dollars
3 nor more than four thousand eight hundred dollars, to
4 be fixed by the county court.

Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,
2 two thousand one hundred dollars.

Sec. 5-(12). *Grant County*.—For the county of Grant,
2 two thousand two hundred dollars.

Sec. 5-(13). *Greenbrier County*.—For the county of
2 Greenbrier, four thousand dollars.

Sec. 5-(14). *Hampshire County*.—For the county of
2 Hampshire, two thousand four hundred dollars.

Sec. 5-(15). *Hancock County*.—For the county of Han-
2 cock, four thousand dollars.

Sec. 5-(16). *Hardy County*.—For the county of Hardy,
2 two thousand five hundred dollars.

Sec. 5-(17). *Harrison County*.—For the county of Har-
2 rison, six thousand dollars.

Sec. 5-(18). *Jackson County*.—For the county of Jack-
2 son, two thousand four hundred dollars.

Sec. 5-(19). *Jefferson County*.—For the county of Jeff-
2 erson, three thousand dollars.

Sec. 5-(20). *Kanawha County*.—For the county of Ka-
2 nawha, seven thousand five hundred dollars.

Sec. 5-(21). *Lewis County*.—For the county of Lewis,
2 two thousand six hundred dollars.

Sec. 5-(22). *Lincoln County*.—For the county of Lin-
2 coln, three thousand two hundred dollars.

Sec. 5-(23). *Logan County*.—For the county of Logan,
2 five thousand five hundred dollars.

Sec. 5-(24). *Marion County*.—For the county of Mar-
2 ion, five thousand two hundred dollars.

2 Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand six hundred dollars.

2 Sec. 5-(26). *Mason County*.—For the county of Mason, three thousand dollars.

2 Sec. 5-(27). *McDowell County*.—For the county of McDowell, four thousand eight hundred dollars.

2 Sec. 5-(28). *Mercer County*.—For the county of Mercer, five thousand dollars.

2 Sec. 5-(29). *Mineral County*.—For the county of Mineral, three thousand six hundred dollars.

2 Sec. 5-(30). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2 Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, four thousand dollars.

2 Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2 Sec. 5-(33). *Morgan County*.—For the county of Morgan, two thousand dollars.

2 Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, two thousand eight hundred dollars.

2 Sec. 5-(35). *Ohio County*.—For the county of Ohio, four thousand two hundred dollars.

2 Sec. 5-(36). *Pendleton County*.—For the county of Pendleton, two thousand dollars.

2 Sec. 5-(37). *Pleasants County*.—For the county of Pleasants, two thousand four hundred dollars.

2 Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, two thousand four hundred dollars.

2 Sec. 5-(39). *Preston County*.—For the county of Preston, three thousand six hundred dollars.

2 Sec. 5-(40). *Putnam County*.—For the county of Putnam, three thousand dollars.

2 Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, five thousand five hundred dollars.

2 Sec. 5-(42). *Randolph County*.—For the county of Randolph, four thousand eight hundred dollars.

2 Sec. 5-(43). *Ritchie County*.—For the county of Ritchie, two thousand eight hundred dollars.

2 Sec. 5-(44). *Roane County*.—For the county of Roane, two thousand six hundred dollars.

2 Sec. 5-(45). *Summers County*.—For the county of Summers, two thousand two hundred dollars.

2 Sec. 5-(46). *Taylor County*.—For the county of Taylor, three thousand two hundred dollars.

2 Sec. 5-(47). *Tucker County*.—For the county of Tucker, two thousand eight hundred dollars.

2 Sec. 5-(48). *Tyler County*.—For the county of Tyler, three thousand dollars.

2 Sec. 5-(49). *Upshur County*.—For the county of Upshur, two thousand two hundred dollars.

2 Sec. 5-(50). *Wayne County*. — For the county of Wayne, four thousand five hundred dollars.

2 Sec. 5-(51). *Webster County*.—For the county of Webster, two thousand three hundred dollars.

2 Sec. 5-(52). *Wetzel County*.—For the county of Wetzel, two thousand eight hundred dollars.

2 Sec. 5-(53). *Wirt County*.—For the county of Wirt, one thousand eight hundred dollars.

2 Sec. 5-(54). *Wood County*.—For the county of Wood, five thousand dollars.

2 Sec. 5-(55). *Wyoming County*.—For the county of Wyoming, four thousand five hundred dollars.

2 Sec. 5-(56). *Additional Compensation; Salaries Paid Out of County Fund*.—In addition to the above salary each
3 assessor shall receive a commission of ten per cent on all

- 4 state school, road and municipal capitation taxes collected
 - 5 by him. The salaries of assessors and their deputies, as-
 - 6 sistants and employees shall be paid out of the county
 - 7 fund at the time and in the manner now provided by law
 - 8 for paying other county officers.
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CHAPTER 36

(House Bill No. 81—By Mr. Francis)

AN ACT to amend article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section thereto, to be designated section ten, relating to the expenses of assessors.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section

10. Expenses of assessors.
-

Be it enacted by the Legislature of West Virginia:

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

- Section 10. *Expenses of Assessors.*—The county court
- 2 of each county may allow the assessor or any deputy
 - 3 assessor when engaged in the assessment of property for
 - 4 the purpose of taxation, an amount not exceeding seven
 - 5 cents per mile for each mile the assessor or deputy
 - 6 assessor is required to drive his personally owned car.
 - 7 Every assessor shall file monthly, under oath, a full and
 - 8 accurate account of all his actual and necessary mileage
 - 9 mentioned in this section, supported by verified accounts
 - 10 for his deputies before payment thereof shall be allowed
 - 11 by the county court.

CHAPTER 37

(House Bill No. 202—By Mr. Richardson, of Mercer)

AN ACT to amend and reenact section one-i, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the terms of the circuit court of the ninth circuit.

[Passed March 3, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-i. Ninth circuit.

Be it enacted by the Legislature of West Virginia:

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

Section 1-i. *Ninth Circuit.*—For the county of Mercer,
2 on the second Monday in February, May, August, and
3 November.

CHAPTER 38

(Senate Bill No. 330—By Mr. Jackson, of Lincoln)

AN ACT to amend and reenact section one-y, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the terms of court of the twenty-fifth judicial circuit.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section

1-y. Twenty-fifth circuit.

Be it enacted by the Legislature of West Virginia:

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

- Section 1-y. *Twenty-fifth Circuit*.—For the county of
- 2 Boone, on the third Monday in January and the fourth
 - 3 Monday in April and August.
 - 4 For the county of Lincoln, on the second Monday in
 - 5 March, June and November.

CHAPTER 39

(House Bill No. 179—By Mr. Seibert and Mr. Davis)

AN ACT to amend article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six-a, relating to eligibility for and payment of retirement benefits to judges over sixty-five years of age.

[Passed February 18, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Retirement System for Judges of Courts of Record.

Section

- 6-a. Eligibility benefits; service and retirement of judges over sixty-five years of age.

Be it enacted by the Legislature of West Virginia:

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

- Section 6-a. *Eligibility Benefits; Service and Retirement of Judges over Sixty-five Years of Age*.—Any judge of a
- 3 court of record of this state, who shall have served for a
 - 4 period of not less than eight full years after attaining the
 - 5 age of sixty-five years and who shall have made payments
 - 6 into the judges' retirement fund as provided in this article

7 for each month during which he served as such judge
8 following the effective date of this section, shall be sub-
9 ject to all the applicable terms and provisions of this
10 article, not inconsistent with the provisions hereof, and
11 shall receive retirement benefits in an amount equal to
12 one-half the salary received by him during his last year
13 of service as such judge, payable in monthly installments.
14 If such judge shall become incapacitated to perform his
15 said duties before the expiration of his said term and after
16 serving for six years thereof, and upon the acceptance of
17 his resignation as in this article provided, he shall be paid
18 the annual retirement benefits as herein provided so long
19 as he shall live. The provisions of this section shall prevail
20 over any language to the contrary in this article contained.

CHAPTER 40

(House Bill No. 346—By Mr. Fumich)

AN ACT to amend and reenact section two-a, article six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recognizances in criminal cases.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Recognizances in Criminal Cases.

Section

2-a. Cash deposits as recognizance without surety.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. *Cash Deposits as Recognizance without*
2 *Surety.*—Whenever a person arrested on a criminal charge
3 has been admitted to bail by a court or an officer author-
4 ized by law so to do, for his appearance before any court,

5 judge or justice, he may, instead of entering into a recog-
6 nizance with surety as required by law, give his personal
7 recognizance and deposit, or cause to be deposited for
8 him, in cash, the amount of bail he is required to furnish,
9 with the clerk of the circuit court of the county, or with
10 the clerk of any other court in which he was admitted
11 to bail, and the clerk with whom such deposit is made
12 shall give him a certificate thereof, and upon delivering
13 said certificate to the court or officer admitting him to
14 bail, he shall be ordered to be released: *Provided, how-*
15 *ever,* That in the event the court before which he is to
16 appear be the mayor's court, or the police court of any
17 municipality of this state, then in such event, the deposit
18 in cash of the amount of bail he is required to furnish
19 may be deposited with the mayor, chief of police, desk
20 sergeant, acting desk sergeant, town sergeant, clerk or
21 deputy clerk of the police court, or of the mayor's court,
22 town recorder, or such other person as may be designated
23 by the governing body of such municipality by proper
24 ordinance. A proper certificate or receipt shall be fur-
25 nished as evidence of such deposit, and upon delivery of
26 such certificate or receipt to the court or officer admitting
27 him to bail, he shall be ordered to be released. Any such
28 officer of any such municipality authorized to receive any
29 such deposit, in lieu of a recognizance with surety, shall
30 at the time of receiving such deposit, advise the defendant
31 of the place, day and hour of his trial, and such certificate
32 or receipt shall likewise contain information of the place,
33 day and hour of the trial of such defendant.

34 If there be no default in the observance of the condi-
35 tions of the recognizance, then, upon the termination of
36 the proceedings, the money so deposited, shall, by order
37 of the trial court or justice, be refunded to the defendant,
38 or upon his order; but if there be any such default, the
39 same action shall be taken, and the same proceedings had,
40 with like rules governing, so far as applicable, as if the
41 recognizance had been with surety instead of with cash
42 deposit aforesaid, and the clerk having the money shall
43 dispose of the same, if there be a judgment of forfeiture,
44 in the same manner as other money received on account
45 of forfeited recognizances is required to be disposed of.

46 The defendant may surrender himself at any time be-
47 fore default in the same manner as sureties may surrender
48 their principal, and the money so deposited shall there-
49 upon, by order of the court or officer to which or to whom
50 such surrender was made, be returned to the defendant
51 or on his order.

52 This act shall be deemed as authority authorizing muni-
53 cipalities of this state and the courts thereof to accept cash
54 deposits in lieu of a recognizance with surety and shall
55 be construed to authorize and empower any municipal
56 officer, agent or official herein mentioned or as may be
57 designated by the governing body of any municipality
58 to receive cash deposit in lieu of a recognizance with
59 surety, and to authorize the proper official of any mu-
60 nicipality to receive the proceeds of any such cash deposit
61 after the same has been forfeited as herein provided and
62 apply the same to any proper municipal purpose as di-
63 rected by the governing body thereof.

CHAPTER 41

(House Bill No. 41—By Mr. White)

AN ACT to amend and reenact section ten, article twelve, chap-
ter sixty-two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to violation
of probation; revocation and arrest.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 12. Probation and Parole.

Section

10. Violation of probation; revocation and arrest.

Be it enacted by the Legislature of West Virginia:

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

Section 10. *Violation of Probation; Revocation and Arrest.*—If at any time during the period of probation there shall be reasonable cause to believe that the probationer has violated any of the conditions of his probation, the probation officer may arrest him with or without an order or warrant, or the court which placed him on probation, or the judge thereof in vacation, may issue an order for his arrest, whereupon he shall be brought before the court, or the judge thereof in vacation, for a prompt and summary hearing. If it shall then appear to the satisfaction of the court or judge that any condition of probation has been violated, the court or judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed. In computing the period for which the offender is to be imprisoned, the time between his release on probation and his arrest shall not be taken to be any part of the term of his sentence. If, despite a violation of the conditions of probation, the court or judge shall be of the opinion that the interests of justice do not require that the probationer serve his sentence, the court or judge may, except when the violation was the commission of a felony, again release him on probation.

CHAPTER 42

(Com. Sub. for Senate Bill No. 395—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to repeal section sixteen of said article of said chapter; and to amend article twelve of said chapter by adding thereto a new section, to be designated section thirteen-a, all relating to the improvement and clarification of the procedure of probation and parole.

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

Article 12. Probation and Parole.**Section**

12. Board of probation and parole.

13. Powers and duties of the board; eligibility; notice.

13-a. Eligibility date for parole.

Be it enacted by the Legislature of West Virginia:

That sections twelve and thirteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section sixteen of said article of said chapter be repealed, and that article twelve of said chapter be amended by adding thereto a new section, to be designated section thirteen-a, all to read as follows:

Section 12. *Board of Probation and Parole.*—There shall
2 be a state board of probation and parole, known as the
3 “West Virginia Board of Probation and Parole.” The
4 board shall consist of three members, not more than two
5 of whom shall at any one time belong to the same political
6 party. The board shall be appointed by the governor
7 by and with the advice and consent of the senate. Each
8 member of the board shall have had experience in the
9 fields of social science or administration of penal institutions
10 and shall be familiar with the principles, practices
11 and problems thereof and shall be otherwise competent
12 to perform the duties of his office. The members shall be
13 appointed for overlapping terms of six years, except that
14 the original appointments shall be for terms of two, four
15 and six years, respectively, such appointments to be made
16 beginning on the first day of July, one thousand nine hundred
17 fifty-three. Any member shall be eligible for re-
18 appointment. The members shall receive an annual salary,
19 to be fixed by the governor, not to exceed seventy-
20 two hundred dollars and necessary expenses incurred in
21 the discharge of their official duties. The members of the
22 board shall devote their full time and attention to their
23 duties as members thereof.

Sec. 13. *Powers and Duties of the Board; Eligibility; Notice.*—The board of probation and parole, whenever
2 it shall be of the opinion that the best interests of the
3

4 state and of the prisoner will be subserved thereby, and
5 subject to the limitations hereinafter provided, shall have
6 authority to release any such prisoner on parole for such
7 terms and upon such conditions as are provided by this
8 article. Any prisoner of a penitentiary of this state, to
9 be eligible for parole,

10 (1) Shall have served the minimum term of his in-
11 determinate sentence, or shall have served one-third of
12 his definite term sentence, as the case may be;

13 (2) Shall not be under punishment or in solitary con-
14 finement for any infraction of prison rules;

15 (3) Shall have maintained a record of good conduct
16 in prison for a period of at least three months immedi-
17 ately preceding the date of his release on parole;

18 (4) Shall have satisfied the board that, if released on
19 parole, he will conduct himself in a lawful manner and
20 that his release is not incompatible with the best interests
21 and welfare of society generally.

22 Except in the case of one serving a life sentence, no
23 person who has been previously twice convicted of felony
24 may be released on parole until he has served the mini-
25 mum term provided by law for the crime for which he
26 was convicted. No person sentenced for life may be pa-
27 roled until he has served ten years, and no person sen-
28 tenced for life who has been previously twice convicted
29 of felony may be paroled until he has served fifteen years.
30 In the case of a person sentenced to any penal institution
31 of this state, it shall be the duty of the board, as soon as
32 such person becomes eligible, to consider the advisability
33 of his or her release on parole. If, upon such consider-
34 ation, parole be denied, the board shall at least once a
35 year reconsider and review the case of every prisoner so
36 eligible, which reconsideration and review shall be by
37 the entire board. If parole be denied, the prisoner shall
38 be promptly notified.

39 In the case of any person sentenced to or confined under
40 sentence in any city or county jail in this state, the board
41 shall act only upon written application for parole. If such
42 jail prisoner be under sentence on a felony conviction,
43 the provisions hereof relating to penitentiary prisoners
44 shall apply to and control his release on parole. If such

45 person be serving time on a misdemeanor conviction, he
46 shall be eligible for parole consideration, upon receipt of
47 his written parole application and after time for proba-
48 tion release by the sentencing court or judge has expired.

49 The board shall, with the approval of the governor,
50 adopt rules and regulations governing the procedure in
51 the granting of parole. No provision of this article and
52 none of the rules and regulations adopted hereunder are
53 intended or shall be construed to contravene, limit or
54 otherwise interfere with or affect the authority of the
55 governor to grant pardons and reprieves, commute sen-
56 tences, remit fines or otherwise exercise his constitutional
57 powers of executive clemency.

58 The board shall have general supervisory control over
59 all court or county probation officers. It shall be charged
60 with the duty of supervising all probationers and parolees
61 whose supervision may have been undertaken by this
62 state by reason of any interstate compact entered into
63 pursuant to the uniform act for out-of-state parolee
64 supervision.

65 When considering a penitentiary prisoner for release
66 on parole, the board of parole shall have before it an
67 authentic copy of or report on the prisoner's current crim-
68 inal record as provided through the department of public
69 safety of West Virginia, the United States department of
70 justice or other reliable criminal information sources and
71 written reports of the warden or superintendent of the
72 penitentiary, as the case may be, to which such prisoner
73 is sentenced,

74 (1) On the prisoner's conduct record while in prison,
75 including a detailed statement showing any and all in-
76 fractions of prison rules by the prisoner and the nature
77 and extent of discipline and punishment administered
78 therefor;

79 (2) On improvement or other changes noted in the
80 prisoner's mental and moral condition while in prison,
81 including a statement expressive of the prisoner's current
82 attitude toward society in general, toward the judge who
83 sentenced him, toward the prosecuting attorney who pros-
84 ecuted him, toward the policeman or other officer who

85 arrested him and toward the crime for which he is under
86 sentence and his previous criminal record;

87 (3) On the prisoner's industrial record while in prison,
88 showing the nature of his prison work or occupation and
89 the average number of hours per day he has been em-
90 ployed in prison industry and recommending the nature
91 and kinds of employment which he is best fitted to per-
92 form and in which he is most likely to succeed when he
93 leaves prison;

94 (4) On physical, mental and psychiatric examinations
95 of the prisoner conducted, insofar as practicable, within
96 the two months next preceding parole consideration by
97 the board.

98 The board may waive the requirement of any such re-
99 port when not available or not applicable as to any pris-
100 oner considered for parole but, in every such case, shall
101 enter in the record thereof its reason for such waiver.

102 Before releasing any penitentiary prisoner on parole,
103 the board of parole shall arrange for him to appear in
104 person before the board and the board may examine and
105 interrogate him on any matters pertaining to his parole,
106 including reports before the board made pursuant to the
107 provisions hereof. The board shall reach its own written
108 conclusions as to the desirability of releasing such pris-
109 oner on parole. The warden or superintendent shall fur-
110 nish all necessary assistance and cooperate to the fullest
111 extent with the board of parole. All information, records
112 and reports received by the board shall be kept on per-
113 manent file.

114 The board and its designated agents shall at all times
115 have access to inmates imprisoned in any penal or cor-
116 rectional institutions of this state or in any city or county
117 jail in this state, and shall have power to obtain any in-
118 formation or aid necessary to the performance of their
119 duties from other departments and agencies of the state
120 or from any political subdivision thereof.

121 The board shall, if so requested by the governor, inves-
122 tigate and consider all applications for pardon, reprieve
123 or commutation, and shall make recommendation thereon
124 to the governor.

Sec. 13-a. *Eligibility Date for Parole.*—When the prisoner has received an indeterminate sentence, the minimum sentence shall be considered as an eligibility date for parole consideration, but does not confer in the prisoner the right to be released as of that date.

CHAPTER 43

(House Bill No. 132—By Mr. Maxwell)

AN ACT to amend and reenact section two, article eleven, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to curative provisions respecting deeds and other writings and the recordation thereof.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 11. Curative Provisions Respecting Deeds and Other Writings and the Recordation Thereof.

Section

2. Validation of instruments, acknowledgments and records.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Validation of Instruments, Acknowledgments and Records.*—No deed or other writing conveying or purporting to convey or release or assign real estate, or any interest therein, or to create any power of attorney relating to real estate or any interest therein, heretofore made or executed and delivered by any person or persons whomsoever, or by a husband and wife to a bona fide purchaser for good and valuable consideration, and acknowledged by him or them before an officer duly authorized by law to take such acknowledgments, if such deed, writing or power of attorney was made, executed,

12 acknowledged and delivered prior to the day this act takes
13 effect, shall be deemed, held or adjudged invalid, or
14 defective, or insufficient in law or in equity, by reason
15 of any informality or omission in setting forth the parti-
16 culars of the acknowledgment made before such officer
17 aforesaid in the certification thereof, or in stating the
18 official character of such officer, or the place of taking
19 the acknowledgment, or by reason of the fact that the
20 wife executed such instrument prior to the execution
21 thereof by the husband, or by reason of the fact that the
22 parties making or executing the instrument or writing,
23 or any of them omitted to seal the same, or by reason of
24 the fact that the official taking the acknowledgment
25 omitted his official seal, or by reason of the failure to set
26 forth the date of the deed or other writing or the date of
27 the acknowledgment in the certification thereof, or by
28 reason of the failure to set forth correctly the date of the
29 deed or other writing or the date of the acknowledgment
30 in the certification thereof; and if a period of ten years
31 has elapsed from the date of recordation of any deed or
32 other writing, and if said deed or other writing has an
33 acknowledgment considered defective for any reason, then
34 every such deed or other writing shall be as good, valid
35 and effectual in law as if the law with respect to acknowl-
36 ledgments and seals, in force at the date of such acknowl-
37 edgment had been fully complied with; and the record of
38 the same duly made in the proper office for recording
39 deeds in the state of West Virginia, or in the state of Vir-
40 ginia before formation of West Virginia, and exemplifica-
41 tions of the same duly certified, shall be legal evidence in
42 all cases in which the original would be competent evi-
43 dence: *Provided, however,* That this section shall not ap-
44 ply to suits now pending and undetermined insofar as it
45 amends laws existing at the time such pending suits were
46 instituted, nor to any suit that may be brought within one
47 year after the day this act takes effect, insofar as it amends
48 laws existing at the time this act takes effect; nor shall
49 this section apply to any deed or other writing which has
50 heretofore been declared or held invalid by any court of
51 competent jurisdiction.

CHAPTER 44

(Com. Sub. for House Bill No. 251—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section fourteen, article two, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the disposition by the director of purchases of commodities.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Sales, Purchases or Contracts.

Section

14. Disposition by director of commodities; application of proceeds from sale.

Be it enacted by the Legislature of West Virginia:

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

- Section 14. *Disposition by Director of Commodities; Application of Proceeds From Sale.*—The director shall have the exclusive power and authority to make disposition of commodities or expendable commodities now owned or in the future acquired by the state, when any such commodities are or shall have become obsolete, unusable or are not being used, or need to be replaced, and are so reported in writing by the department owning or having custody or control thereof as available for the director's disposition.
- It shall be the duty of the director to determine what commodities or expendable commodities should be disposed of and he shall make such disposition in the manner which in his opinion will be most advantageous to the state, either by transferring the particular commodities or expendable commodities between departments, by

17 trading in such commodities as a part payment on the
18 purchase of new commodities, or by sale thereof to the
19 highest bidder by means of public auctions or sealed bids
20 after having first advertised the time, terms and place
21 of such sale once a week for two successive weeks in some
22 newspaper published or having general circulation in the
23 county wherein the sale is to be conducted. The director
24 shall have the authority to sell to the highest bidder or
25 to any one or more of the highest bidders if there be more
26 than one, or if in his opinion the best interest of the state
27 will be served, to reject all bids. Upon the transfer of
28 commodities or expendable commodities between depart-
29 ments, the director shall set the price to be paid by the
30 receiving department with due consideration to current
31 market prices. The proceeds of such sales or transfers
32 shall be deposited in the state treasury to the credit on
33 a pro rata basis of the fund or funds out of which the
34 purchase of the particular commodities or expendable
35 commodities was made.

36 This section shall not apply to the sale of farm and dairy
37 products, livestock, and products or merchandise of in-
38 stitutional industries or state proprietary enterprises.

CHAPTER 45

(House Bill No. 236—By Mr. Loop)

AN ACT to amend and reenact section one, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the election and term of county superintendents.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. County Superintendent of Schools.

Section

1. Election and term.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Election and Term.*—The superintendent shall be elected by the board to serve for a term of not less than one, nor more than four years. At the expiration of the term or terms for which he shall have been elected, each superintendent shall be eligible for reelection for additional terms of not less than one, nor more than four years: *Provided, however,* That at the expiration of his term or terms of service he shall be given the status of teacher in the system unless dismissed for statutory reasons. Such election shall be held on the first Monday in June, and the person so elected shall take office on the first day of July following. A superintendent who fills a vacancy caused by an incomplete term shall be appointed to serve until the following first day of July. The president of the board, immediately upon the election of the superintendent, shall certify the election to the state superintendent of schools. The superintendent in office on the effective date of this act shall continue in office until the expiration of his term.

CHAPTER 46

(House Bill No. 287—By Mr. McCormick and Mr. Stevens)

AN ACT to amend and reenact section thirty-five, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to deductions from salaries of county board employees for group insurance premiums.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

35. Group insurance.

Be it enacted by the Legislature of West Virginia:

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

Section 35. *Group Insurance*.—Whenever a majority of
2 the fulltime instructional and administrative employees
3 of a county board of education, or a majority of the full-
4 time non-teaching employees of said board shall indicate
5 in writing to the board of education that it has subscribed
6 to an automobile, a life, health and accident, hospitaliza-
7 tion or surgery insurance, or death benefit plan on a group
8 basis, and such majority has selected a licensed insurance
9 agent or a company duly licensed to do business in this
10 state to write or provide for any one or more of such group
11 insurance, or death benefit coverages, the board may make
12 proper periodical premium deductions from the regular
13 salary of any such employee as specified in a written
14 assignment furnished it by each such employee sub-
15 scribing thereto, and pay the aggregate of such salary
16 deductions over to the insurance company or companies
17 or voluntary association so selected.

18 For the purpose of this act when an employee shall
19 have attained the age of eighteen years, the said em-
20 ployee may be eligible to participate in the defined group
21 plans.

CHAPTER 47

(Com. Sub. for House Bill No. 262—Originating in the House Committee on Education)

AN ACT to amend and reenact section forty-two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to supplementation of retirement incomes.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section

42. Teachers' retirement fund.

Be it enacted by the Legislature of West Virginia:

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

Section 42. *Teachers' Retirement Fund.*—Boards of education of districts and independent school districts shall have authority to establish and maintain a teachers' retirement fund for both teachers and non-teaching employees of their districts. The administration of such funds shall be in accordance with the rules and regulations of the state board of education relating thereto. Any boards of education which provide such retirement funds shall have authority to maintain the teachers' retirement fund for teachers out of the school current expense fund in accordance with said rules and regulations, and any boards of education which provide such retirement fund for non-teaching employees shall have authority to maintain the same out of the operating or maintenance fund in accordance with said rules and regulations.

CHAPTER 48

(House Bill No. 48—By Mr. McCormick and Mr. Loop)

AN ACT to amend and reenact sections thirteen, fourteen, eighteen and twenty-three, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state teachers' retirement system.

[Passed March 12, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

13. Membership in system; payments for membership rights.
14. Contributions by members.
18. Funds created; uses and purposes.
23. Withdrawal and death benefits.

Be it enacted by the Legislature of West Virginia:

That sections thirteen, fourteen, eighteen and twenty-three, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 13. *Membership in System; Payments for*

2 *Membership Rights.*—The membership of the retirement
3 system shall consist of the following:

4 (a) All persons, except new entrants, employed as
5 teachers at the time they become eligible for member-
6 ship who, within a year after becoming eligible for
7 membership, notify the retirement board in writing of
8 their decision to become members. Any such persons
9 who fail to notify the board shall automatically be con-
10 stituted members one year after they become eligible,
11 unless the retirement board receives written notice from
12 them declining membership in the system.

13 (b) New entrants, whose membership in the system
14 shall be compulsory upon employment as teachers.

15 The membership of any person in the retirement sys-
16 tem shall cease:

17 (1) Upon the withdrawal of his accumulated contri-
18 butions after the cessation of teaching service, or (2) upon
19 retirement, or (3) at death, or (4) if service amounts to
20 less than five years in any period of ten consecutive
21 years. For the sole purpose of preventing loss of mem-
22 bership under subsection four, a deposit by the member
23 to his individual account in the teachers accumulation
24 fund of an amount equalling his last annual contribution
25 shall be deemed the equivalent of one year of service.

26 Any former member of the retirement system who has
27 withdrawn his accumulated contributions but subse-
28 quently reenters the retirement system shall be permitted
29 to repay to the retirement fund the amount withdrawn,
30 plus payment for absence as provided herein, and shall
31 be accorded all the rights to prior service and experience
32 as he held at the time of withdrawal of such accumulated
33 contributions.

34 Any person in subsection (a) of this section who elects
35 to become a member after having declined to accept
36 membership, shall be permitted to enter the retirement
37 system, but shall be accorded only the rights of a new
38 entrant, unless he deposits in the reserve fund twenty-
39 five dollars for each year of his prior service. After
40 making such a deposit, he shall be deemed a present
41 teacher, and may elect to contribute retroactively to re-
42 tirement account for those years, if any, during which he
43 served as a teacher but elected not to contribute. No
44 member shall be eligible for prior service credit unless
45 he is eligible for prior service pension, as prescribed by
46 section twenty-two of this article; however, a new en-
47 trant who becomes a present teacher as provided in this
48 paragraph shall be deemed eligible for prior service pen-
49 sion upon retirement.

Sec. 14. *Contributions by Members.*—At the end of
2 each month, every member of the retirement system shall
3 contribute six per cent of his monthly earnable compensa-
4 tion to the retirement board, but in no case shall such con-
5 tributions by any member exceed one hundred eighty-
6 four dollars in any fiscal year. Such contributions shall
7 be deemed to include the annual supplementary fee of the
8 contributor, determined as hereinafter provided, which
9 fee shall be used to help finance the additional retirement
10 benefit provided for in subsection (e), section twenty-six
11 of this article. Annually, the contributions of each mem-
12 ber, minus his supplementary fee, shall be credited to
13 his account in the teachers accumulation fund. The con-
14 tributions shall be deducted from the salaries of the mem-
15 bers as herein prescribed, and every member shall be
16 deemed to have given his consent to such deductions.
17 No deductions, however, shall be made from the earnable
18 compensation of any teacher who retired because of age
19 or service, and then resumed service as a teacher.

20 The retirement board shall each year determine to the
21 nearest dollar the amount of the supplementary fee to be
22 paid by each member, so that the sum of such fees paid
23 by all members shall be sufficient to defray one-half of
24 the cost of the retirement benefit provided for in subsec-

tion (e), section twenty-six of this article. The amount so fixed shall not exceed twenty dollars, nor shall it in any case exceed one per cent of the annual earnable compensation of the member. All supplementary fees shall be deposited in the benefit fund.

The aggregate of employer contributions, due and payable under this article, shall equal annually the total deductions from the earnable compensation of members required by this section. All employer contributions shall be credited to the employer's accumulation fund, from which fund an amount equalling annually the supplementary fees of members, shall be transferred to the benefit fund.

Payment by an employer to a member of the sum specified in the employment contract minus the amount of the employee's contributions shall be deemed to be a full discharge of the employer's contractual obligations as to earnable compensation.

Each contributor shall file with the retirement board or with the employer to be forwarded to the retirement board an enrollment form showing his date of birth and other data needed by the retirement board. Upon notice from the retirement board to the employer that a contributor has failed to file such form as prescribed, the employer shall withhold the salary of the contributor until the needed form is filed with the retirement board.

Sec. 18. Funds Created; Uses and Purposes.—The funds created are the teachers accumulation fund, the employers accumulation fund, the benefit fund, the reserve fund, and the expense fund. Each fund shall constitute a separate trust.

(a) The teachers accumulation fund shall be the fund in which the contributions of members shall be accumulated. The accumulated contributions of a member returned to him upon his withdrawal, or paid to his estate or designated beneficiary in the event of death, shall be paid from the teachers accumulation fund. Any accumulated contributions forfeited by failure to claim such contributions shall be transferred from the teachers accumulation fund to the reserve fund.

15 Any member or any employer is hereby authorized
16 and shall be permitted to deposit in the teachers accumu-
17 lation fund for the account of any member any amounts
18 in multiples of fifty dollars.

19 (b) Contributions of employers, equalling annually
20 the members contributions, shall be accumulated in the
21 employers accumulation fund through state appropria-
22 tions. Upon the retirement of a member, the employers
23 contributions shall be transferred from the employers ac-
24 cumulation fund to the benefit fund.

25 (c) The benefit fund shall be the fund from which
26 annuities shall be paid. Upon the retirement of a mem-
27 ber, his accumulated contributions shall be transferred
28 from the teachers accumulation fund to the benefit fund;
29 the accumulated employers contribution shall be trans-
30 ferred from the employers accumulation fund to the bene-
31 fit fund; and annually a sum for prior service pension
32 and disability credits, if needed, shall be transferred from
33 the reserve fund to the benefit fund.

34 (d) The retirement board is hereby authorized to
35 accept gifts and bequests. Any funds that may come into
36 possession of the retirement system in this manner or
37 which may be transferred from the teachers accumulation
38 fund by reason of the lack of a claimant or because of a
39 surplus in any of the funds; or any other moneys the
40 disposition of which is not otherwise provided for shall
41 be credited to the reserve fund. The retirement board
42 shall allow interest on the contributions in the teachers
43 accumulation fund. Such interest shall be paid from the
44 reserve fund and credited to the teachers accumulation
45 fund. Any deficit occurring in any fund which would not
46 be automatically covered by the payments to that fund
47 as otherwise provided by this article shall be met by trans-
48 fers from the reserve fund to such fund. In the reserve
49 fund shall be accumulated moneys from retirement board
50 appropriations to pay the accrued liabilities of the system,
51 caused by the granting of prior service and disability pen-
52 sions. Costs associated with board investments such as

53 premiums, accrued interest, and commissions, shall be
54 paid from the reserve fund.

55 (e) The expense fund shall be the fund from which
56 shall be paid the expense incurred in the administration
57 of the retirement system. The retirement board is here-
58 with authorized to pay, from the expense fund, mem-
59 bership fees in such voluntary organizations as the Na-
60 tional Council on Teacher Retirement, anything in this
61 code to the contrary notwithstanding. Interest earned
62 on loans to members shall be deposited in the expense
63 fund.

64 The retirement board is herewith given sole authority
65 to direct and approve the making of any and all fund
66 transfers as provided herein, anything in this code to the
67 contrary notwithstanding.

Sec. 23. *Withdrawal and Death Benefits.*—Benefits
2 upon withdrawal from service prior to retirement under
3 the provisions of this article shall be as follows:

4 (a) A contributor who withdraws from service as
5 a teacher for any cause other than death or retirement
6 shall, on demand, be paid his accumulated contributions
7 plus refund interest up to but not including the date of
8 his last contribution, if he is then no longer under contract,
9 verbal or otherwise, to serve as a teacher; however, if
10 such member has withdrawn from membership in the
11 past, then he will not be eligible for withdrawal again
12 until six months after last quitting service; or

13 (b) If such contributor has completed twenty years
14 of total service he may elect to receive at retirement age
15 an annuity which shall be computed as provided in this
16 article. The contributor must notify the retirement
17 board in writing concerning such election.

18 Benefits upon the death of a contributor prior to re-
19 tirement under the provisions of this article shall be as
20 follows:

21 (1) If the contributor was at least fifty years old, and
22 if his total service as a teacher was at least twenty-five
23 years at the time of his death, then the surviving spouse

24 of the deceased shall be deemed eligible for an annuity
25 which shall be computed as though the deceased were
26 actually a retired teacher at the time of death, and had
27 selected a survivorship option which pays such spouse
28 the same monthly amount which would have been re-
29 ceived by the deceased; or

30 (2) If the facts do not permit payment under the
31 preceding paragraph (1), then the following sum shall
32 be paid to the refund beneficiary of the contributor: his
33 accumulated contributions with refund interest up to the
34 year of his death plus one-half of the amount of his ac-
35 cumulated contributions. The latter sum shall emanate
36 from the employers accumulation fund.

CHAPTER 49

(Senate Bill No. 121—By Mr. Amos)

AN ACT to amend article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-b, relating to the eligibility of certain employees of the board of governors of West Virginia University for membership in the state teachers' retirement system, and providing for payment of their contributions for membership in the federal civil service retirement system.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

13-b. Eligibility for membership of certain agricultural extension employees of West Virginia university; payment of their contributions to federal civil service retirement system.

Be it enacted by the Legislature of West Virginia:

That article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended by adding thereto a new section, to be designated section thirteen-b, to read as follows:

Section 13-b. *Eligibility for Membership of Certain Agricultural Extension Employees of West Virginia University; Payment of Their Contributions to Federal Civil Service Retirement System.*—Notwithstanding any other provision of this article to the contrary, any present member of the retirement system who as an employee of the board of governors in the agricultural extension division of West Virginia University holds a federal appointment, making him eligible for membership in the federal civil service retirement system, shall have an option to terminate his membership in the state teachers' retirement system at any time within twelve months after the effective date hereof, or to continue his membership if he so desires. If he elects to terminate his membership, he shall be entitled to withdrawal benefits similar to those that are provided in section twenty-three of this article for members who withdraw from service prior to retirement, and he shall be required to join the federal civil service retirement system. Any future employee in the agricultural extension division who is eligible for membership in the federal civil service retirement system shall be required to join that system, and shall be ineligible for membership in the state teachers' retirement system.

The board of governors shall have the authority and shall be required to withhold from each salary payment due any employee in the agricultural extension division, who is a member of the federal civil service retirement system, the amount of the contribution he is required to make to the federal treasury for such membership. Upon proper requisition of the board, the auditor shall periodically issue a warrant payable to the treasurer of the United States for the total membership contributions so withheld from the salaries of all employees in the agricultural extension division.

CHAPTER 50

(House Bill No. 6—By Mr. Schupbach)

AN ACT to amend and reenact section three, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to collection and disbursement of school money by sheriff, the signing of orders for the payment of money issued by the boards of education, providing a penalty for the forgery of signatures to orders for the payment of money, and continuing certain high schools.

[Passed February 9, 1955; in effect from passage. Approved by the Governor.]

Article 9. School Finances.

Section

3. Collection and disbursement of school money by sheriff; signing of orders for payment of money issued by boards of education; forgery of signatures; penalty; continuance of certain high schools.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Collection and Disbursement of School Money by Sheriff; Signing of Orders for Payment of Money Issued by Boards of Education; Forgery of Signatures; Penalty; Continuance of Certain High Schools.*—
The sheriff shall receive, collect and disburse all levies and other school money for the district. He shall keep accounts of the money belonging to the several funds and shall credit and charge every amount to the fund to which it belongs. The sheriff shall pay money only upon the order of the board. The order shall specify the amount to be paid, the purpose for which it is paid, and the fund to which it shall be charged. The order shall be signed by the president and shall be countersigned by the secretary:
Provided, however, That such signatures and the signa-

ture of the sheriff authorizing the payment of such orders by a county depository may be made by means of such mechanical or electrical device as the board may select. Such mechanical or electrical device for the making of the signatures of the president and secretary shall be safely kept in the office of the secretary of the board so that no one shall have access thereto except the president and secretary of the board and such of their respective employees as may be authorized to have access thereto. Such mechanical or electrical device for the making of the signature of the sheriff shall be safely kept in the office of the sheriff so that no one shall have access thereto except the sheriff and such of his deputies as may be authorized to have access thereto. If any person shall sign the names of the president or secretary of the board of education, without having authority so to do, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them on any order, he shall be guilty of forgery; and if any person shall utter or attempt to employ as true such forged order, knowing the same to be forged, he shall, in either event, be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.

Any high school which has been established and maintained for teacher training and other educational purposes by any board or boards of education in connection with state institutions of higher learning, shall be continued and maintained in the manner provided by the act authorizing such school; except, that the advisory authority formerly vested in the district board or boards of education is hereby transferred to the county board of education; and the levy for the support of such school, formerly laid by the district board or boards of education, shall be laid on all the assessed property of the county, by the county board of education. All expenditures from such fund shall be paid on requisition issued by the county board.

CHAPTER 51

(Senate Bill No. 124—By Mr. Amos)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section four-a, relating to the authority of the board of governors of West Virginia University to contract respecting physical facilities for the schools of medicine, dentistry, and nursing.

[Passed March 5, 1955; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

4-a. Contract authority for medical, dental and nursing school facilities.

Be it enacted by the Legislature of West Virginia:

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

Section 4-a. *Contract Authority for Medical, Dental and Nursing School Facilities.*—Notwithstanding other provisions of this code to the contrary, the board of governors of West Virginia University is hereby authorized to contract for the planning, design, and construction of buildings and other physical facilities which are in its judgment suitable for the schools of medicine, dentistry and nursing, including the purchase and installation of necessary equipment, the making of sewer, water, gas, electrical and other connections, and the construction of such roadways, sidewalks, landscaping and approaches as may be required, although the total amount of such contracts may be in excess of appropriations available for the purpose at the time such contracts are made.

There is hereby authorized to be appropriated for application to or discharge of any agreement which may

17 be entered into under the authorization herein granted
18 such sums as are or may become available out of the
19 special medical school fund, otherwise provided by law,
20 and funds specially received for the purpose of assisting
21 such construction under the terms of any present or
22 future federal law, or through gift, devise, bequest, or
23 otherwise. Nothing herein contained shall be construed
24 to authorize or permit the board of governors of West
25 Virginia University, or any person purporting to act for
26 it, to create any obligation or to incur any liability other
27 than such obligations and liabilities as are dischargeable
28 solely from appropriations regularly made pursuant to
29 law.

CHAPTER 52

(House Bill No. 162—By Mr. Bowles)

AN ACT to amend and reenact sections twelve to eighteen, inclusive, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the composition, powers and duties of the state anatomical board, and to the duties and liabilities of persons having charge or control of unclaimed dead human bodies, making the violation of any provision hereof a misdemeanor, and prescribing penalties therefor.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section

12. Anatomical board; composition; powers; duties.
13. Dead bodies subject to requisition of anatomical board; autopsies thereon.
14. Requisition for dead bodies.
15. Transportation of dead bodies.
16. Expense of delivery.
17. Bond of anatomical board.
18. Offenses relating to anatomical board; liability and penalties.

Be it enacted by the Legislature of West Virginia:

That sections twelve to eighteen, inclusive, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 12. *Anatomical Board; Composition; Powers;*
2 *Duties.*—The dean of the school of medicine, the dean of
3 the school of dentistry, and the professor of anatomy in
4 the school of medicine are hereby constituted a board,
5 to be known as the “West Virginia Anatomical Board”,
6 for the purpose of making requisition for, receiving, and
7 making disposition of the dead human bodies mentioned
8 in the following section, for the scientific uses and pur-
9 poses of the West Virginia University schools of medicine,
10 dentistry and nursing. The board shall have full power
11 to establish rules and regulations for its own government,
12 and for the requisition, use, disposition, and control of
13 such bodies as may come under its authority pursuant to
14 this article. The board shall have authority to appoint
15 such officers, employees, and agents as may be necessary
16 to carry out the purposes for which the board is organized.
17 It shall keep a full and complete record of its transactions,
18 showing among other things, every dead human body
19 received pursuant to this article, giving name, sex, age,
20 date of death, place from which received, when and from
21 whom received, which record shall be open at all times
22 to the inspection of the attorney general and any prose-
23 cuting attorney in the state.

Sec. 13. *Dead Bodies Subject to Requisition of Anatomical Board; Autopsies Thereon.*—All dead human bodies
2 which may come under the charge or control of any
3 mortician, any officer or agent of the department of public
4 assistance or of any county court or municipality, or any
5 superintendent, officer or agent having the supervision
6 of any prison, morgue, hospital, or other public institution
7 in this state, and which may be required to be buried at
8 public expense, shall be subject to the requisition of the
9 anatomical board as provided in the following section.
10 But no such body shall be delivered to the board if any
11

12 person related to the deceased by blood or marriage shall
13 make a statement in writing to that effect, and shall claim
14 such body for burial, or shall make affidavit that he is
15 unable to bear the expense of burial and desires that the
16 deceased be buried at public expense. Such statement
17 and affidavit may be filed by any such relative with the
18 person having charge and control of the body of the per-
19 son so claimed, either before or after the death of such
20 person.

21 No autopsy shall be performed on any unclaimed body
22 without the written permission of the anatomical board,
23 except upon the proper order of a duly authorized law
24 enforcement officer.

Sec. 14. *Requisition for Dead Bodies.*—It shall be the
2 duty of any person who has charge or control of any
3 unclaimed body, subject to requisition by the anatomical
4 board, to give notice to the board of that fact by telephone
5 or telegraph within twenty-four hours after such body
6 comes under his control. Thereafter he shall hold the
7 body subject to the order of the anatomical board for at
8 least twenty-four hours after the sending of such notice.
9 If the anatomical board makes requisition for the body
10 within the twenty-four hour period, it shall be delivered
11 to the board or its authorized agent for transportation to
12 West Virginia University.

Sec. 15. *Transportation of Dead Bodies.*—The anatomi-
2 cal board shall make suitable arrangements for the trans-
3 portation to West Virginia University of any body for
4 which it may make requisition as aforesaid.

Sec. 16. *Expense of Delivery.*—All expenses incurred in
2 connection with the preservation, delivery and transpor-
3 tation of any such body delivered to the anatomical board
4 shall be paid by West Virginia University.

Sec. 17. *Bond of Anatomical Board.*—No dead body
2 shall be received by the anatomical board until a bond
3 shall have been given by the members thereof, or by the
4 university on their behalf, with security approved by the
5 clerk of the circuit court of Monongalia county in a

6 penalty of one thousand dollars, conditioned that all
7 bodies which the board shall receive shall be used only
8 for the promotion of medical science in the schools of
9 medicine, dentistry, and nursing of West Virginia Uni-
10 versity. Such bond shall be filed with and recorded by the
11 clerk of the circuit court of Monongalia county.

Sec. 18. *Offenses Relating to Anatomical Board; Liability and Penalties.*—Any person who shall neglect, refuse,
2 or fail to perform any duty required of him by the sec-
3 tions of this article relating to the anatomical board shall
4 be guilty of a misdemeanor, and upon conviction thereof,
5 shall be punished by a fine of not more than one hundred
6 dollars or by imprisonment in the county jail for not more
7 than ten days, or by both such fine and imprisonment. Any
8 person who fails to give the required notice that he has
9 charge of an unclaimed body, subject to requisition by the
10 anatomical board, shall also be personally liable for all
11 burial expenses, if such body was buried at public ex-
12 pense, to the public agency that paid for the burial.
13

CHAPTER 53

(Senate Bill No. 389—By Mr. Jackson, of Logan, by request)

AN ACT to repeal article eighteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia School for the Colored Deaf and Blind.

[Passed March 12, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 18. West Virginia School for the Colored Deaf and Blind.

Section

1. Abolishing West Virginia school for the colored deaf and blind.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Abolishing West Virginia School for the Colored Deaf and Blind.*—That article eighteen, chapter
2 eighteen of the code of West Virginia, one thousand nine
3 hundred thirty-one, as amended, be repealed.
4

CHAPTER 54

(Senate Bill No. 118—By Mr. Amos)

AN ACT to amend and reenact section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition and collection of enrollment and other fees at state educational institutions.

[Passed March 7, 1955: in effect ninety days from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

1. Enrollment and other fees at educational institutions; refund of fees.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Enrollment and Other Fees at Educational Institutions; Refund of Fees.*—The governing boards of state educational institutions shall fix enrollment, tuition, registration, and other fees for each semester or school term for the different classes or categories of students enrolling at the state educational institutions, and may include among such fees any one or more of the following: (1) Health service fees; (2) infirmary fees, and (3) student activities, recreational, athletic and extracurricular fees. All fees collected under (1), (2) and (3), shall be paid into special funds and shall be used only for the purposes for which the fees are collected: *Provided, however,* That the maximum fees to be collected under this section for resident students shall not exceed one hundred fifty dollars per semester; and for nonresident students,

16 three hundred fifty dollars per semester. The schedule of
17 fees, and any changes therein, shall be entered in the
18 minutes of the meetings of the governing board, and the
19 governing board shall file with the state auditor and state
20 budget director a certified copy of such schedule and
21 changes.

22 In addition to the fees mentioned in the preceding para-
23 graph, but subject to all requirements and within the
24 limits fixed thereby, the governing board of any state
25 educational institution may impose and collect a student
26 union building fee. All such building fees collected at the
27 institution shall be paid into a special fund and shall be
28 used only for the eventual construction and operation of
29 a student union building or for the renovation of an
30 existing structure for use as a student union building.
31 Until such time as the special fund, together with any
32 other moneys available for the purpose, may be large
33 enough to defray the cost of providing a student union
34 building, all moneys in the fund may be invested in any
35 such bonds or other securities as are now or may here-
36 after be authorized as proper investments for state funds.

37 Refund, as an erroneous payment, may be made of any
38 such fees, upon the voluntary or involuntary withdrawal
39 from classes of any student, until eight weeks of the
40 school semester or term have expired, but no refund may
41 be made thereafter.

3

CHAPTER 55

(Senate Bill No. 117—By Mr. Amos)

AN ACT to amend and reenact section four, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and expenditure of fees derived from the operation of dormitories, faculty homes, dining halls, and cafeterias at state educational institutions.

[Passed February 16, 1955; in effect from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Institutions.**Section**

4. Fees from operation of dormitories, faculty homes, dining halls, and cafeterias; expenditure of receipts directed and restricted.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Fees from Operation of Dormitories, Faculty Homes, Dining Halls, and Cafeterias; Expenditure of Receipts Directed and Restricted.*—The governing board of each state educational institution shall fix the fees to be charged students and faculty members for rooms, board and meals at the dormitories, faculty homes, dining halls, and cafeterias operated by the board at the institution. Such fees shall be commensurate with the complete cost of such services.

All fees collected for such services shall be used first to pay the operating and maintenance costs of the dormitories, faculty homes, dining halls, and cafeterias and to meet interest, principal, and sinking fund requirements due on any outstanding revenue bonds for which such receipts may have been pledged as security. Any such receipts not needed for these purposes may be expended by the governing board to defray the costs in whole or in part for the construction of any such facility.

CHAPTER 56

(Senate Bill No. 120—By Mr. Amos)

AN ACT to amend and reenact section five, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the sale of books, stationery, and other school supplies at state educational institutions and to the expenditure of receipts derived from such sales.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

5. Sale of books, stationery, and other school supplies; expenditure of receipts directed and restricted.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Sale of Books, Stationery, and Other School Supplies; Expenditure of Receipts Directed and Restricted.*—The governing board of each state educational institution shall fix the prices of books, stationery, and other school supplies offered for sale by any book store now or hereafter established and operated by the board at the institution. The sale of such products shall be restricted to the students and faculty members of the institution. Prices charged by the book store shall be commensurate with the complete cost to the state in offering such products for sale.

Money derived from the sale of books, stationery, and other school supplies shall be used first to replenish the stock of goods and to pay the costs of operating and maintaining the store. From any balance in the book store fund not needed for these purposes, the board of governors of West Virginia university shall have authority to expend a sum not to exceed two hundred thousand dollars for the construction of a building to house the university book store.

CHAPTER 57

(House Bill No. 193—By Mr. Dean and Mr. Gilmore)

AN ACT to amend and reenact chapter ninety-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three, authorizing county boards of education to

qualify during the next fiscal year for state aid for repair and construction of public schools.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. County boards of education authorized to qualify for school building funds during next fiscal year.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 1. *County Boards of Education Authorized to Qualify for School Building Funds During Next Fiscal Year.*—Any county board of education that failed to qualify for a full share of state aid for the repair and construction of public school buildings, allocated to it from the funds appropriated by item fifty-three, section five, title two of the one thousand nine hundred forty-nine budget act, may qualify at any time during the next fiscal year for all or any part of such allocation that may be reappropriated by the fifty-second Legislature. Eligibility therefor may be established by any of the methods prescribed in section two, article nine-c, chapter eighteen of the code, or by proof that the total assessed valuations in the county have been increased as much as fifty per cent between the years one thousand nine hundred forty and one thousand nine hundred fifty-seven.

CHAPTER 58

(House Bill No. 39—By Mrs. Walker)

AN ACT relating to the disposition of balances remaining in funds realized from the Veterans Federal Training Fund in West Virginia Institute of Technology, Montgomery, West Virginia.

[Passed February 21, 1955; in effect from passage. Approved by the Governor.]

West Virginia Institute of Technology.**Section**

1. Application of the net proceeds from the veterans federal training fund at West Virginia Institute of Technology, Montgomery, West Virginia.
2. Duration of the act.

Be it enacted by the Legislature of West Virginia:

Section 1. *Application of the Net Proceeds from the Veterans Federal Training Fund at West Virginia Institute of Technology, Montgomery, West Virginia.*—The entire net proceeds derived from the Veterans Federal Training Fund at West Virginia Institute of Technology shall be expended by the said West Virginia Institute of Technology upon the approval of the West Virginia State Board of Education, for the renovation and repair of the buildings and grounds of said institution; for the replacement of furniture and equipment of said institution, and for the restoration of property damaged by the said Veterans Federal Training Program in said institution. Any unexpended funds heretofore paid and reported to the state or otherwise, for this institution, shall be placed and kept in a special fund to the credit of this institution, and shall be expended by the West Virginia State Board of Education for the above-mentioned institution for the purposes herein enumerated.

Sec. 2. *Duration of the Act.*—The provisions of this act shall be operative and in full force and effect until January first, one thousand nine hundred fifty-six.

CHAPTER 59

(House Bill No. 321—By Mr. Richardson, of Mercer)

AN ACT to authorize Concord college to expend from the special improvement fund, established by chapter fifty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, the sum of four hundred dollars for the purpose of miscellaneous repairs and alterations on the campus of Concord college.

[Passed March 10, 1955; in effect from passage. Approved by the Governor.]

Concord College.

Section

1. Expenditure for miscellaneous repairs and alterations.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Expenditure for Miscellaneous Repairs and Alterations.*—Concord college is hereby authorized to expend from the special improvement fund, established by chapter fifty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, the sum of four hundred dollars for the purpose of miscellaneous repairs and alterations on the campus of Concord college: *Provided, however,* That this authorization shall expire June thirtieth, one thousand nine hundred fifty-five.

CHAPTER 60

(House Bill No. 446—By Mr. McCormick)

AN ACT to amend and reenact section six, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to election of judges of circuit courts and courts of limited jurisdiction.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. General Elections; Officers to Be Chosen; Precincts.

Section

6. Judges of circuit courts and courts of limited jurisdiction; county and district officers.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Judges of Circuit Courts and Courts of Limited Jurisdiction; County and District Officers.*—There shall be elected, at the general election to be held in the year nineteen hundred and thirty-six, and in every eighth year thereafter, one judge of the circuit court of every judicial circuit, except the first circuit, and of the first circuit two judges of said court; and at the general election to be held in the year nineteen hundred and thirty-two, and in every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county, and the number of justices of the peace and constables in each magisterial district in the county to which the district is entitled by law, the number of justices and constables to be prescribed from time to time by the county court; and at such election, and in every second year thereafter, a commissioner of the county court for each county; and at such election, and in every sixth year thereafter, a clerk of the county court and a clerk of the circuit court, for each county; and at each general election next preceding the expiration of the term of any judge of any common pleas, criminal or other inferior court, a judge of such court; each for the term next ensuing after the date of the election.

CHAPTER 61

(House Bill No. 13—By Mr. Curtis and Mr. King)

AN ACT to amend and reenact section five, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to nomination of candidates for offices.

[Passed March 9, 1955; in effect ninety days from passage. Became a law without the approval of the Governor.]

Article 4. Nomination of Candidates.

Section

5. Nomination of candidates for offices.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Nomination of Candidates for Offices.*—At
2 each primary election, the candidate or candidates of
3 each political party for all offices to be filled at the
4 ensuing general election by the voters of the entire state,
5 of each congressional district, of each state senatorial
6 district, of each judicial circuit of West Virginia, of each
7 county, and of each magisterial district, in the state, shall
8 be nominated by the voters of the different political
9 parties, except that candidates for membership on any
10 county board of education shall be nominated on a non-
11 partisan ballot, and that no presidential elector shall be
12 nominated at a primary election. Section twenty-seven
13 of this article is hereby repealed and superseded by this
14 enactment insofar as said section heretofore relates to
15 the nomination of candidates for the office of judge of
16 courts of record of West Virginia. In any primary
17 election, the person receiving the highest number of votes
18 of each political party in all cases wherein one person
19 only is to be elected, and the persons receiving the highest
20 number of votes, to the number to be elected, in all cases
21 in which two or more persons are to be elected to the
22 same office, in and throughout the political division in
23 which the person is a candidate, and voted for as such,
24 shall be nominated as the party candidate, or candidates,
25 for the office, or offices, for which they are voted for at
26 the primary election: *Provided, however,* That with
27 respect to nominations of commissioners of county courts
28 no two of such commissioners shall be nominated as the
29 party candidates from the same magisterial district where
30 more than one such commissioner is to be so nominated
31 at any primary election, and if two or more persons
32 residing in the same district shall in any case receive the
33 greater number of votes cast at such primary election,
34 then only the one of such persons receiving the highest
35 number shall be declared nominated as the candidate of
36 his party, and the person living in another district who

37 shall receive the next highest number of votes shall be
38 declared nominated as the candidate of his party, and so
39 on to the next highest in another district; and in no event
40 shall any such candidate be nominated from the same
41 magisterial district wherein an already elected or other-
42 wise qualified member of such county court resides and
43 who will continue to hold office after the beginning of
44 the term for which such nomination is made.

45 No provision of this section shall be construed to amend,
46 modify or repeal any of the provisions of section five-a
47 and five-b of this article, relating to the election of mem-
48 bers of county boards of education.

CHAPTER 62

(House Bill No. 22—By Mr. Bowles and Mr. Underwood)

AN ACT to amend and reenact section fifteen, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of commissioners and clerks for primary elections.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination of Candidates.

Section

15. Commissioners and clerks for primary.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Commissioners and Clerks for Primary.*—

2 The county court of every county shall hold a regular or
3 special session at the courthouse of the county on the
4 fifth Tuesday preceding the day on which any primary
5 election is to be held, and shall appoint for each precinct

6 in the county three commissioners of election and two
7 poll clerks, who shall be legal voters in the magisterial
8 district in which such precinct is located. Such commis-
9 sioners and poll clerks shall be persons of good standing
10 and character and not addicted to drunkenness. They
11 shall be selected from the two political parties which, at
12 the last preceding general election, cast the highest and
13 next highest number of votes in the county in which the
14 election is to be held, and not more than two of such com-
15 missioners or one clerk shall belong to the same political
16 party: *Provided, however,* That for every precinct in
17 which there are three hundred but not more than four
18 hundred registered voters, there may be two boards of
19 election officers, and for all precincts in which there are
20 more than four hundred registered voters, there shall be
21 two boards of election officers, and where two boards are
22 used, each board shall consist of three election commis-
23 sioners and two poll clerks, one of which boards shall be
24 designated the "receiving board" and the other the "count-
25 ing board," and not more than two commissioners and
26 one poll clerk of each board shall be appointed from the
27 same political party. If, at any time prior to or during
28 such session, the county executive committee of either
29 political party from which such commissioners of election
30 and poll clerks are to be selected or appointed, as herein
31 provided, shall present to such court a writing signed by
32 them, or by the chairman or secretary of such committee
33 on their behalf, requesting the appointment of a qualified
34 voter of their political party, for commissioner and/or poll
35 clerk, who is otherwise qualified to act as such under the
36 provisions of this chapter, it shall be the duty of the
37 county court to appoint the person so named in such writ-
38 ing as such commissioner and/or poll clerk. No person
39 shall be eligible to appointment as commissioner or poll
40 clerk, or in any way to act as such, who has anything of
41 value bet or wagered on the result of such primary elec-
42 tion, or has received a promise, agreement or understand-
43 ing that he is to receive appointment as deputy by any
44 candidate to be voted for at such primary election, or has
45 any agreement, understanding or arrangement that he
46 shall receive any sum of money or any portion of the

47 salary, fees or emoluments of any office, for which any
48 candidate is to be voted for at such primary election,
49 should such candidate be nominated at such primary
50 election and elected to such office at the ensuing general
51 election, or who is a candidate to be voted for at such
52 primary election.

53 The county court shall by mail notify all commissioners
54 and poll clerks of their appointment, and include with
55 such notice an appropriate form for each person so ap-
56 pointed to return indicating whether or not he will serve
57 as such commissioner or poll clerk. It shall be the duty
58 of all persons so appointed to immediately return said
59 form to the county court. In the event any of the persons
60 so appointed refuse to serve as such commissioners or
61 poll clerks, the county court shall immediately notify the
62 chairman of the county executive committee of the politi-
63 cal party from which such commissioners and poll clerks
64 are to be selected. If the chairman of the political com-
65 mittee so notified promptly recommends persons to be
66 appointed to replace those declining to serve, it shall be
67 the duty of the county court to appoint the persons so
68 recommended. When no such recommendations are made
69 the county court shall proceed to fill the vacancies.

70 If any of the commissioners of election and poll clerks
71 of the receiving board so selected shall fail to appear at
72 the hour appointed for the opening of the polls, the re-
73 mainder of the commissioners of such board may select
74 a commissioner and poll clerk, if necessary, who shall be
75 of the same political party as the absent commissioner or
76 poll clerk; but if the qualified voters of the party of such
77 absent commissioner or poll clerk, present at the opening
78 of the polls, shall nominate a voter, having the qualifica-
79 tions to act under the provisions of this section, for com-
80 missioner or poll clerk, or both if necessary, such nominee
81 or nominees shall be appointed. If none of the commis-
82 sioners of election or poll clerks of such board appear
83 at the hour appointed for opening the polls, the qualified
84 voters present, being at least ten in number, shall elect
85 three commissioners of election and two poll clerks for
86 such board to act in their stead, by a viva voce vote; not
87 more than two of such commissioners and one poll clerk

88 for such board shall belong to or be elected by the voters
89 of the same political party. A vacancy or vacancies on
90 the counting board shall be filled in the manner herein
91 provided for filling a vacancy or vacancies on the receiv-
92 ing board, except that such vacancy or vacancies shall be
93 determined and filled as of the hour appointed in this
94 chapter for the counting board to attend at the polls. A
95 list of all commissioners and poll clerks appointed by the
96 county court, as herein provided, shall be published in
97 two newspapers of general circulation in the county, of
98 opposite politics, if such there be, for at least two weeks
99 prior to such primary election.

CHAPTER 63

(House Bill No. 46—By Mr. Bowles and Mr. Underwood)

AN ACT to amend and reenact section four, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the election of presidential electors.

[Passed February 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

4. Form and arrangement of ballots.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Form and Arrangement of Ballots.*—All ballots prepared under the provisions of this article shall be printed in black ink on number two white book paper sufficiently thick so that the printing cannot be distin-

5 guished from the back, and shall contain the names of
6 every candidate whose nomination for any office to be
7 voted for at the election has been certified and filed ac-
8 cording to law, and no others, except that if it shall appear
9 to the satisfaction of the ballot commissioners that a per-
10 son has been legally nominated as a candidate for an
11 office and is lawfully entitled to have his name upon the
12 ballot and no certificate of the nomination has been re-
13 ceived by the clerk of the circuit court, they shall print
14 the name of such candidate upon the ballot in its proper
15 place.

16 The tickets, except the heading, which shall be in dis-
17 play type, shall be printed in eight point type; the name
18 or designation of the office and the residence of the can-
19 didate in lower case letters, and the name of the candidate
20 in capital letters. The name and residence of the candi-
21 date may be printed in the same line. The name of each
22 candidate shall be printed in a space defined by ruled
23 lines, and with a blank square on its left inclosed by
24 heavy dark lines. If, upon any ticket, there be no candi-
25 date or candidates for a designated office, a blank space
26 equal to the space that would be occupied by such name
27 or names, if they were printed thereon, with the blank
28 space herein provided for, shall be left. The heading of
29 each party ticket, including the name of the party and
30 the device or emblem above and the large circle between
31 the device or emblem and such name, shall be separated
32 from the rest of the ticket by heavy lines, and the circle
33 above the name of the party in which the voter is to place
34 the cross mark, if he desires to vote the straight ticket,
35 shall be defined by heavier lines than the lines defining
36 the blank spaces before the names of candidates, and such
37 circle shall be surrounded by the following words printed
38 in heavy face six point type: "For a straight ticket mark
39 within this circle." Each party ticket shall be separated
40 from other party tickets and bordered on either side by a
41 heavy border, or a broad solid line, at least one sixteenth
42 of an inch wide, and the edges of the ballot on either side
43 trimmed off to within one-half inch of the border or solid
44 line described.

45 The names of the candidates shall be arranged on the
46 ballot in tickets or lists, in separate columns under the
47 respective party or political or other designation certified,
48 each column or ticket containing the names of candidates
49 nominated by the same political party and no others. In
50 elections for presidential electors, the names of candidates
51 for electors of any political party or group of petitioners,
52 shall not be placed on the ballot, but shall, after nomina-
53 tion, be filed with the secretary of state. In place of their
54 names, there shall be printed first on the ballots the names
55 of the candidates for president and vice president, respec-
56 tively, of each such party or group of petitioners, and
57 they shall be arranged under the title of the office. Before
58 the names of such candidates for president and vice presi-
59 dent of each party, or group, a single square shall be
60 printed, in front of a brace, in which the voter shall place
61 the cross mark for the candidate of his choice for such
62 offices. A vote for any of such candidates shall be a vote
63 for the electors of the party by which such candidates
64 were named, and whose names have been filed with the
65 secretary of state.

66 The names of the candidates on each ticket shall be ar-
67 ranged in groups, with a heading over each group printed
68 in heavy faced eight point type to indicate the political
69 divisions in which such group is to be voted for. The ar-
70 rangement of the ballot shall conform as nearly as prac-
71 ticable to the plan here given:

72 The tickets of the several political parties shall be
73 printed on the ballot in parallel columns, each ticket in a
74 separate column headed by the chosen device, and the
75 tickets in such order on the ballot and the names of the
76 office in such order on the ticket as the secretary of state
77 shall direct, preference, however, being given to the polit-
78 ical party which cast the highest number of votes for the
79 head of the ticket at the last preceding presidential elec-
80 tion, and so on. No ticket or list of candidates shall be
81 printed under the name of any party containing more
82 candidates for any office than are to be elected.

83 The ballot shall be so printed as to give each voter a
84 clear opportunity to designate by a cross mark in a large,

85 blank, circular space, three-quarters of an inch in diam-
86 eter, below the device and above the name of the party
87 at the head of the ticket or list of candidates, his choice
88 of a party ticket and desire to vote for each and every
89 candidate thereon; and by a cross mark, in a blank, in-
90 closed space on the left and before the name of each can-
91 didate, his choice of particular candidates.

92 On the back of the ballot shall be printed or stamped
93 in black ink the words "Official Ballot," with the date of
94 the election, and underneath shall be two blank lines,
95 followed by the words "Poll Clerks."

CHAPTER 64

(Senate Bill No. 391—By Mr. Stemple)

AN ACT to amend and reenact section seven, article six-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the preparation, printing and delivery of absent voters' ballots.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6-a. Absentee Voting by Service Men and Women.

Section

7. Preparation, printing and delivery of absent voters' ballots.

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Preparation, Printing and Delivery of Absent Voters' Ballots.*—Upon receipt by the circuit clerk of the list of candidates certified by the secretary of state as provided in sections three and six of this article, the ballot commissioners shall immediately proceed with the preparation of a sample official ballot for each political

7 party, shall estimate and determine the number of absent
8 voters' ballots of each kind which will be required, and
9 shall print and deliver such ballots to the clerk of the
10 circuit court as soon as possible, but not later than the
11 twelfth Saturday preceding the day fixed for the primary
12 election. Between the twenty-fifth day of July and the
13 tenth day of August, both inclusive, for the general
14 election to be held in the year one thousand nine
15 hundred fifty-six and each fourth year thereafter and
16 between the eighth and twenty-fifth days of August,
17 both inclusive, for the general election to be held in
18 the year one thousand nine hundred fifty-eight and each
19 fourth year thereafter, the ballot commissioners shall
20 prepare, print and deliver to the clerk of the circuit
21 court such absent voters' ballots as will, in their opinion,
22 be required for such elections, but, in presidential elec-
23 tion years, regardless of the time limits herein fixed,
24 no such ballots shall be printed, until the circuit
25 clerk shall have received from the secretary of state
26 the names of the respective candidates of each party,
27 entitled to a place on said ballot, of its candidates
28 for president and vice president of the United States.
29 The names of such presidential and vice presidential
30 candidates shall be printed on said ballots in accordance
31 with the provisions of section four, article five of this
32 chapter, notwithstanding any other provision of law.

33 In order to lessen the burden of the armed forces in
34 respect to the transportation and distribution of absentee
35 ballots, such ballots may be printed on lightweight paper,
36 if it is available, to the end that the total weight of the
37 ballot and the two envelopes provided for in section
38 twelve of this article shall not exceed eight-tenths of an
39 ounce, if possible, and such ballots shall be valid without
40 regard to other provisions of law respecting weight and
41 quality of paper.

42 If, after the ballots are printed but before they are
43 distributed as provided in the following sections, any
44 change in the names printed thereon should become
45 necessary, the ballot commissioners shall make the neces-
46 sary changes by the use of stickers or by the printing of
47 additional ballots.

48 Except as otherwise specified in this section, prepara-
49 tion, printing and delivery of absent voters' ballots shall
50 be governed by the provisions of section nine, article
51 four, section three, article five, and section fifteen, article
52 six, of chapter three of the code.

CHAPTER 65

(House Bill No. 26—By Mr. Bowles and Mr. Underwood)

AN ACT to amend and reenact section eight, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to filling vacancies in the offices of county commissioner, clerk of the county court, justice and constable.

[Passed February 3, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 10. Filling Vacancies.

Section

8. County commissioners; clerk of county court; justice; constable.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *County Commissioners; Clerk of County Court; Justice; Constable.*—Any vacancy in the office of county court commissioner, clerk of county court, justice or constable, shall be filled by the county court of the county, unless the number of vacancies in a county court deprive that body of a quorum, in which case the governor of the state shall fill any vacancy in such county court necessary to create a quorum thereof, until the next general election, at which election every such vacancy shall be filled by election for the unexpired term: *Provided, however,* That in the case of a vacancy in the

12 office of the county court commissioner in any county in
13 the state, if the remaining members of such county court
14 fail, refuse or neglect to fill such vacancy within sixty
15 days from the time it occurs, then the governor of the
16 state shall appoint some qualified citizen of said county
17 belonging to the same political party as the vacating
18 member to serve as county court commissioner until the
19 next general election. Notice of such election shall be
20 given by order of the county court, and published as
21 prescribed in the next preceding section; except that such
22 notice in case of an election to fill a vacancy in the office
23 of justice of the peace or constable, instead of being
24 published in a newspaper, may, in the discretion of such
25 court, be posted at the front door of the courthouse of
26 the county, and at each voting place in the district
27 wherein such vacancy occurs. Nominations of candidates
28 to fill any vacancy in the office of county commissioner,
29 clerk of the county court, justice or constable shall be
30 made in the manner prescribed for making nominations
31 to fill a vacancy in the office of the clerk of the circuit
32 court.

CHAPTER 66

(House Bill No. 447—By Mr. McCormick)

AN ACT to repeal section nine, article ten, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to filling vacancies in the office of county superintendent of schools, school commissioner and president of district board of education.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 10. Filling Vacancies.

Section

1. Repeal of statute.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Repeal of Statute.*—Section nine, article
2 ten, chapter three of the code of West Virginia, one thou-
3 sand nine hundred thirty-one, as amended, is hereby re-
4 pealed.

CHAPTER 67

(Senate Bill No. 314—By Mr. Martin)

AN ACT to amend article two, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to summary proceedings for sale or lease of real or personal property subject to future interests.

[Passed March 12, 1955; in effect from passage. Approved by the Governor.]

Article 2. Disposition of Estates Subject to Future Interests.

Section

12-a. Summary proceedings for sale or lease; petition.

Be it enacted by the Legislature of West Virginia:

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

- Section 12-a. *Summary Proceedings for Sale or Lease;*
2 *Petition.*—In addition to the proceedings authorized by
3 the first section of this article, any person having any
4 interest mentioned in section two of this article in the
5 personal property, land, timber, oil, gas, coal or other
6 minerals sought to be sold, leased or otherwise conveyed,
7 may apply by petition, in a summary way, to the circuit
8 court, or to the judge thereof in vacation, or to any court
9 of concurrent jurisdiction with the circuit court, or to

10 the judge thereof in vacation, of the county in which
11 the estate proposed to be sold, leased or otherwise con-
12 veyed, or some part thereof, may be. Such petition shall
13 describe the property sought to be sold, leased or other-
14 wise conveyed with reasonable certainty and shall set
15 forth the names of all persons interested in such property,
16 together with their respective interests or estates, either
17 vested, contingent or executory, so far as is known by
18 the plaintiff. Such petition shall also set forth the facts
19 which, in the opinion of the plaintiff, would justify the
20 sale, lease or other conveyance of such property. The
21 petition shall be verified by the oath of the plaintiff or
22 one of the plaintiffs, and all persons interested shall be
23 made defendants, and ten days' notice shall be given to
24 such defendants before such petition can be heard: *Pro-*
25 *vided, however,* That in the case of nonresident defend-
26 ants and/or unknown or unascertainable parties an order
27 of publication may be entered, on proper affidavit as in
28 any other chancery proceeding, requiring publication of
29 such notice once each week for two successive weeks
30 in a newspaper published and of general circulation in
31 the county in which the property or the greater part of
32 the property concerned is situate as to any nonresident
33 defendants and/or any unknown or unascertainable par-
34 ties who may have or claim any interest or estate in such
35 property. Such published notice, with the certificate of
36 publication, when filed with the record in said proceed-
37 ings, shall be and constitute valid and sufficient notice
38 herein. All other provisions of this article not incon-
39 sistent herewith shall apply to and implement the pro-
40 cedures provided in this section.

CHAPTER 68

(Senate Bill No. 130—By Mr. Jackson, of Logan)

AN ACT to amend and reenact section two, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, relating to fees and allowances.

[Passed February 14, 1955; in effect from passage. Approved by the Governor.]

Article 1. Fees and Allowances.

Section

2. Fees to be charged by secretary of state.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Fees to Be Charged by Secretary of State.*

- 2 —The secretary of state shall charge for services ren-
3 dered in his office the following fees to be paid by the
4 person to whom the service is rendered at the same time
5 it is done:
6 For each certificate of incorporation or copy there-
7 of, including certificates issued on new agree-
8 ments, or authorizing a foreign corporation to do
9 business within this state.....\$10.00
10 For each certified copy of certificate of incorpora-
11 tion, not to exceed ten pages..... 10.00
12 If such copy contains in excess of ten pages, for
13 each additional page..... .20
14 For filing and recording a trade-mark..... 5.00
15 For each certificate of change of name, of increase
16 or decrease of authorized capital stock, of change
17 of principal office, or of amendment to certificate
18 of incorporation..... 5.00
19 For recording a power of attorney and certificate
20 thereof 3.00
21 For any other certificate, whether required by law
22 or made at the request of any person..... 5.00
23 The foregoing fees shall include the tax on the
24 great seal or the less seal impressed on any such
25 document, as well as the filing, recording and in-
26 dexing of the same.
27 For indorsing and filing reports of corporations,
28 and all other papers, which shall include the in-

29	dexing of the same, for each report or paper	
30	filed	1.00
31	For any search, not less than.....	1.00
32	For searches of more than one hour, for each hour	
33	or fraction thereof consumed in making such	
34	search	1.00
35	The cost of the search shall be in addition to the	
36	cost of any certificate issued pursuant thereto or	
37	based thereon.	
38	For entering statement of satisfaction of condi-	
39	tional sale contract.....	.50
40	For recording any paper for which no specific fee	
41	is prescribed.....	1.00
42	Or at the rate, for each one hundred words re-	
43	corded, of20
44	For issuing commission to a notary public, or to a	
45	commissioner of deeds, which shall include the	
46	tax on the state seal thereon and other charges ..	5.00
47	For a testimonial.....	1.50
48	For a copy of any paper, if one sheet.....	1.00
49	For each sheet of copy after the first75
50	For issuing a commission to a commissioner in any	
51	other state	5.00
52	For making out a requisition for a fugitive from	
53	justice demanded of the executive authority of	
54	another state.....	2.00
55	For issuing a warrant for the arrest of a fugitive	
56	from justice demanded by the executive au-	
57	thority of another state.....	2.00
58	When the work or service is performed for the	
59	benefit of any corporation which is exempted	
60	from the payment of license tax on its charter,	
61	one-half only of the foregoing rates shall be	
62	charged.	
63	For any other work or service not herein enumerated,	
64	such fee as may be elsewhere prescribed.	

CHAPTER 69

(Senate Bill No. 175—By Mr. Bean, Mr. President, and Mr. Martin)

AN ACT to amend and reenact section thirty-four, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to charges for publications.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Fees and Allowances.

Section

34. Charges for publication; general provisions relating to publication.

Be it enacted by the Legislature of West Virginia:

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

Section 34. *Charges for Publication; General Provisions*

2 *Relating to Publication.*—The price for publishing all ad-
3 vertisements and publications required to be made by
4 law, or by the order of a court in any cause or proceeding
5 therein, or by any provision of a deed of trust, or where
6 any publication is made pursuant to law, shall not exceed
7 two and three-fourths cents for each word for the first
8 insertion, and one and one-half cents a word for each
9 subsequent insertion required to be made: *Provided,*
10 That for a notice to take depositions, notice to creditors,
11 notice of receiving bids on public contracts, notice of the
12 dissolution of a corporation, and an order of publication,
13 published less than four insertions, the rate shall be not
14 more than seven and one-half cents for each word for
15 whatever number of insertions, less than four, that may
16 be required to be made.

17 Notwithstanding the above paragraph, however, in those
18 cases where a statute specifically provides for a different
19 charge for publication (as in section two, article three,

chapter eleven-a of this code as amended), the price for publishing such advertisements or other publications shall be forty cents per item for each insertion in each newspaper.

In computing the number of words in a legal advertisement, not set solid, the basis shall be upon the size of type in which legal advertising is usually set by the newspaper making the publication, and shall be computed at the legal rate as though the matter was solid type, that is to say, on the basis of eighty-four words to the column inch in six point type, and fifty-four words to the column inch in eight point type, and any other size type in proportion.

If no newspaper in the county in which such publication should be made will insert the same for the times required, or for the price aforesaid, then the notice or advertisement may be published in a newspaper of general circulation in such county published in another county. If the publication is to be made in any case or proceeding in court, the court shall designate the newspaper in such other county and if the publication is not to be made in a case or proceeding in court, the newspaper shall be selected by the person at whose instance it is to be made, or his agent; and when the notice published in an advertisement of a sale of property, the notice shall be posted, by the person or persons whose duty it is to place the advertisement for publication, at the front door of the courthouse of the county in which the sale is to be made at least three weeks prior to the time fixed for making the sale, and copies of such notice shall be posted in at least four other public places in such county at the same time.

In case of any publication made by the order of a court, in any case or proceeding therein, or by any provision of a deed of trust, the price paid shall be taxed in the bill of costs, and the newspaper making any such publications herein last mentioned, and in all other cases wherein legal publications are made as herein provided if required by the party or parties placing any such advertisement, shall make and furnish, under oath, a certificate of publication of each advertisement so published, showing the number

61 of times it was inserted in such newspaper, the dates of
62 the first and last insertions thereof, and the amount of
63 costs for such publication, as required by this section.
64 Any posting of any such advertisement at the front door
65 of the court house, when so required, shall be done by
66 the publisher of the newspaper in which the publication
67 was published, and in such cases the certificate of publi-
68 cation herein provided for shall state that the advertise-
69 ment was posted at the front door of the courthouse. In
70 cases where any such notices are not published by a
71 newspaper, the certificates and affidavits herein provided
72 for shall be made by the party who would place the ad-
73 vertising with the newspaper had it been published by
74 such newspaper.

75 All advertisements required to be made by the state
76 of West Virginia, or any county, district, school district,
77 city, town or village, or any political subdivision thereof
78 or levying body, shall be published in a daily, tri-weekly,
79 semi-weekly, or weekly newspaper or newspapers, as the
80 case may be, of general circulation in the county wherein
81 the publication is to be made, and representing one or
82 both of the two major political parties in such county,
83 and which shall have been published continuously at
84 least once a week for a period of one year at the time of
85 placing such legal advertising, and at a plant located in
86 this state and capable of printing and publishing a weekly
87 newspaper of general circulation and owned by the owner
88 of such newspaper, except and unless there be no news-
89 paper in that county affiliated with one of the two politi-
90 cal parties: *Provided*, That where any such newspaper
91 succeeds to the field of a former established newspaper, it
92 shall be eligible to publish such legal advertising from its
93 inception.

94 Any citizen, taxpayer, or the owner or publisher of any
95 newspaper entitled by law to have any publication made
96 in his newspaper, which any county court or tribunal
97 created in lieu thereof, board of education, council of a
98 municipal corporation, or public officer, shall fail or re-
99 fuse to make, may have a writ of mandamus to compel
100 the making of such publication: *Provided*, That the news-

101 paper is willing to accept the price prescribed therefor by
102 law.

103 In no case involving the publication of paid advertise-
104 ments for candidates for political office shall the rate
105 charged by any publisher be more than the average rate
106 received by him from private patrons for similar adver-
107 tising composed of reading matter or photographs and re-
108 quiring the same amount of space.

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CHAPTER 70

(Senate Bill No. 235—By Mr. Chenoweth, by request)

AN ACT to amend and reenact section nine, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transportation of birds, animals, fish, amphibians and reptiles.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 3. General Provisions Respecting Game, Birds, Fish and Frogs.

Section

9. Transportation of birds, animals, fish, amphibians and reptiles.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Transportation of Birds, Animals, Fish, Amphibians and Reptiles.*—No person shall at any time transport or kill or have in his possession with the intention of transporting beyond the limits of the state, any elk, deer, raccoon (except the pelt thereof), quail, woodcock, pheasant, ruffed grouse, wild turkey, squirrel, wild duck or wild goose, or any part thereof, or any game, birds, fish or frogs killed, caught or captured within this

9 state: *Provided, however*, (1) That a nonresident licen-
10 see may take with him personally, when leaving the state,
11 any game animals, game birds, fish or frogs, that he has
12 lawfully taken or killed, not exceeding, during the sea-
13 son, the number that any person may lawfully take or kill
14 in any two days; (2) that game birds and game animals
15 raised for commercial purposes may be transported out
16 of the state as authorized under permit issued by the
17 director under section twelve-a of this article; (3) that
18 wild birds, wild animals, fish or frogs lawfully taken under
19 scientific collecting permit issued by the director as au-
20 thorized under section seven-a of this article may be trans-
21 ported out of the state; and (4) that game, food and bait
22 fish, or the eggs thereof propagated as authorized under
23 a license issued by the director under section nine, article
24 six of this chapter, may be transported out of the state.

25 It shall be unlawful to bring into the state of West Vir-
26 ginia any game, wild bird, wild animal, amphibian, fish
27 or reptile unlawfully taken or possessed in any other
28 state of the United States of America.

29 No person, corporation or association shall import or
30 transport into the state of West Virginia, or receive
31 shipment in the state from without the state, any live
32 specimen of the following species: wolf, coyote, European
33 hare or variety thereof, such as the San Juan rabbit,
34 bowfin (*Amia Calva*) or carp (*Cyprinus spp.*), without
35 first having obtained from the director a free permit
36 authorizing such importation. Should the director find
37 that the importation of any other type or species of live
38 game, live wild animal, live wild bird, live amphibian,
39 live reptile or live fish, including minnows to be used for
40 bait, may constitute a menace to either the economy or
41 health of the state or its natural resources, he may, by
42 formal order, include the names of such other species as
43 he finds advisable to the above list. The director shall
44 give notice of the order by publication once each week
45 for two successive weeks in two newspapers of general
46 circulation throughout the state.

47 Federal regulations shall govern the transportation of
48 all migratory birds.

CHAPTER 71

(Senate Bill No. 200—By Mr. Chenoweth)

AN ACT to repeal section three, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the hunting of wood ducks.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. Birds and Fowls.

Section

1. Repeal of statute.

Be it enacted by the Legislature of West Virginia:

Section 1. *Repeal of Statute.*—That section three, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be and the same is, hereby repealed.

CHAPTER 72

(Senate Bill No. 201—By Mr. Chenoweth)

AN ACT to amend and reenact section one, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to game fish.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fish and Other Aquatic Life.

Section

1. Game fish defined; open seasons for fishing; creel limits; special regulations.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Game Fish Defined; Open Seasons for Fishing; Creel Limits; Special Regulations.*—For the purpose of this chapter the following are game fish: Brook trout, brown trout, rainbow trout, Kokanee salmon, large-mouth bass, small-mouth bass, Kentucky or spotted bass, pickerel, muskellunge, walleyed pike or pike-perch, rock bass, white bass, white and black crappie and blue-gill sun-fish and other bream.

The director, for the purpose of protecting and conserving the fish and other aquatic animal life of the state, as provided by section eight, article three of this chapter, may establish open and closed seasons and creel limits on any or all fish, and regulate the taking and use of all other aquatic life. But water dogs and big salamander shall not be protected at any time.

The director may prescribe and enforce special regulations to apply to a stream or any part thereof, that he places under observation for scientific purposes.

Regulations may include the filling out and filing of special reports by persons fishing in the stream.

CHAPTER 73

(House Bill No. 339—By Mr. Goshorn and Mr. Chilton)

AN ACT to amend and reenact section five, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the killing or catching of fish, or the attempt to do so.

[Passed March 3, 1955: In effect ninety days from passage. Approved by the Governor.]

Article 6. Fish and Other Aquatic Life.

Section

5. Unlawful devices and methods of fishing.

Be it enacted by the Legislature of West Virginia:

That section five, article six, chapter twenty of the code of

West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Unlawful Devices and Methods of Fishing.*—

2 No person shall kill, catch, or attempt to kill or catch any
3 fish at any time by:

4 (1) The use of seines, nets or traps, or devices of like
5 nature without the written consent of the director. A
6 person may use a seine not more than six feet in length,
7 nor more than four feet in depth for securing minnows
8 for angling, other than game fish or protected nongame
9 fish; except any person may use a minnow trap, for the
10 purpose of securing bait, provided the opening is not
11 larger than one inch in diameter. A dip net so used shall
12 not exceed thirty-six square feet in over all area, and its
13 mesh shall not be smaller than one-quarter inch;

14 (2) Draining water out of any pool, pond, or stream
15 with intent to take or injure fish, except from privately
16 owned farm ponds;

17 (3) The use of dynamite, or any like explosive or ex-
18 plosive mixture;

19 (4) The use of poisonous drug or substance;

20 (5) The use of electricity or lime;

21 (6) The use of firearms;

22 (7) Gigging, spearing, gaffing, snaring or grappling,
23 except the director may permit gigging, snaring or bow
24 and arrow hunting of nongame fish other than during the
25 months of May and June under such regulations as he
26 may promulgate; however, the snaring of any species
27 of suckers, carp, fallfish and creek chubs through the
28 ice shall at all time be lawful;

29 (8) Any other means other than by rod, line and hooks,
30 with natural or artificial lures;

31 A person shall not sell or purchase a seine more than
32 six feet in length without the prior written permission
33 of the director.

34 The provisions of this section shall not prevent the
35 director from using such methods of catching fish as he
36 shall find necessary and proper for the purpose of propa-
37 gation, protection, or scientific investigation.

CHAPTER 74

(House Bill No. 84—By Mr. Booth)

AN ACT to amend article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section one-b, relating to exemption of licenses to fish for totally blind residents.

[Passed February 21, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

1-b. License to fish not required of totally blind residents.

Be it enacted by the Legislature of West Virginia:

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

Section 1-b. *License to Fish Not Required of Totally Blind Residents.*—Any bona fide resident of this state who is totally blind may fish in season in this state without obtaining a license so to do. A written statement or certificate from a duly licensed physician of this state showing the said resident to be totally blind shall serve in lieu of fishing licenses and shall be carried on the person of the said resident at all times while he is fishing in this state.

CHAPTER 75

(Senate Bill No. 202—By Mr. Chenoweth)

AN ACT to amend and reenact section two-m, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the au-

thority of the director to designate agents to issue licenses, and the bond of the agents.

[Passed March 1, 1955; in effect from passage. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

2-m. Authority of director to designate agents to issue licenses; bond.

Be it enacted by the Legislature of West Virginia:

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

Section 2-m. *Authority of Director to Designate Agents to Issue Licenses; Bond.*—The director shall have authority to appoint within any county as many persons, firms or corporations, as his agents, with authority to issue licenses under the provisions of this article, as may in his opinion be necessary, in addition to the county clerk, to serve the convenience of the public in procuring such licenses. Each person, firm or corporation so appointed shall, before issuing any license, file with the director a bond payable to the state of West Virginia, in an amount to be fixed by the director at not less than one thousand dollars nor more than five thousand dollars, conditioned upon the faithful performance of their obligation to issue licenses only in conformity with the provisions of this article and to account for all license fees received by them. The form of such bond shall be prescribed by the attorney general. Whenever the word "person" is used in this article with respect to persons or agents authorized to issue licenses, it shall be construed to include firms or corporations.

CHAPTER 76

(House Bill No. 240—By Mr. Scanes and Mr. Booth)

AN ACT to amend and reenact section three, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional fees for the person issuing hunting and fishing licenses.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Hunting and Fishing Licenses.

Section

3. Where license applications made; compensation of persons issuing licenses; alien permits.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Where License Applications Made; Compensa-*

2 *tion of Persons Issuing Licenses; Alien Permits.*—Per-
3 sons eligible for any class license shall make application
4 therefor, either in person or by agent, in writing or orally,
5 as follows:

6 (1) For class A, B, E, F, H, I, J and K license, to any
7 county clerk or to any other person authorized by the
8 director to issue licenses.

9 (2) For class D license, to the county clerk of any
10 county bordering the Ohio river, or to any other person
11 in such a county authorized by the director to issue
12 licenses.

13 (3) For class C license, to the commission; and for class
14 G and class L licenses, to the commission, or its admin-
15 istrative employees at state parks or state forests.

16 Every person making application for any license shall
17 pay, in addition to the license fees prescribed therefor in
18 the preceding sections of this article, an additional fee of
19 fifteen cents as compensation for the person issuing the

20 license: *Provided, however,* That no additional fee shall
21 be collected by any agent for issuing a national forest
22 hunting and trapping class I license, a national forest
23 fishing class J license, and only one fee of fifteen cents
24 shall be collected for issuing combination resident state-
25 wide hunting and fishing class A-B licenses. All such
26 additional fees received by any county clerk shall be paid
27 by him into the general county fund.

28 Aliens desiring to procure licenses shall first apply to
29 the director for a permit to secure such license. If the
30 director satisfies himself that the applicant is legally en-
31 titled to such license, and will observe the laws of this
32 state, and particularly the provisions of this chapter, he
33 may issue the permit. Permits, once issued, shall remain
34 in force until revoked. No issuing officer shall be required
35 to issue or deliver any license unless the applicant in-
36 forms him that the licensee is duly qualified and eligible
37 to receive the class of license applied for, and payment
38 of the required fee is made to such officer.

C

CHAPTER 77

(House Bill No. 256—By Mr. Gilmore)

AN ACT to amend and reenact section nine, article seven, chap-
ter twenty of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the revocation
of hunting licenses.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 7. Hunting and Fishing Licenses.

Section

9. Refusal or revocation of license.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Refusal or Revocation of License.*—In case
2 the commission desires to refuse a license to any person,
3 it shall notify the clerk of the county court of the county,
4 of the residence of such person, or any such clerk where
5 it is expected such license may be sought, of the name
6 and address of such person and such other information
7 in relation thereto as it may desire to give, and such clerk
8 shall not issue a license to such person thereafter, and
9 shall report to the commission any application made
10 therefor. In case any clerk shall, after receiving such
11 notice, knowingly issue such license, he shall be guilty
12 of a misdemeanor, and, upon conviction thereof, shall be
13 fined not less than ten nor more than one hundred dollars
14 for each offense. The commission may revoke any such
15 license so wrongfully issued. The violation of any of the
16 provisions of this chapter by any person holding a license
17 shall be sufficient cause for the refusal of the commission
18 to grant in any year a license to the person so violating
19 any such provision.

20 All licenses herein authorized to be granted shall be
21 deemed to have been granted by the commission, and the
22 power and authority to revoke such licenses is vested in
23 the commission. Upon the revocation of any license, the
24 one to whom the same was issued shall, upon having a
25 knowledge of such revocation, forthwith deliver the
26 license and tag so issued to him to the clerk of the county
27 court of the county who issued the same to him, and
28 such clerk shall thereupon transmit the same to the
29 commission.

30 The hunting license of any person convicted under sec-
31 tion eleven, article seven, chapter sixty-one of this code,
32 shall be revoked; and such person shall not be issued any
33 other hunting license for a period of five years.

CHAPTER 78

(Senate Bill No. 2—By Mr. Amos)

AN ACT to amend and reenact section five, article eight-b, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the au-

thority of the director of conservation to pledge revenue as security for revenue bonds issued to finance the construction of recreational facilities in state parks and forests.

[Passed January 17, 1955; in effect from passage. Approved by the Governor.]

Article 8-b. Revenue Bonds for Park Development.

Section

5. Authority of director to pledge revenue as security.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Authority of Director to Pledge Revenue as Security.*—The director shall have authority to pledge all revenue derived from any project as security for any bonds issued under this article to defray the cost of such project. In any case in which the director may deem it advisable, he shall also have the authority to pledge the revenue derived from any existing recreational facilities in any state park or forest as additional security for the payment of any bonds issued under the provisions of this article to pay the cost of any park development project.

CHAPTER 79

(House Bill No. 295—By Mr. McCoy, of Pendleton)

AN ACT to amend and reenact section eight, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the recovery of expenses incurred in extinguishing fires from persons causing them.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forests.**Section**

8. Recovery of expenses incurred in extinguishing fires from persons causing them.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Recovery of Expenses Incurred in Extinguishing Fires from Persons Causing Them.*—The commission shall, in the name of the state, recover from the person or persons, firm or corporation negligently giving origin to any forest fire which occurs at any time and which has been extinguished or suppressed by its efforts, the amount so expended by the state in extinguishing such fire and the cost thereof, and the same shall not bar the rights of damages between the parties thereto. Any forest fire, the origin of which may be occasioned by a trespasser or by a person who is upon the property without the consent of the owner, shall not be construed to be the negligence of the owner.

CHAPTER 80

(House Bill No. 297—By Mr. McCoy, of Pendleton)

AN ACT to amend and reenact section thirteen, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the residence of owner being sufficient protection in certain cases involving forest fires.

[Passed February 23, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forests.**Section**

13. Residence of owner sufficient protection in certain cases.

Be it enacted by the Legislature of West Virginia:

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

Section 13. *Residence of Owner Sufficient Protection in Certain Cases.*—Actual bona fide residence, by the owner or lessor of three hundred and sixty acres or less shall be deemed to constitute reasonable and adequate protection for such tract, but such residence shall not relieve the owner, his agents or employees, from responsibility for the control and suppression of fires occurring on such tract, or entitle such owner to compensation from the county for the time spent by him, his agents or employees in controlling or suppressing any fire that threatens or occurs thereon.

CHAPTER 81

(House Bill No. 296—By Mr. McCoy, of Pendleton)

AN ACT to amend and reenact section fifteen, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the definition of timber land.

[Passed February 23, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forests.

Section

15. Timber land and forest land defined.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Timber Land and Forest Land Defined.*—
2 For the purpose of this chapter, any land shall be con-

3 sidered timber land or forest land which has enough
4 timber standing or down to constitute, in the judgment
5 of the commission, a fire menace to itself or adjoining
6 lands: *Provided, however*, That nothing in this section
7 contained shall be construed to include lands under culti-
8 vation or in grass: *Provided further*, That nothing con-
9 tained herein shall be construed so as to include within
10 the provisions of this section any land which is an isolated
11 fire risk, unless a forest fire thereon would imperil the
12 lands of any adjoining land owner or land owners.

CHAPTER 82

(Com. Sub. for House Bill No. 233—Originating in the House Committee on Finance)

AN ACT to repeal section nineteen, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section eighteen of the same article and chapter, all relating to the disposition of funds received from the federal government as proceeds of national forests.

[Passed March 12, 1955; in effect from passage. Approved by the Governor.]

Article 9. Forests.

Section

18. Disposition of proceeds of national forests.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section eighteen of the same article and chapter be amended and reenacted, to read as follows:

Section 18. *Disposition of Proceeds of National Forests.*

2 —Receipts from any national forest, paid to the state or
3 its proper officers pursuant to directions of acts of con-
4 gress, shall be allocated by the auditor to each county
5 which has acreage located in such national forest, in the

6 proportion which the acreage in such county bears to the
7 total acreage of such national forest in this state. Eighty
8 per cent of the funds so allocated to any county shall be
9 paid to the board of education of the county to be ex-
10 pended by the board for the benefit of the public schools
11 of the county. Twenty per cent of the funds so allocated
12 to any county shall be paid to the state road commission
13 to be expended for secondary road purposes in the county.
14 Notwithstanding any contrary provision of former law,
15 any sheriff or county court of any county having charge
16 or custody of any unexpended national forest proceeds,
17 received under allocations made pursuant to former pro-
18 visions of law, shall pay over eighty per cent of such un-
19 expended balance to the county board of education, and
20 twenty per cent thereof to the state road commission, for
21 expenditure as provided above.

CHAPTER 83

(House Bill No. 357—By Mr. McCoy, of Pendleton)

AN ACT to amend article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty, relating to the protection of forests against destructive insects and diseases .

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Forests.

Section

20. Protection of forests against destructive insects and diseases; purposes and intent of the section.

Be it enacted by the Legislature of West Virginia:

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

Section 20. *Protection of Forests Against Destructive*

2 *Insects and Diseases; Purposes and Intent of the Section.*—

3 In order to protect and preserve forest resources of the
4 state of West Virginia from ravages of bark beetles,
5 defoliators, rusts, blights, wilts, and other destructive
6 forest pests and diseases, and thereby enhance the growth
7 and maintenance of forests, promote the stability of forest-
8 using industries and employment associated therewith;
9 reduce the fire risk created by dying and dead trees injured
10 or killed by insects or diseases; conserve forest cover on
11 watersheds and protect recreational and other forest
12 values; it shall be the policy of the state of West Virginia
13 independently and through cooperation with adjoining
14 states, the federal government, and private timber owners
15 and other private organizations, to prevent, retard, con-
16 trol, suppress, or eradicate incipient, potential or emer-
17 gency outbreaks of destructive insects and diseases on, or
18 threatening, all forest land irrespective of ownership.

19 (a) *Authority.*—The director of the conservation com-
20 mission of West Virginia is authorized either directly or
21 in cooperation with other agencies, subject to such con-
22 ditions as he may deem necessary and using such funds
23 as have been, or may hereafter be, made available for
24 those purposes, to conduct surveys on any forest land to
25 detect and appraise infestations of forest insect pests and
26 tree diseases, to determine the measures which should be
27 applied on such lands, in order to prevent, retard, control,
28 suppress, or eradicate incipient, threatening, potential, or
29 emergency outbreaks of such insect or disease pests, and
30 to plan, organize, direct, and carry out such measures as
31 he may deem necessary to accomplish the objectives and
32 provisions of this article: *Provided*, That actual control
33 measures shall be conducted with the cooperation and
34 consent of the quarantine and regulatory official of the
35 department of agriculture.

36 (b) *Establishing Control Zone; Notice to Landowners.*
37 —Where an insect infestation or disease infection is be-
38 lieved to exist on a forest land within this state, the
39 director shall investigate the condition. Whenever he
40 finds that an infestation or infection exists, he shall request

41 the quarantine officials of the state department of agri-
42 culture to declare the same a public nuisance. When same
43 has been declared a public nuisance he shall establish a
44 control zone of the forest land wherein the same is found,
45 and shall give notice in writing by at least two publica-
46 tions in a newspaper of general circulation in the area or
47 areas where the control zone is established, by mail or
48 otherwise to forest landowners within the control zone,
49 advising them of the nature of the infestation or infection,
50 recommending control measures and offering technical
51 advice on methods of carrying out the control measures.

52 (c) *Institution of Control Measures.*—If, after notifica-
53 tion by the director, any landowner fails, neglects, or is
54 unable to carry out the control measures recommended by
55 the director as set forth in subsection (b), the director
56 may, through his agents, institute and carry out such con-
57 trol measures.

58 (d) *Appeals.*—Any person damaged or aggrieved by
59 any action of any officer or employee of the department
60 under the provisions of this article shall have the right
61 to appeal from such action to the director and then to the
62 circuit court of the county in which such person resides or
63 in which he owns forest land affected by such action. The
64 court, after hearing the evidence in the case, may make
65 such orders as may be appropriate to protect the interests
66 of the appellant, adjacent forest landowners, or the state.

67 (e) *Cooperation with Individuals and Public Agencies.*
68 —The director is authorized to cooperate with landowners
69 and appropriate authorities of town, city, county, adjoining
70 state, and the United States government, and other
71 agencies having jurisdiction of state lands, concerning
72 forest tree insect and disease investigation and control, and
73 to accept money, gifts, and donations and to disburse the
74 same for the purpose of carrying out the provisions of this
75 article.

76 (f) *Annual Appropriation—Forest Pest Control Fund.*—
77 There is hereby created in the state treasury a special fund
78 to be known as the forest pest control fund. Such fund shall
79 consist of all moneys appropriated thereto by the Legisla-
80 ture, all moneys deposited with the state treasurer under

81 the provisions of this article. All such funds are hereby
82 appropriated to the conservation commission of West Vir-
83 ginia to be used to carry out the purposes of this article.

84 (g) *Definitions*.—As used in this article, unless the
85 context clearly requires otherwise:

86 (1) "Forest trees" mean only those trees which are
87 a part of and constitute a stand of potential, immature,
88 or mature commercial timber trees: *Provided*, That the
89 term "forest trees" shall be deemed to include shade trees
90 of any species around houses, along highways and within
91 cities and towns if the same constitute an insect or disease
92 menace to nearby timber trees or timber stands.

93 (2) "Forest land" means land on which forest trees
94 occur.

95 (3) "Control zone" means an area of potential or actual
96 infestation or infection, the boundaries of which are fixed
97 and clearly described in a manner to definitely identify
98 the zone.

99 (4) "Infestation" means infestation by means of any
100 insect in any stage of growth which is determined to be
101 dangerously injurious to forest trees.

102 (5) "Infection" means infection by any disease affecting
103 forest trees which is determined to be dangerously injuri-
104 ous thereto.

— C —

CHAPTER 84

(House Bill No. 499—By Mr. Fumich)

AN ACT to amend chapter twenty of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, to be designated article
eleven, relating to the southeastern interstate forest fire
protection compact and providing that the state of West
Virginia enter into such compact.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 11. Southeastern Interstate Forest Fire Protection Compact.

Section

1. Governor authorized to execute compact.
 2. When and how compact becomes operative.
 3. Members of compact committee; how appointed; term of office; filling of vacancies.
 4. Powers of committee.
 5. Powers granted by other laws to supplement the powers vested herein.
 6. Saving clause.
 7. Articles inconsistent herewith.
 8. When article shall take effect.
-

Be it enacted by the Legislature of West Virginia:

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

Section 1. Governor Authorized to Execute Compact.—

- 2 The governor on behalf of this state is hereby authorized
- 3 to execute a compact in substantially the following form,
- 4 with any one or more of the states of Alabama, Florida,
- 5 Georgia, Kentucky, Mississippi, North Carolina, South
- 6 Carolina, Tennessee, and Virginia, and the Legislature
- 7 hereby signifies in advance its approval and ratification
- 8 of such compact:

9 SOUTHEASTERN INTERSTATE FOREST 10 FIRE PROTECTION COMPACT

11 Article I.

- 12 The purpose of this compact is to promote effective
- 13 prevention and control of forest fires in the southeastern
- 14 region of the United States by the development of in-
- 15 tegrated forest fire plans, by the maintenance of adequate
- 16 forest fire fighting services by the member states, by pro-
- 17 viding for mutual aid in fighting forest fires among the
- 18 compacting states of the region and with states which
- 19 are party to other regional forest fire protection com-
- 20 pacts or agreements, and for more adequate forest pro-
- 21 tection.

22 Article II.

- 23 This compact shall become operative immediately as

24 to those states ratifying it whenever any two or more of
25 the states of Alabama, Florida, Georgia, Kentucky, Mis-
26 sissippi, North Carolina, South Carolina, Tennessee, Vir-
27 ginia, and West Virginia, which are contiguous have
28 ratified it and congress has given consent thereto. Any
29 state not mentioned in this article which is contiguous
30 with any member state may become a party to this com-
31 pact subject to approval by the Legislature of each of the
32 member states.

33

Article III.

34 In each state, the state forester or officer holding the
35 equivalent position who is responsible for forest fire
36 control shall act as compact administrator for that state
37 and shall consult with like officials of the other member
38 states and shall implement cooperation between such
39 states in forest fire prevention and control.

40 The compact administrators of the member states shall
41 coordinate the services of the member states and provide
42 administrative integration in carrying out the purposes
43 of this compact.

44 There shall be established an advisory committee of
45 legislators, forestry commission representatives, and for-
46 estry or forest products industries representative which
47 shall meet from time to time with the compact adminis-
48 trators. Each member state shall name one member of
49 the senate and one member of the house of delegates who
50 shall be designated by that state's commission on in-
51 terstate cooperation, or if said commission cannot con-
52 stitutionally designate the said members, they shall be
53 designated in accordance with laws of that state; and
54 the governor of each member state shall appoint two
55 representatives, one of whom shall be associated with
56 forestry or forest products industries to comprise the
57 membership of the advisory committee. Action shall be
58 taken by a majority of the compacting states, and each
59 state shall be entitled to one vote.

60 The compact administrators shall formulate and, in
61 accordance with need, from time to time, revise a regional
62 forest fire plan for the member states.

63 It shall be the duty of each member state to formulate

64 and put in effect a forest fire plan for that state and take
65 such measures as may be necessary to integrate such forest
66 fire plan with the regional forest fire plan formulated
67 by the compact administrators.

68 Article IV.

69 Whenever the state forest fire control agency of a mem-
70 ber state requests aid from the state forest fire control
71 agency of any other member state in combating, control-
72 ing or preventing forest fires, it shall be the duty of the
73 state forest fire control agency of that state to render
74 all possible aid to the requesting agency which is con-
75 sonant with the maintenance of protection at home.

76 Article V.

77 Whenever the forces of any member state are render-
78 ing outside aid pursuant to the request of another mem-
79 ber state under this compact, the employees of such
80 state shall, under the direction of the officers of the state
81 to which they are rendering aid, have the same powers
82 (except the power of arrest), duties, rights, privileges
83 and immunities as comparable employees of the state
84 to which they are rendering aid.

85 No member state or its officers or employees rendering
86 outside aid pursuant to this compact shall be liable on
87 account of any act or omission on the part of such forces
88 while so engaged, or on account of the maintenance, or
89 use of any equipment or supplies in connection therewith:
90 *Provided*, That nothing herein shall be construed as
91 relieving any person from liability for his own negligent
92 act or omission, or as imposing liability for such negli-
93 gent act or omission upon any state.

94 All liability, except as otherwise provided hereinafter,
95 that may arise either under the laws of the requesting
96 state or under the laws of the aiding state or under the
97 laws of a third state on account of or in connection with
98 a request for aid, shall be assumed and borne by the
99 requesting state.

100 Any member state rendering outside aid pursuant to
101 this compact shall be reimbursed by the member state
102 receiving such aid for any loss or damage to, or expense
103 incurred in the operation of any equipment answering

104 a request for aid, and for the cost of all materials, trans-
105 portation, wages, salaries, and subsistence of employees
106 and maintenance of equipment incurred in connection
107 with such request: *Provided*, That nothing herein con-
108 tained shall prevent any assisting member state from
109 assuming such loss, damage, expense or other cost or
110 from loaning such equipment or from donating such
111 service to the receiving member state without charge or
112 cost.

113 Each member state shall provide for the payment of
114 compensation and death benefits to injured employees
115 and the representatives of deceased employees in case
116 employees sustain injuries or are killed while rendering
117 outside aid pursuant to this compact, in the same manner
118 and on the same terms as if the injury or death were
119 sustained within such state.

120 For the purposes of this compact the term employee
121 shall include any volunteer or auxiliary legally included
122 within the forest fire fighting forces of the aiding state
123 under the laws thereof.

124 The compact administrators shall formulate procedures
125 for claims and reimbursement under the provisions of
126 this article, in accordance with the laws of the member
127 states.

128 Article VI.

129 Ratification of this compact shall not be construed to
130 affect any existing statute so as to authorize or permit
131 curtailment or diminution of the forest fire fighting forces,
132 equipment, services or facilities of any member state.

133 Nothing in this compact shall be construed to limit
134 or restrict the powers of any state ratifying the same to
135 provide for the prevention, control and extinguishment
136 of forest fires, or to prohibit the enactment or enforce-
137 ment of state laws, rules or regulations intended to aid
138 in such prevention, control and extinguishment in such
139 state.

140 Nothing in this compact shall be construed to affect
141 any existing or future cooperative relationship or ar-
142 rangement between any federal agency and a member
143 state or states.

144

Article VII.

145 The compact administrators may request the United
146 States forest service to act as a research and coordinating
147 agency of the southeastern interstate forest fire protec-
148 tion compact in cooperation with the appropriate agencies
149 in each state, and the United States forest service may
150 accept responsibility for preparing and presenting to
151 the compact administrators its recommendations with
152 respect to the regional fire plan. Representatives of any
153 federal agency engaged in forest fire prevention and con-
154 trol may attend meetings of the compact administrators.

155

Article VIII.

156 The provisions of articles four and five of this com-
157 pact which relate to mutual aid in combating, controlling
158 or preventing forest fires shall be operative as between
159 any state party to this compact and any other state which
160 is party to a regional forest fire protection compact in
161 another region: *Provided*, That the Legislature of such
162 other state shall have given its assent to such mutual aid
163 provisions of this compact.

164

Article IX.

165 This compact shall continue in force and remain bind-
166 ing on each state ratifying it until the Legislature or the
167 governor of such state, as the laws of such state shall
168 provide, takes action to withdraw therefrom. Such action
169 shall not be effective until six months after notice
170 thereof has been sent by the chief executive of the state
171 desiring to withdraw to the chief executives of all states
172 then parties to the compact.

Sec. 2. When and How Compact Becomes Operative.—

2 When the governor shall have executed said compact on
3 behalf of this state and shall have caused a verified copy
4 thereof to be filed with the state secretary, and when said
5 compact shall have been ratified by one or more of the
6 states named in section one of this act, then said compact
7 shall become operative and effective as between this
8 state and such other state or states. The governor is
9 hereby authorized and directed to take such action as
10 may be necessary to complete the exchange of official

11 documents as between this state and any other state
12 ratifying said compact.

Sec. 3. *Members of Compact Committee; How Appointed; Term of Office; Filling of Vacancies.*—In pursu-
2
3 ance of article three of said compact, the director of con-
4 servation of the state of West Virginia or his designated
5 representative shall act as compact administrator for the
6 state of West Virginia of the southeastern interstate
7 forest fire protection compact during his term of office as
8 conservation director, and his successor as compact ad-
9 ministrator shall be his successor as director of conser-
10 vation. As compact administrator he shall be an ex
11 officio member of the advisory committee of the south-
12 eastern interstate forest fire protection compact, and
13 chairman ex officio of the West Virginia members of said
14 advisory committee. There shall be four members of the
15 southeastern interstate forest fire protection compact
16 advisory committee from the state of West Virginia. Two
17 of the members from the state of West Virginia shall be
18 members of the Legislature of West Virginia, one from the
19 Senate and one from the House of Delegates, designated
20 by the state's commission on interstate cooperation and
21 the terms of any such members shall terminate at the
22 time they cease to hold legislative office, and their suc-
23 cessors as members shall be named in like manner. The
24 governor shall appoint the other two members from the
25 state of West Virginia, one of whom shall be associated
26 with forestry or forest products industries. The terms of
27 such members shall be two years and such members shall
28 hold office until their respective successors shall be ap-
29 pointed and qualified. Vacancies occurring in the office
30 of such members from any reason or cause shall be filled
31 by appointment by the governor for the unexpired term.
32 The director of conservation as compact administrator
33 may delegate, from time to time, to any deputy or other
34 subordinate in his department or office, the power to be
35 present and participate, including voting as his repre-
36 sentative or substitute at any meeting of or hearing by or
37 other proceeding of the compact administrators or of the
38 advisory committee. The terms of each of the initial four

39 memberships of the advisory committee, whether appoint-
40 ed at said time or not, shall begin upon the date upon
41 which said compact shall become effective in accordance
42 with article two of said compact. Any member of said
43 advisory committee may be removed from office by the
44 governor upon charges and after a hearing.

Sec. 4. *Powers of Committee.*—There is hereby granted
2 to the director of conservation, as compact administrator
3 and chairman ex officio of the West Virginia members of
4 said advisory committee, and to the members from West
5 Virginia of said advisory committee all the powers pro-
6 vided for in the said compact and all the powers necessary
7 or incidental to the carrying out of said compact in every
8 particular. All officers of the state of West Virginia are
9 hereby authorized and directed to do all things falling
10 within their respective provinces and jurisdiction neces-
11 sary or incidental to the carrying out of said compact in
12 every particular; it being hereby declared to be the policy
13 of the state of West Virginia to perform and carry out
14 the said compact and to accomplish the purposes thereof.
15 All officers, bureaus, departments and persons of and in
16 the state government or administration of the state of
17 West Virginia are hereby authorized and directed at
18 convenient times and upon request of said compact ad-
19 ministrator, or of said advisory committee, to furnish
20 information and data relating to the purposes of said
21 compact possessed by them or any of them to said compact
22 administrator or said advisory committee. They are fur-
23 ther authorized to aid said compact administrator or said
24 advisory committee by loan of personnel, equipment, or
25 other means in carrying out the purposes of said compact.

Sec. 5. *Powers Granted by Other Laws to Supplement*
2 *the Powers Vested Herein.*—Any powers herein granted
3 to the state forester shall be regarded as in aid of and
4 supplemental to, and in no case a limitation upon, any
5 of the powers vested in said director by other laws of
6 the state of West Virginia or by the laws of the states of
7 Alabama, Florida, Georgia, Kentucky, Mississippi, North
8 Carolina, South Carolina, Tennessee, and Virginia or by
9 the congress or the terms of said compact.

Sec. 6. *Saving Clause*.—If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Sec. 7. *Articles Inconsistent Herewith*.—All articles or parts of articles inconsistent herewith are hereby repealed.

Sec. 8. *When Article Shall Take Effect*.—This article shall take effect upon its approval by the governor.

CHAPTER 85

(Senate Bill No. 11—By Mr. Taylor, of Mingo, and Mr. Carrigan)

AN ACT to amend article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-eight, relating to the crime of indecent exposure and to the penalty therefor.

[Passed February 16, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 8. Crimes Against Chastity, Morality and Decency.

Section

28. Indecent exposure; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 28. *Indecent Exposure; Penalty*.—Any person who shall make an obscene or lewd exposure of his person to public view shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less

5 than twenty nor more than one hundred dollars, or by
6 imprisonment for not more than thirty days, or by both
7 such fine and imprisonment.

8 Justices of the peace shall have concurrent jurisdiction
9 with circuit courts, criminal courts, and all other courts
10 having jurisdiction over misdemeanors, to enforce the
11 provisions of this section.

CHAPTER 86

(House Bill No. 148—By Mr. Scanes and Mr. Keister)

AN ACT to amend and reenact section eight, article five, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hearings and procedures in injunction cases.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. Injunctions.

Section

8. Notice and showing on application for injunction.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Notice and Showing on Application for Injunction.*—No injunction shall be awarded in vacation nor in court, in a case not ready for hearing, unless the court or judge be satisfied by affidavit or otherwise of the plaintiff's equity; and any court or judge may require that reasonable notice shall be given to the adverse party, or his attorney at law, or in fact, of the time and place of moving for it, before the injunction is awarded, if in the opinion of the court or judge it be proper that such notice should be given.

After an injunction is awarded or denied in any such

12 case, at any time prior to final adjudication, any party to
13 the proceedings, after reasonable notice to all other parties
14 of record, which notice shall not in any case exceed five
15 days, may move for a hearing on any particular issues
16 or phases of the case which may properly be heard inter-
17 locutorily. Such hearing may, in the discretion of the
18 court or judge, be had at the time the motion is made
19 but shall be commenced within the ten days next there-
20 after, unless by consent of all parties appearing the hear-
21 ing is continued until a later date. At any such hearing,
22 in term time or in vacation, any party to the proceedings
23 may be present in person or by counsel and may present
24 such witnesses, cross-examine witnesses and offer such
25 testimony and evidence as may be pertinent to the issues
26 then before the court or judge, as the case may be. The
27 court or judge, upon such hearing and the record in the
28 case, shall render a decision without delay, and may con-
29 tinue or dismiss the injunction or may enlarge or modify
30 the same, as may be warranted.

31 Questions may be certified and appeals may be taken in
32 injunction proceedings as in any other cases in equity.

CHAPTER 87

(Com. Sub. for House Bill No. 63—Originating in the House Committee
on Insurance)

AN ACT to amend article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding five new sections, to be designated as sections four-a, four-b, four-c, four-d and four-e, to provide authority to subpoena witnesses and tax the cost of hearings.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Insurance Commissioner.

Section

4-a. Authority to subpoena.

4-b. Witness fees.

- 4-c. Service of subpoena.
- 4-d. Immunity from prosecution.
- 4-e. Hearing and costs.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by enacting five new sections, to be designated sections four-a, four-b, four-c, four-d and four-e, to read as follows:

Section 4-a. *Authority to Subpoena.*—The commissioner or any person conducting a hearing or investigation by his authority shall have power to take depositions, to subpoena witnesses, compel their attendance, administer oaths, examine any person under oath, and to compel any person to subscribe to his testimony after it has been correctly reduced to writing, and in connection therewith, to require the production of any books, papers, records, correspondence, or other documents which he deems relevant to the inquiry.

Sec. 4-b. *Witness Fees.*—No person shall be excused from attending and testifying in obedience to a subpoena issued hereunder on the ground of failure of tender or payment of a witness fee or mileage fee unless the witness makes demand for such payment as a condition precedent to the giving of testimony or the production of documents required by the subpoena, and unless such payment is not thereupon made. No insurer, insurance agent, insurance broker or other person subject to the provisions of this chapter whose conduct, condition or practices are being investigated, and no officer, director or employee of any such person, shall be entitled to witness or mileage fees. In the event that witness or mileage fees are demanded and paid, the amount of same shall be determined as ten dollars for each day of attendance and ten cents per mile for each mile necessarily traveled to the place of attendance, and the same for returning. The sum to which a witness is entitled shall be paid out of the treasury in any case in which the attendance is for

20 the commissioner. In all other cases, it shall be paid by
21 the party at whose instance the summons is issued.

Sec. 4-c. *Service of Subpoena.*—The subpoena shall be
2 served in the same manner as if issued from a circuit
3 court unless otherwise provided. In case a person re-
4 fuses to obey any subpoena issued hereunder or to testify
5 with respect to any matter concerning which he may be
6 lawfully interrogated, the commissioner or his representa-
7 tive may invoke the aid of any circuit court in order that
8 the testimony or evidence be produced. Upon proper
9 showing, such court shall issue a subpoena or order re-
10 quiring such person to appear before the commissioner or
11 his representative and produce all evidence and give all
12 testimony touching the matter in question. A person
13 failing to obey such order may be punished by such court
14 as for contempt.

Sec. 4-d. *Immunity from Prosecution.*—If any person
2 shall ask to be excused from attending and testifying or
3 from producing any books, papers, records, correspon-
4 dence or other documents at any hearing conducted pur-
5 suant to this chapter or in any cause or proceeding in-
6 stituted by the commissioner pursuant to this chapter on
7 the ground that the testimony or evidence required of
8 him may tend to incriminate him or subject him to a
9 penalty or forfeiture, and shall notwithstanding be di-
10 rected by the insurance commissioner to give such testi-
11 mony or produce such evidence, he must none the less
12 comply with such direction, but he shall not thereafter be
13 prosecuted or subjected to any penalty or forfeiture for
14 or on account of any matter or thing concerning which he
15 may testify or produce evidence, pursuant thereto, and
16 no testimony so given or evidence produced shall be re-
17 ceived against him upon any criminal action, investigation
18 or proceeding: *Provided, however,* That no such individual
19 so testifying shall be exempt from prosecution or punish-
20 ment for any perjury or false swearing, committed by
21 him while so testifying and the testimony or evidence so
22 given or produced shall be admissible against him upon
23 any criminal action, investigation or proceeding con-

cerning such perjury or false swearing, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to this chapter. Any such individual may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

Sec. 4-e. *Hearing and Costs.*—The insurance commissioner shall fix the time and place of hearing or trial. The commissioner may cause to be made a stenographic record of all evidence and all the proceedings had at such hearing. The costs and fees paid by the state for the attendance of witnesses, service of subpoena, and stenographic report may be taxed against and paid by the party or parties against whom the insurance commissioner shall find; which costs may be recovered in a civil action.

CHAPTER 88

(House Bill No. 119—By Mr. Bowles)

AN ACT to amend and reenact section eight, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the fees payable to the commissioner to provide for an insurance commissioner's fund and to increase fees payable by insurance companies.

[Passed March 1, 1955; in effect from passage. Approved by the Governor.]

Article 1. Insurance Commissioner.

Section

8. Fund for maintenance of office of insurance commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Fund for Maintenance of Office of Insurance*

2 Commissioner.—Except where it is otherwise specially
3 provided, the insurance commissioner shall demand and
4 receive the following fees from all insurance companies:
5 For annual fee for each license, fifty dollars; for receiving
6 and filing annual reports, fifty dollars; for valuation of
7 policies of life insurance companies organized under the
8 laws of this state, one and one-half cents for each one
9 thousand dollars of insurance; for valuation of policies
10 of life insurance companies organized under the laws of
11 any other state admitted to transact business in this
12 state such rate for each one thousand dollars of insurance
13 valued as is imposed by such other state upon any
14 similar insurance company organized under the laws of
15 this state admitted to transact business in such other
16 state; for filing certified copy of articles of incorporation,
17 twenty-five dollars; for filing copy of its charter, twenty-
18 five dollars; for filing statements preliminary to admission,
19 fifty dollars; for filing any additional paper required by
20 law, one dollar; for every certificate of valuation, copy of
21 report or certificate of condition of company to be filed
22 in any other state, five dollars; for each agent's certificate
23 of authority and copy of report, five dollars. The com-
24 missioner may by regulation set reasonable charges for
25 printed forms for the annual statements required by law.
26 He may sell at cost publications purchased by, or printed
27 on behalf of the insurance department.

28 The commissioner shall pay into the state treasury all
29 fees and charges collected by him under the provisions of
30 this section. Such fees and charges collected during the
31 calendar year one thousand nine hundred fifty-five and
32 subsequent years shall comprise a special fund designated
33 "insurance commissioner's fund" to be appropriated as
34 provided by law for the use of the commissioner in the
35 administration of his office, and any portion of such fund

36 not used during a calendar year shall be carried forward
37 for such subsequent use. The state treasurer shall, at
38 the end of each fiscal year, transfer any amount over and
39 above the amount appropriated for the operation of the
40 insurance department for the ensuing year to the general
41 fund.

CHAPTER 89

(Senate Bill No. 86—By Mr. Amos)

AN ACT to amend and reenact section fourteen, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the reissuance of revoked license, to provide for a penalty in lieu of revocation.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

14. Penalty in lieu of revocation of license.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Penalty in Lieu of Revocation of License.*

2 —The insurance commissioner, in lieu of revoking or sus-
3 pending the license of a licensee in accordance with the
4 provisions of this article, may, by order, require the
5 licensee to pay to the state of West Virginia a penalty
6 in a sum not exceeding one thousand dollars, and upon
7 failure of such licensee to pay such penalty within
8 thirty days after the mailing of such order, postage pre-
9 paid, registered, and addressed to the last known place
10 of business of such licensee, unless such order is stayed
11 by a court of competent jurisdiction, the insurance com-

12 missioner may revoke the license of such licensee or
13 may suspend the same for such period as he may de-
14 termine.

15 Any company ordered to pay such penalty, or the
16 license of which has been suspended or revoked, may,
17 within thirty days after such order or revocation or
18 suspension, contest the same in the manner prescribed
19 in section thirteen, article two of this chapter.

20 When any license, or certificate of authority, has been
21 revoked by the insurance commissioner, the same may,
22 except where it is otherwise specially provided by law,
23 be reissued by him when he is satisfied that the con-
24 ditions causing the revocation have ceased to exist.

CHAPTER 90

(Senate Bill No. 47—By Mr. Amos)

AN ACT to amend and reenact section two, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to special licenses of solicitors to increase the license fee to be charged.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

2. Special licenses of solicitors.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Special Licenses of Solicitors.*—Any duly licensed insurance agent for a company other than life may, with the approval of such company, apply to the insurance commissioner for licenses for not to exceed two

5 solicitors. If, after due investigation, the insurance com-
6 missioner finds the person or persons for whom such li-
7 cense is applied, competent and trustworthy and resident
8 in this state, he shall issue such solicitors' licenses, which
9 shall be subject to the same law as to revocation, expira-
10 tion and renewal as the agent's license, and the fee for
11 which shall be five dollars for each license. Such solicitor
12 shall solicit and receive applications for insurance for the
13 appointing agent only, and he shall report all business
14 through him. The expiration, cancellation, or revocation
15 of the license of the appointing agent shall automatically
16 cancel the solicitor's license, and the appointing agent
17 may cancel the solicitor's license at any time by request
18 to the insurance commissioner. In no case shall a so-
19 licitor's license be requested when the principal use of
20 such license is to effect insurance on the property, person
21 or liability of the solicitor, or to circumvent the enforce-
22 ment of the anti-rebate laws. Any agent who employs,
23 or accepts the services of, any solicitor except a solicitor
24 duly authorized and licensed under the provisions of this
25 section shall have his license revoked.

CHAPTER 91

(Senate Bill No. 87—By Mr. Amos)

AN ACT to amend and reenact section four, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revocation of licenses to provide a penalty in lieu of revocation of license.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

4. Revocation of licenses.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter thirty-three of

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

Section 4. *Revocation of Licenses.* — Whenever the
2 insurance commissioner upon investigation is satisfied
3 that any agent, solicitor or broker acting under his super-
4 vision and holding a certificate of authority from him is
5 violating or has violated any provision of this chapter, or
6 that he is incompetent or untrustworthy, he shall pro-
7 ceed to revoke the certificate, or license, of such agent,
8 solicitor or broker. Whenever the insurance commissioner
9 shall proceed to revoke such license, or certificate, whether
10 for the reasons aforesaid or in pursuance of any other pro-
11 vision or provisions of this chapter, he shall first notify such
12 person of his findings and state in writing the complaint
13 against him and require such person, on a date named,
14 which date shall not be less than thirty days after service
15 of notice, to show cause why his license should not be re-
16 voked. On the date stated in such notice, the insurance
17 commissioner shall proceed to a hearing and decision in the
18 manner provided in section thirteen, article two of this
19 chapter, and if such person does not present good and suf-
20 ficient reasons why his authority to transact business in
21 this state should not be revoked, the commissioner may
22 revoke such person's license, or certificate of authority.
23 The insurance commissioner, in lieu of revoking or sus-
24 pending the license of a licensee in accordance with the
25 provisions of this article, may, by order, require the
26 licensee to pay to the state of West Virginia a penalty
27 in a sum not exceeding one hundred dollars, and upon
28 the failure of such licensee to pay such penalty within
29 thirty days after the mailing of such order, postage pre-
30 paid, registered, and addressed to the last known place
31 of business of such licensee, unless such order is stayed
32 by an order of a court of competent jurisdiction, the
33 insurance commissioner may revoke the license of such
34 licensee or may suspend the same for such period as he
35 may determine.

36 Any person whose license has been revoked or sus-
37 pended or who has been ordered to pay a penalty under
38 the provisions of this section may contest the decision

39 and findings in the manner prescribed in section thirteen,
40 article two of this chapter: *Provided, however, That*
41 nothing contained in this section shall be taken or con-
42 strued as preventing any such agent, solicitor or broker
43 from doing business under the authority of such license,
44 or certificate, during the pendency of any proceeding
45 taken to contest and review an adverse decision of the
46 insurance commissioner.

CHAPTER 92

(Senate Bill No. 46—By Mr. Amos)

AN ACT to amend article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen, to authorize an insurance broker to receive premium for the insurer.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

14. Broker to receive premium.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Broker to Receive Premium.*—Any insurer
2 which delivers in this state to any insurance broker a con-
3 tract of insurance pursuant to the application or request
4 of such broker, acting for an insured other than himself,
5 shall be deemed to have authorized such broker to re-
6 ceive on its behalf payment of any premium which is due
7 on such contract at the time of its issuance or delivery or
8 payment of any installment of such premium or any ad-

9 ditional premium which becomes due or payable there-
10 after on such contract, provided such payment is received
11 by such broker within ninety days after the due date of
12 such premium or installment thereof or after the date of
13 delivery of statement by the insurer of such additional
14 premium: *Provided, however,* That this section shall not
15 apply to policies or contracts of life insurance or non-
16 cancellable accident and health insurance.

CHAPTER 93

(House Bill No. 66—By Mr. Bowles)

AN ACT to amend article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section fifteen, to authorize the use of insurance vending machines under certain conditions.

[Passed February 23, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Agents, Solicitors and Brokers.

Section

15. Insurance vending machines.

Be it enacted by the Legislature of West Virginia:

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

Section 15. *Insurance Vending Machines.*—(a) A
2 licensed resident agent may solicit applications for and
3 issue policies for trip accident insurance by means of
4 mechanical vending machines supervised by him, if:
5 (1) The insurance commissioner finds that the kind
6 of insurance and form of policy to be so sold is reasonably
7 suited for sale and issuance through vending machines,

8 and that use of such machines therefor would be of con-
9 venience to the public, and

10 (2) The insurance commissioner finds that the type of
11 vending machines to be used is reasonably suitable and
12 practical for the purpose.

13 (b) The insurance commissioner shall issue to the
14 agent a special vending machine license as to each such
15 machine to be used. The license shall specify name and
16 address of the insurer and agent, kind of insurance and
17 type of policy to be so sold, and the place where the ma-
18 chine is to be in operation. The license shall expire, be re-
19 newable, and be suspended or revoked, coincidentally with
20 that of the agent. The license fee shall be five dollars
21 for each year or part thereof for each vending machine.
22 Proof of existence of the license shall be displayed on or
23 about each such machine in such manner as the insurance
24 commissioner may reasonably require.

CHAPTER 94

(Senate Bill No. 88—By Mr. Amos)

AN ACT to amend article eleven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two; and to enact eighteen new sections, to be designated sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven of said article; and to amend and reenact section five, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to provisions to be contained in accident and health insurance policies.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article

11. Accident and Health Insurance.
 13. Group Accident and Health Insurance.
-

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two, and by enacting eighteen new sections, to be designated sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven of said article; and that section five, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

Article 11. Accident and Health Insurance.**Section**

10. Definition of accident and sickness insurance policy.
 11. Statement to be contained in, and form of policy.
 12. Policies delivered to nonresidents; approval by insurance commissioner.
 13. Required accident and sickness policy provisions.
 14. Optional policy provisions.
 15. Inapplicable or inconsistent policy provisions.
 16. Order of certain policy provisions.
 17. Third party ownership.
 18. Requirements of other jurisdictions.
 19. Procedure in filing policies.
 20. Other policy provisions.
 21. Policy conflicting with this article.
 22. Application.
 23. Notice, waiver.
 24. Age limit.
 25. Discriminations prohibited.
 26. Penalty for issuing or delivering policy in violation of article.
 27. Application of article.
-

Section 10. *Definition of Accident and Sickness Insurance Policy.*—The term "policy of accident and sickness insurance" as used herein includes any policy or contract covering the kind or kinds of insurance described in section nine of this article.

Sec. 11. *Statement to Be Contained in, and Form of Policy.*—No policy of accident and sickness insurance

3 shall be delivered or issued for delivery to any person in
4 this state unless:

5 (a) the entire money and other considerations there-
6 for are expressed therein; and

7 (b) the time at which the insurance takes effect and
8 terminates is expressed therein; and

9 (c) it purports to insure only one person, except that
10 a policy may insure, originally or by subsequent amend-
11 ment, upon the application of an adult member of a fam-
12 ily who shall be deemed the policyholder, any two or
13 more eligible members of that family, including husband,
14 wife, dependent children or any children under a specified
15 age which shall not exceed nineteen years and any other
16 person dependent upon the policyholder; and

17 (d) the style, arrangement and over-all appearance of
18 the policy give no undue prominence to any portion of
19 the text, and unless every printed portion of the text of
20 the policy and of any endorsements or attached papers is
21 plainly printed in light-faced type of a style in general
22 use, the size of which shall be uniform and not less than
23 ten-point with a lower-case unspaced alphabet length not
24 less than one hundred and twenty-point (the "text" shall
25 include all printed matter except the name and address
26 of the insurer, name or title of the policy, the brief de-
27 scription, if any, and captions and subcaptions), the policy
28 shall clearly indicate on the first page its cancellable or
29 optionally renewable nature; and

30 (e) the exceptions and reductions of indemnity are set
31 forth in the policy and, except those which are set forth
32 in sections thirteen and fourteen of this article, are
33 printed, at the insurer's option, either included with
34 the benefit provision to which they apply, or under an
35 appropriate caption such as "EXCEPTIONS", or "EXCEP-
36 TIONS AND REDUCTIONS": *Provided*, That if an ex-
37 ception or reduction specifically applies only to a par-
38 ticular benefit of the policy, a statement of such exception
39 or reduction shall be included with the benefit provision
40 to which it applies; and

41 (f) each such form, including riders and endorsements,
42 shall be identified by a form number in the lower left-
43 hand corner of the first part thereof; and

44 (g) it contains no provision purporting to make any
45 portion of the charter, rules, constitution, or by-laws of
46 the insurer a part of the policy unless such portion is set
47 forth in full in the policy, except in the case of the in-
48 corporation of, or reference to, a statement of rates or
49 classification of risks, or short-rate table filed with the
50 commissioner.

Sec. 12. *Policies Delivered to Nonresidents; Approval*
2 *by Insurance Commissioner.*—If any policy is issued by
3 an insurer domiciled in this state for delivery to a person
4 residing in another state, and if the official having re-
5 sponsibility for the administration of the insurance laws
6 of such other state shall have advised the commissioner
7 that any such policy is not subject to approval or dis-
8 approval by such official, the commissioner may by ruling
9 require that such policy meets the standards set forth in
10 this article.

Sec. 13. *Required Accident and Sickness Policy Provi-*
2 *sions.*—Except as provided in section fifteen of this article,
3 each such policy delivered or issued for delivery to any
4 person in this state shall contain the provisions specified
5 in this section in the words in which the same appear in
6 this section: *Provided, however,* That the insurer may, at
7 its option, substitute for one or more of such provisions
8 corresponding provisions of the different wording ap-
9 proved by the commissioner which are in each instance
10 not less favorable in any respect to the insured or the
11 beneficiary. Such provisions shall be preceded individu-
12 ally by the caption appearing in this section or, at the
13 option of the insurer, by such appropriate individual or
14 group captions or subcaptions as the commissioner may
15 approve.

16 (a) A provision as follows:

17 "ENTIRE CONTRACT; CHANGES: This policy, in-
18 cluding the endorsements and the attached papers, if any,
19 constitutes the entire contract of insurance. No change
20 in this policy shall be valid until approved by an execu-
21 tive officer of the insurer and unless such approval be
22 endorsed hereon or attached hereto. No agent has author-

23 ity to change this policy or to waive any of its provisions."

24 (b) A provision as follows:

25 "TIME LIMIT ON CERTAIN DEFENSES: (1) After
26 two years from the date of issue of this policy no mis-
27 statements, except fraudulent misstatements, made by
28 the applicant in the application for such policy shall be
29 used to void the policy or to deny a claim for loss in-
30 curred or disability (as defined in the policy) commenc-
31 ing after the expiration of such two-year period."

32 The foregoing policy provision shall not be so construed
33 as to affect any legal requirement for avoidance of a
34 policy or denial of a claim during such initial two-year
35 period, nor to limit the application of clauses (a), (b),
36 (c), (d) and (e) of section fourteen of this article in the
37 event of misstatement with respect to age or occupation
38 or other insurance. A policy which the insured has the
39 right to continue in force subject to its terms by the timely
40 payment of premium (i) until at least age fifty, or (ii)
41 in the case of a policy issued after age forty-four, for at
42 least five years from its date of issue, may contain in lieu
43 of the foregoing the following provision (from which the
44 clause in parentheses may be omitted at the insurer's
45 option) under the caption "INCONTESTABLE":

46 "After this policy has been in force for a period of two
47 years during the lifetime of the insured (excluding any
48 period during which the insured is disabled), it shall be-
49 come incontestable as to the statements contained in the
50 application.

51 (2) "No claim for loss incurred or disability (as de-
52 fined in the policy) commencing after two years from the
53 date of issue of this policy shall be reduced or denied on
54 the ground that a disease or physical condition not ex-
55 cluded from coverage by name or specific description
56 effective on the date of loss had existed prior to the effec-
57 tive date of coverage of this policy."

58 (c) A provision as follows:

59 "GRACE PERIOD: A grace period of . . . (insert a
60 number not less than '7' for weekly premium policies,
61 '10' for monthly premium policies and '31' for all other
62 policies) days will be granted for the payment of each
63 premium falling due after the first premium, during

64 which grace period the policy shall continue in force.”
65 A policy which contains a cancellation provision may
66 add, at the end of the above provision, “subject to the
67 right of the insurer to cancel in accordance with the can-
68 cellation provision hereof.”

69 A policy in which the insurer reserves the right to re-
70 fuse any renewal shall have at the beginning of the above
71 provision, “Unless not less than five days prior to the
72 premium due date the insurer has delivered to the in-
73 sured or has mailed to his last address as shown by the
74 records of the insurer written notice of its intention not
75 to renew this policy beyond the period for which the
76 premium has been accepted,”—.

77 (d) A provision as follows:

78 “REINSTATEMENT: If any renewal premium be not
79 paid within the time granted the insured for payment, a
80 subsequent acceptance of premium by the insurer or by
81 any agent duly authorized by the insurer to accept such
82 premium, without requiring in connection therewith an
83 application for reinstatement, shall reinstate the policy:
84 *Provided, however,* That if the insurer or such agent
85 requires an application for reinstatement and issues a
86 conditional receipt for the premium tendered, the policy
87 will be reinstated upon approval of such application by
88 the insurer or, lacking such approval, upon the forty-fifth
89 day following the date of such conditional receipt unless
90 the insurer has previously notified the insured in writing
91 of its disapproval of such application. The reinstated
92 policy shall cover only loss resulting from such accidental
93 injury as may be sustained after the date of reinstatement
94 and loss due to such sickness as may begin more than
95 ten days after such date. In all other respects the insured
96 and insurer shall have the same rights thereunder as they
97 had under the policy immediately before the due date of
98 the defaulted premium, subject to any provisions en-
99 dorsed hereon or attached hereto in connection with the
100 reinstatement. Any premium accepted in connection with
101 a reinstatement shall be applied to a period for which
102 premium has not been previously paid, but not to any
103 period more than sixty days prior to the date of re-
104 instatement.”

105 The last sentence of the above provision may be omitted
106 from any policy which the insured has the right to con-
107 tinue in force subject to its terms by the timely payment
108 of premiums (1) until at least age fifty, or, (2) in the case
109 of a policy issued after age forty-four, for at least five
110 years from its date of issue.

111 (e) A provision as follows:

112 "NOTICE OF CLAIM: Written notice of claim must be
113 given to the insurer within twenty days after the occur-
114 rence or commencement of any loss covered by the policy,
115 or as soon thereafter as is reasonably possible. Notice
116 given by or on behalf of the insured or the beneficiary to
117 the insurer at . . . (insert the location of such office as
118 the insurer may designate for the purpose), or to any
119 authorized agent of the insurer, with information suffi-
120 cient to identify the insured, shall be deemed notice to the
121 insurer."

122 In a policy providing a loss-of-time benefit which may
123 be payable for at least two years, an insurer may at its
124 option insert the following between the first and second
125 sentences of the above provision:

126 "Subject to the qualifications set forth below, if the
127 insured suffers loss of time on account of disability for
128 which indemnity may be payable for at least two years,
129 he shall, at least once in every six months after having
130 given notice of claim give to the insurer notice of con-
131 tinuance of said disability, except in the event of legal
132 incapacity. The period of six months following any filing
133 of proof by the insured or any payment by the insurer
134 on account of such claim or any denial of liability in whole
135 or in part by the insurer shall be excluded in applying
136 this provision. Delay in the giving of such notice shall
137 not impair the insured's right to any indemnity which
138 would otherwise have accrued during the period of six
139 months preceding the date on which such notice is ac-
140 tually given."

141 (f) A provision as follows:

142 "CLAIM FORMS: The insurer, upon receipt of a no-
143 tice of claim, will furnish to the claimant such forms as
144 are usually furnished by it for filing proofs of loss. If
145 such forms are not furnished within fifteen days after

146 the giving of such notice the claimant shall be deemed
147 to have complied with the requirements of this policy as
148 to proof of loss upon submitting, within the time fixed
149 in the policy for filing proofs of loss, written proof cover-
150 ing the occurrence, the character and the extent of the
151 loss for which claim is made."

152 (g) A provision as follows:

153 "PROOF OF LOSS: Written proof of loss must be fur-
154 nished to the insurer at its said office in case of claim
155 for loss for which this policy provides any periodic pay-
156 ment contingent upon continuing loss within ninety days
157 after the termination of the period for which the insurer
158 is liable and in case of claim for any other loss within
159 ninety days after the date of such loss. Failure to furnish
160 such proof within the time required shall not invalidate
161 nor reduce any claim if it was not reasonably possible
162 to give proof within such time, provided such proof is
163 furnished as soon as reasonably possible and in no event,
164 except in the absence of legal capacity, later than one
165 year from the time proof is otherwise required."

166 (h) A provision as follows:

167 "TIME OF PAYMENT OF CLAIMS: Indemnities pay-
168 able under this policy for any loss other than loss for
169 which this policy provides any periodic payment will be
170 paid immediately upon receipt of due written proof of
171 such loss. Subject to due written proof of loss, all ac-
172 crued indemnities for loss for which this policy provides
173 periodic payment will be paid . . . (insert period for
174 payment which must not be less frequently than monthly)
175 and any balance remaining unpaid upon the termination
176 of liability will be paid immediately upon receipt of due
177 written proof."

178 (i) A provision as follows:

179 "PAYMENT OF CLAIMS: Indemnity for loss of life
180 will be payable in accordance with the beneficiary desig-
181 nation and the provisions respecting such payment which
182 may be prescribed herein and effective at the time of
183 payment. If no such designation or provision is then
184 effective, such indemnity shall be payable to the estate
185 of the insured. Any other accrued indemnities unpaid at
186 the insured's death may, at the option of the insurer, be

187 paid either to such beneficiary or to such estate. All other
188 indemnities will be payable to the insured."

189 The following provisions, or either of them, may be
190 included with the foregoing provisions at the option of
191 the insurer:

192 "If any indemnity of this policy shall be payable to the
193 estate of the insured, or to an insured or beneficiary who
194 is a minor or otherwise not competent to give a valid
195 release, the insurer may pay such indemnity, up to an
196 amount not exceeding \$. . . (insert an amount which
197 shall not exceed \$1000), to any relative by blood or con-
198 nection by marriage of the insured or beneficiary who is
199 deemed by the insurer to be equitably entitled thereto.
200 Any payment made by the insurer in good faith pursuant
201 to this provision shall fully discharge the insurer to the
202 extent of such payment.

203 "Subject to any written direction of the insured in the
204 application or otherwise all or a portion of any indemni-
205 ties provided by this policy on account of hospital, nurs-
206 ing, medical, or surgical services may, at the insurer's
207 option and unless the insured requests otherwise in writ-
208 ing not later than the time of filing proofs of such loss,
209 be paid directly to the hospital or person rendering such
210 services; but it is not required that the service be ren-
211 dered by a particular hospital or person."

212 (j) A provision as follows:

213 "PHYSICAL EXAMINATIONS AND AUTOPSY: The
214 insurer at its own expense shall have the right and op-
215 portunity to examine the person of the insured when and
216 as often as it may reasonably require during the pendency
217 of a claim hereunder and to make an autopsy in case of
218 death where it is not forbidden by law."

219 (k) A provision as follows:

220 "LEGAL ACTIONS: No action at law or in equity shall
221 be brought to recover on this policy prior to the expira-
222 tion of sixty days after written proof of loss has been
223 furnished in accordance with the requirements of this
224 policy. No such action shall be brought after the expira-
225 tion of three years after the time written proof of loss is
226 required to be furnished."

227 (l) A provision as follows:

228 "CHANGE OF BENEFICIARY: Unless the insured
229 makes an irrevocable designation of beneficiary, the right
230 to change of beneficiary is reserved to the insured and
231 the consent of the beneficiary or beneficiaries shall not
232 be requisite to surrender or assignment of this policy or
233 to any change of beneficiary or beneficiaries, or to any
234 other changes in this policy."

235 The first clause of this provision, relating to the irre-
236 vocable designation of beneficiary, may be omitted at the
237 insurer's option.

Sec. 14. *Optional Policy Provisions.*—Except as pro-
2 provided in section fifteen of this article, no such policy de-
3 livered or issued for delivery to any person in this state
4 shall contain provisions respecting the matters set forth
5 below unless such provisions are in the words in which
6 the same appear in this section: *Provided, however,* That
7 the insurer may, at its option, use in lieu of any such
8 provision a corresponding provision of different wording
9 approved by the commissioner which is not less favorable
10 in any respect to the insured or the beneficiary. Any such
11 provision contained in the policy shall be preceded indi-
12 vidually by the appropriate caption appearing in this
13 section or, at the option of the insurer, by such appropri-
14 ate individual or group captions or subcaptions as the
15 commissioner may approve.

16 (a) A provision as follows:

17 "CHANGE OF OCCUPATION: If the insured be in-
18 jured or contract sickness after having changed his occu-
19 pation to one classified by the insurer as more hazardous
20 than that stated in this policy or while doing for com-
21 pensation anything pertaining to an occupation so classi-
22 fied, the insurer will pay only such portion of the in-
23 demnities provided in this policy as the premium paid
24 would have purchased at the rates and within the limits
25 fixed by the insurer for such more hazardous occupation.
26 If the insured changes his occupation to one classified by
27 the insurer as less hazardous than that stated in this
28 policy, the insurer, upon receipt of proof of such change
29 of occupation, will reduce the premium rate accordingly,
30 and will return the excess pro rata unearned premium

31 from the date of change of occupation or from the policy
32 anniversary date immediately preceding receipt of such
33 proof, whichever is the more recent. In applying this
34 provision, the classification of occupational risk and the
35 premium rates shall be such as have been last filed by
36 the insurer prior to the occurrence of the loss for which
37 the insurer is liable or prior to date of proof of change
38 in occupation with the state official having supervision
39 of insurance in the state where the insured resided at the
40 time this policy was issued; but if such filing was not
41 required, then the classification of occupational risk and
42 the premium rates shall be those last made effective by
43 the insurer in such state prior to the occurrence of the
44 loss or prior to the date of proof of change in occupation."

45 (b) A provision as follows:

46 "MISSTATEMENT OF AGE: If the age of the insured
47 has been misstated, all amounts payable under this policy
48 shall be such as the premium paid would have purchased
49 at the correct age."

50 (c) A provision as follows:

51 "OTHER INSURANCE IN THIS INSURER: If an acci-
52 dent or sickness or accident and sickness policy or policies
53 previously issued by the insurer to the insured be in force
54 concurrently herewith, making the aggregate indemnity
55 for . . . (insert type of coverage or coverages) in excess
56 of \$. . . (insert maximum limit of indemnity or indemni-
57 ties) the excess insurance shall be void and all premiums
58 paid for such excess shall be returned to the insured or
59 to his estate."

60 or, in lieu thereof:

61 "Insurance effective at any one time on the insured
62 under a like policy or policies in this insurer is limited
63 to the one such policy elected by the insured, his bene-
64 ficiary or his estate, as the case may be, and the insurer
65 will return all premiums paid for all other such policies."

66 Provided that no policy hereafter issued for delivery
67 in this state which provides, with or without other bene-
68 fits, for the payment of benefits or reimbursement for
69 expenses with respect to hospitalization, nursing care,
70 medical or surgical examination or treatment, or ambu-
71 lance transportation shall contain any provision for a re-

72 duction of such benefits or reimbursement, or any pro-
73 vision for avoidance of the policy, on account of other
74 insurance of such nature carried by the same insured with
75 the same or another insurer.

76 (d) A provision as follows:

77 "INSURANCE WITH OTHER INSURERS: If there be
78 other valid coverage, not with this insurer, providing
79 benefits for the same loss on other than an expense in-
80 curred basis and of which this insurer has not been given
81 written notice prior to the occurrence or commencement
82 of loss, the only liability for such benefits under this
83 policy shall be for such proportion of the indemnities
84 otherwise provided hereunder for such loss as the like
85 indemnities of which the insurer had notice (including
86 the indemnities under this policy) bear to the total
87 amount of all like indemnities for such loss, and for the
88 return of such portion of the premium paid as shall ex-
89 ceed the pro rata portion for the indemnities thus de-
90 termined."

91 The insurer may, at its option, include in this provision
92 a definition of "other valid coverage", approved as to form
93 by the commissioner, which definition shall be limited in
94 subject matter to coverage provided by organizations sub-
95 ject to regulation by insurance law or by insurance au-
96 thorities of this or any other state of the United States or
97 any province of Canada, and to any other coverage the
98 inclusion of which may be approved by the commissioner.
99 In the absence of such definition such term shall not in-
100 clude group insurance, or benefits provided by union wel-
101 fare plans or by employer or employee benefit organi-
102 zations. For the purpose of applying the foregoing policy
103 provision with respect to any insured any amount of
104 benefit provided for such insured pursuant to any com-
105 pulsory benefit statute (including any workmen's com-
106 pensation or employer's liability statute) whether pro-
107 vided by a governmental agency or otherwise shall in all
108 cases be deemed to be "other valid coverage" of which
109 the insurer has had notice. In applying the foregoing
110 policy provision no third party liability coverage shall be
111 included as "other valid coverage."

112 (e) A provision as follows:

113 “RELATION OF EARNINGS TO INSURANCE: If the
114 total monthly amount of loss of time benefits promised
115 for the same loss under all valid loss of time cover-
116 age upon the insured, whether payable on a weekly or
117 monthly basis, shall exceed the monthly earnings of the
118 insured at the time disability commenced or his average
119 monthly earnings for the period of two years immediately
120 preceding a disability for which claim is made, whichever
121 is the greater, the insurer will be liable only for such
122 proportionate amount of such benefits under this policy
123 as the amount of such monthly earnings or such average
124 monthly earnings of the insured bears to the total amount
125 of monthly benefits for the same loss under all such cov-
126 erage upon the insured at the time such disability com-
127 mences and for the return of such part of the premiums
128 paid during such two years as shall exceed the pro rata
129 amount of the premiums for the benefits actually paid
130 hereunder; but this shall not operate to reduce the total
131 monthly amount of benefits payable under all such cover-
132 age upon the insured below the sum of two hundred
133 dollars or the sum of the monthly benefits specified in
134 such coverages, whichever is the lesser, nor shall it oper-
135 ate to reduce benefits other than those payable for loss
136 of time.”

137 The foregoing policy provision may be inserted only
138 in a policy which the insured has the right to continue
139 in force subject to its terms by the timely payment of
140 premiums (1) until at least age fifty or, (2) in the case
141 of a policy issued after age forty-four, for at least five
142 years from its date of issue. The insurer may, at its
143 option, include in this provision a definition of “valid loss
144 of time coverage”, approved as to form by the commis-
145 sioner, which definition shall be limited in subject matter
146 to coverage provided by governmental agencies or by
147 organizations subject to regulation by insurance law or
148 by insurance authorities of this or any other state of the
149 United States or any province of Canada, or to any other
150 coverage the inclusion of which may be approved by the
151 commissioner or any combination of such coverages. In
152 the absence of such definition such term shall not include
153 any coverage provided for such insured pursuant to any

154 compulsory benefit statute (including any workmen's
155 compensation or employer's liability statute), or benefits
156 provided by union welfare plans or by employer or em-
157 ployee benefit organizations.

158 (f) A provision as follows:

159 "UNPAID PREMIUM: Upon the payment of a claim
160 under this policy, any premiums then due and unpaid or
161 covered by any note or written order may be deducted
162 therefrom."

163 (g) A provision as follows:

164 "CANCELLATION: The insurer may cancel this policy
165 at any time by written notice delivered to the insured
166 or mailed to his last address as shown by the records of
167 the insurer, stating when, not less than five days there-
168 after, such cancellation shall be effective; after the policy
169 has been continued beyond its original term the insured
170 may cancel this policy at any time by written notice
171 delivered or mailed to the insurer, effective upon receipt
172 or on such later date as may be specified in such notice.
173 In the event of cancellation, the insurer will return
174 promptly the unearned portion of any premium paid. If
175 the insured cancels, the earned premium shall be com-
176 puted by the use of the short-rate table last filed with the
177 state official having supervision of insurance in the state
178 where the insured resided when the policy was issued.
179 If the insurer cancels, the earned premium shall be com-
180 puted pro rata. Cancellation shall be without prejudice
181 to any claim originating prior to the effective date of
182 cancellation."

183 (h) A provision as follows:

184 "CONFORMITY WITH STATE STATUTES: Any pro-
185 vision of this policy which, on its effective date, is in
186 conflict with the statutes of the state in which the insured
187 resides on such date is hereby amended to conform to the
188 minimum requirements of such statutes."

189 (i) A provision as follows:

190 "ILLEGAL OCCUPATION: The insurer shall not be
191 liable for any loss to which a contributing cause was the
192 insured's commission of or attempt to commit a felony or
193 to which a contributing cause was the insured's being
194 engaged in an illegal occupation."

195 (j) A provision as follows:

196 "INTOXICANTS AND NARCOTICS: The insurer shall
197 not be liable for any loss sustained or contracted in con-
198 sequence of the insured's being intoxicated or under the
199 influence of any narcotic unless administered on the ad-
200 vice of a physician."

Sec. 15. *Inapplicable or Inconsistent Policy Provisions.*

2 —If any provision of this section is in whole or in part
3 inapplicable to or inconsistent with the coverage provided
4 by a particular form of policy the insurer, with the ap-
5 proval of the commissioner, shall omit from such policy
6 any inapplicable provision or part of a provision, and shall
7 modify any inconsistent provision or part of the provision
8 in such manner as to make the provision as contained in
9 the policy consistent with the coverage provided by the
10 policy.

Sec. 16. *Order of Certain Policy Provisions.*—The pro-
2 visions which are the subject of sections thirteen and
3 fourteen of this article or any corresponding provisions
4 which are used in lieu thereof in accordance with such
5 sections, shall be printed in consecutive order of the pro-
6 visions in such sections or, at the option of the insurer,
7 any such provisions may appear as a unit in any part of
8 the policy, with other provisions to which it may be
9 logically related, provided the resulting policy shall not
10 be in whole or in part unintelligible, uncertain, ambigu-
11 ous, abstruse, or likely to mislead a person to whom the
12 policy is offered, delivered or issued.

Sec. 17. *Third Party Ownership.*—The word "insured"
2 as used in this article, shall not be construed as preventing
3 a person other than the insured with a proper insurable
4 interest from making application for and owning a policy
5 covering the insured or from being entitled under such a
6 policy to any indemnities, benefits and rights provided
7 therein.

Sec. 18. *Requirements of Other Jurisdictions.*—(a) Any
2 policy of a foreign or alien insurer, when delivered or
3 issued for delivery to any person in this state, may con-
4 tain any provision which is not less favorable to the in-

5 sured or the beneficiary than the provisions of this article
6 and which is prescribed or required by the law of the state
7 under which the insurer is organized.

8 (b) Any policy of a domestic insurer may, when issued
9 for delivery in any other state or country, contain any
10 provision permitted or required by the laws of such other
11 state or country.

Sec. 19. *Procedure in Filing Policies.*—The commis-
2 sioner may make such reasonable rules and regulations
3 concerning the procedure for the filing or submission of
4 policies subject to this article as are necessary, proper or
5 advisable to the administration of this article. This pro-
6 vision shall not abridge any other authority granted the
7 commissioner by law.

Sec. 20. *Other Policy Provisions.*—No policy provision
2 which is not subject to sections thirteen, fourteen or fif-
3 teen of this article shall make a policy, or any portion
4 thereof, less favorable in any respect to the insured or the
5 beneficiary than the provisions thereof which are subject
6 to this article.

Sec. 21. *Policy Conflicting with This Article.*—A policy
2 delivered or issued for delivery to any person in this state
3 in violation of this article shall be held valid but shall be
4 construed as provided in this article. When any provision
5 in a policy subject to this article is in conflict with any
6 provision of this article, the rights, duties and obligations
7 of the insurer, the insured and the beneficiary shall be
8 governed by the provisions of this article.

Sec. 22. *Application.*—(a) The insured shall not be
2 bound by any statement made in an application for a
3 policy unless a copy of such application is attached to or
4 endorsed on the policy when issued as a part thereof. If
5 any such policy delivered or issued for delivery to any
6 person in this state shall be reinstated or renewed, and
7 the insured or the beneficiary or assignee of such policy
8 shall make written request to the insurer for a copy of
9 the application, if any, for such reinstatement or renewal,
10 the insurer shall within fifteen days after the receipt of
11 such request at its home office or any branch office of the

12 insurer, deliver or mail to the person making such re-
13 quest, a copy of such application. If such copy shall not
14 be so delivered or mailed, the insurer shall be precluded
15 from introducing such application as evidence in any ac-
16 tion or proceeding based upon or involving such policy or
17 its reinstatement or renewal.

18 (b) No alteration of any written application for any
19 such policy shall be made by any person other than the
20 applicant without his written consent, except that inser-
21 tions may be made by the insurer, for administrative
22 purposes only, in such manner as to indicate clearly that
23 such insertions are not to be ascribed to the applicant.
24 The making of any such alterations without the consent
25 of the applicant shall be a misdemeanor. If such alter-
26 ation shall be made by any officer of the insurer, or by
27 any employee of the insurer with the insurer's knowledge
28 or consent, then such act shall be deemed to have been
29 performed by the insurer thereafter issuing the policy
30 upon such altered application. The commissioner may re-
31 voke the license of the insurer for any violation of this
32 section.

33 (c) The falsity of any statement in the application for
34 any policy covered by this article may not bar the right to
35 recovery thereunder unless such false statement materi-
36 ally affected either the acceptance of the risk or the haz-
37 ard assumed by the insurer.

Sec. 23. *Notice, Waiver.*—The acknowledgment by any
2 insurer of the receipt of notice given under any policy
3 covered by this article, or the furnishing of forms for filing
4 proofs of loss, or the acceptance of such proofs, or the
5 investigation of any claim thereunder shall not operate as
6 a waiver of any of the rights of the insurer in defense of
7 any claim arising under such policy.

Sec. 24. *Age Limit.*—If any such policy contains a pro-
2 vision establishing, as an age limit or otherwise, a date
3 after which the coverage provided by the policy will not
4 be effective, and if such date falls within a period for
5 which premium is accepted by the insurer or if the in-
6 surer accepts a premium after such date, the coverage
7 provided by the policy will continue in force subject to

8 any right of cancellation until the end of the period for
9 which premium has been accepted. In the event the age
10 of the insured has been misstated and if, according to the
11 correct age of the insured, the coverage provided by the
12 policy would not have become effective, or would have
13 ceased prior to the acceptance of such premium or pre-
14 miums, then the liability of the insurer shall be limited
15 to the refund, upon request, of all premiums paid for the
16 period not covered by the policy.

Sec. 25. *Discriminations Prohibited.*—Discrimination
2 between individuals of the same class in the amount of
3 premiums or rates charged for any policy of insurance
4 covered by this article, or in the benefits payable thereon,
5 or in any of the terms or conditions of such policy, or in
6 any other manner whatsoever, is prohibited.

Sec. 26. *Penalty for Issuing or Delivering Policy in*
2 *Violation of Article.*—Any insurer, or any officer or agent
3 thereof, who issues or delivers to any person in this state
4 any policy, or alters any written application for insur-
5 ance, in wilful violation of the provisions of this article,
6 shall be guilty of a misdemeanor, and, upon conviction
7 thereof shall be sentenced to pay a fine of not more than
8 three hundred dollars for each offense. The insurance
9 commissioner may revoke the license of any company,
10 corporation, association or other insurer of another state
11 or country, or of the agent thereof, which or who wilfully
12 violates any of said provisions.

Sec. 27. *Application of Article.*—(a) Nothing in this
2 article, however, shall apply to or affect any policy of
3 liability or workmen's compensation insurance.

4 (b) Nothing in this article shall apply to or affect any
5 policy of insurance issued in accordance with article thir-
6 teen of this chapter, except as provided in said article
7 thirteen.

8 (c) Nothing in this article shall apply to nor in any
9 way affect life insurance, endowment or annuity con-
10 tracts or contracts supplemental thereto which contain no
11 provisions relating to accident or health insurance except
12 (i) such as provided additional benefits in case of death

13 by accidental means, and except (ii) such as operate to
14 safeguard such contracts against lapse, or to give a special
15 surrender value, or special benefit, or an annuity, in the
16 event that the insured or annuitant shall become totally
17 and permanently disabled as defined by the contract or
18 supplemental contract.

19 (d) Nothing in this article shall apply to or in any way
20 affect fraternal benefit societies.

21 (e) The provisions of this article contained in clauses
22 (d) and (j) of section thirteen may be omitted from
23 transportation ticket policies.

24 Any policy, rider or endorsement, which could have been
25 lawfully used or delivered or issued for delivery to any
26 person in this state immediately before the effective date
27 of this act, may be used or delivered or issued for de-
28 livery to any such person until January first, one thou-
29 sand nine hundred fifty-seven, without being subject to
30 the provisions of sections eleven through twenty-one, in-
31 clusive, of this article.

Article 13. Group Accident and Health Insurance.

Section

5. Policies to provide expense reimbursement permitted; provision as to proof of loss and time for suit prescribed.

Section 5. *Policies to Provide Expense Reimbursement Permitted; Provision as to Proof of Loss and Time for Suit Prescribed.*—Any policy coming within the classification of subsection (a) or (b) of section one of this article may provide, in addition to such other indemnities, if any, as are provided in the policy on account of sickness or bodily injury or death of insured employees or members by accident, for the payment of benefits or reimbursement for expenses with respect to any one or more of the following contingencies: Hospitalization, nursing care, medical or surgical examination or treatment, or ambulance transportation of insured employees or members, or of their spouses or children, or of dependents living with them: *Provided*, That no such policy hereafter issued for delivery in this state shall contain any provision relative to notice or proof of loss or the time for paying benefits or the time within which suit

18 may be brought upon the policy which is less favorable
19 to the insured than would be permitted by the provisions
20 of section thirteen of article eleven.

CHAPTER 95

(House Bill No. 393—By Mr. Andrews)

AN ACT to amend and reenact section one, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relative to group accident and health insurance.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 13. Group Accident and Health Insurance.

Section

1. Companies which may write group accident and health insurance; policy classifications; definitions.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Companies Which May Write Group Accident and Health Insurance; Policy Classifications; Definitions.*—Any insurer authorized to do the business of accident and health insurance in this state may issue group policies insuring against bodily injury or death caused by accident or accidental means, or against sickness or both, coming within any of the following classifications:
- (a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least ten employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:
 - (1) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes

15 thereof determined by conditions pertaining to the em-
16 ployment, or

17 (2) If the premium is paid by the employer and em-
18 ployees jointly, or by the employees, the group shall
19 comprise not less than seventy per cent of all employees
20 of the employer or not less than seventy-five per cent
21 of all employees of any class or classes thereof determined
22 by conditions pertaining to the employment;

23 (b) A policy issued to an association which has a con-
24 stitution and by-laws and which has been organized and
25 is maintained in good faith for purposes other than that
26 of obtaining insurance, insuring at least ten members of
27 the association for the benefit of persons other than the
28 association or its officers or trustees, as such;

29 (c) A policy issued to a college, school or other insti-
30 tution of learning or to the head or principal thereof,
31 insuring students, or students and employees, of such
32 institution;

33 (d) A policy issued to or in the name of any volunteer
34 fire department, insuring all of the members of such
35 department or all of any class or classes thereof against
36 any one or more of the hazards to which they are exposed
37 by reason of such membership.

38 (e) A policy issued to any person or organization to
39 which a policy of group life insurance may be issued or
40 delivered in this state, to insure any class or classes of
41 individuals that could be insured under such group life
42 policy.

43 The term "employee" as used herein shall be deemed
44 to include the officers, managers, and employees of the
45 employer, the partners, if the employer is a partnership,
46 the officers, managers, and employees of subsidiary or
47 affiliated corporations of a corporation employer, and the
48 individual proprietors, partners and employees of indi-
49 viduals and firms, the business of which is controlled by
50 the insured employer through stock ownership, contract,
51 or otherwise. The term "employer" as used herein may
52 be deemed to include any municipal or governmental
53 corporation, unit, agency or department thereof and the
54 proper officers, as such, of any unincorporated munici-

55 pality or department thereof, as well as private indi-
56 viduals, partnerships and corporations.

CHAPTER 96

(Com. Sub. for House Bill No. 67—Originating in the House Committee on Insurance)

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article sixteen, to define and render unlawful unfair methods of competition and unfair and deceptive acts and practices in the business of insurance.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 16. Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance.

Section

1. Declaration of purposes.
2. Definitions.
3. Unfair methods of competition or unfair and deceptive acts or practices prohibited.
4. Unfair methods of competition and unfair or deceptive acts or practices defined.
5. Power of commissioner.
6. Hearings, witnesses, appearances, production of books, and service of process.
7. Cease and desist orders and modification thereof.
8. Judicial review of cease and desist orders.
9. Procedure as to unfair methods of competition and unfair or deceptive acts or practices which are not defined.
10. Judicial review by intervenor.
11. Penalty.
12. Provisions of article additional to existing law.
13. Immunity from prosecution.
14. Trade practice conferences.
15. Separability provisions.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Declaration of Purposes.*—The purpose of this act is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March ninth, one thousand nine hundred forty-five (Public Law fifteen, seventy-ninth Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Sec. 2. *Definitions.*—When used in this act:

- (a) "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society and any other legal entity engaged in the business of insurance, including agents, brokers, solicitors, and adjusters.
- (b) "Commissioner" shall mean the insurance commissioner of West Virginia.

Sec. 3. *Unfair Methods of Competition or Unfair and Deceptive Acts or Practices Prohibited.*—No person shall engage in this state in any trade practice which is defined in this article as, or determined pursuant to this article to be, an unfair method of competition or unfair or deceptive act or practice in the business of insurance.

Sec. 4. *Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined.*—The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

- (a) *Misrepresentations and False Advertising of Policy Contracts.*—Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial

16 condition of any insurer, or as to the legal reserve system
17 upon which any life insurer operates, or using any name
18 or title of any policy or class of policies misrepresenting
19 the true nature thereof, or making any misrepresentation
20 to any policyholder insured in any company for the pur-
21 pose of inducing or tending to induce such policyholder
22 to lapse, forfeit, or surrender his insurance.

23 (b) *False Information and Advertising Generally.*—
24 Making, publishing, disseminating, circulating or placing
25 before the public or causing, directly, to be made, pub-
26 lished, disseminated, circulated or placed before the pub-
27 lic, in a newspaper, magazine or other publication, or in
28 the form of a notice, circular, pamphlet, letter or poster, or
29 over any radio station, or in any other way, an adver-
30 tisement, announcement or statement containing any
31 assertion, representation or statement with respect to the
32 business of insurance or with respect to any person in
33 the conduct of his insurance business, which is untrue,
34 deceptive or misleading.

35 (c) *Defamation.*—Making, publishing, disseminating or
36 circulating, directly or indirectly, or aiding, abetting or
37 encouraging the making, publishing, disseminating or
38 circulating of any oral or written statement or any pam-
39 phlet, circular, article or literature which is false or mali-
40 ciously critical of or derogatory to the financial condition
41 of an insurer and which is calculated to injure any person
42 engaged in the business of insurance.

43 (d) *Boycott, Coercion and Intimidation.*—Entering into
44 any agreement to commit, or by any concerted action
45 committing, any act of boycott, coercion or intimidation
46 resulting in or tending to result in unreasonable restraint
47 of, or monopoly in, the business of insurance.

48 (e) *False Financial Statements.*—Filing with any su-
49 pervisory or other public official, or making, publishing,
50 disseminating, circulating or delivering to any person, or
51 placing before the public, or causing directly or indirect-
52 ly, to be made, published, disseminated, circulated, deliv-
53 ered to any person or placed before the public, any false
54 statement of financial condition of an insurer with intent
55 to deceive.

56 Making any false entry in any book, report or statement
57 of any insurer with intent to deceive any agent or exam-
58 iner lawfully appointed to examine into its condition or
59 into any of its affairs, or any public official to whom such
60 insurer is required by law to report, or who has authority
61 by law to examine into its condition or into any of its
62 affairs or, with like intent, wilfully omitting to make a
63 true entry of any material fact pertaining to the business
64 of such insurer in any book, report or statement of such
65 insurer.

66 (f) *Stock Operations and Advisory Board Contracts.*—
67 Issuing or delivering or permitting agents, officers, or em-
68 ployees to issue or deliver agency company stock or other
69 capital stock, or benefit certificates or shares in any com-
70 mon-law corporation, or securities or any special or advi-
71 sory board contracts or other contracts of any kind prom-
72 ising returns and profits as an inducement to insurance.

73 (g) *Unfair Discrimination.*—The commission of any
74 one or more of the acts prohibited by sections eleven-a,
75 eighteen, nineteen, twenty-two, and thirty-five of article
76 two of this chapter.

Sec. 5. *Power of Commissioner.*—The commissioner
2 shall have power to examine and investigate into the
3 affairs of every person engaged in the business of insurance
4 in this state in order to determine whether such person
5 has been or is engaged in any unfair method of competition
6 or in any unfair or deceptive act or practice prohibited
7 by section three of this article.

Sec. 6. *Hearings, Witnesses, Appearances, Production
2 of Books, and Service of Process.*—(a) Whenever the com-
3 missioner shall have reason to believe that any such per-
4 son has been engaged or is engaging in this state in any
5 unfair method of competition or any unfair or deceptive
6 act or practice defined in section four, and that a proceed-
7 ing by him in respect thereto would be to the interest of
8 the public, he shall issue and have served upon such per-
9 son a statement of the charges in that respect and a notice
10 of a hearing thereon to be held at a time and place fixed
11 in the notice, which shall not be less than ten days after
12 the date of the service thereof.

13 (b) At the time and place fixed for such hearing, such
14 person shall have an opportunity to be heard and to show
15 cause why an order should not be made by the commis-
16 sioner requiring such person to cease and desist from the
17 acts, methods or practices so complained of. Upon good
18 cause shown, the commissioner shall permit any person
19 to intervene, appear and be heard at such hearing by
20 counsel or in person.

21 (c) Nothing contained in this article shall require the
22 observance at any such hearing of formal rules of plead-
23 ing or evidence.

24 (d) The commissioner, upon such hearing, may admin-
25 ister oaths, examine and cross-examine witnesses, receive
26 oral and documentary evidence, and shall have the power
27 to subpoena witnesses, compel their attendance and re-
28 quire the production of books, papers, records, correspond-
29 ence or other documents which he deems relevant to the
30 inquiry. At the expense of and at the written request sea-
31 sonably made by a person affected by the hearing, the
32 commissioner shall cause a full stenographic record of the
33 proceedings to be made by a competent stenographic re-
34 porter, and if transcribed, such record shall be made a
35 part of the commissioner's record of the hearing. A copy
36 of such record shall be furnished any other party upon the
37 written request and at the expense of such party. If no
38 stenographic record is made and if a judicial review is
39 sought, the commissioner shall prepare a statement of the
40 evidence and proceeding for use on review. In case a per-
41 son refuses to obey any subpoena issued hereunder or to
42 testify with respect to any matter concerning which he
43 may be lawfully interrogated, the commissioner or his
44 representative may invoke the aid of any circuit court in
45 order that the testimony or evidence be produced. Upon
46 proper showing, such court shall issue a subpoena or
47 order requiring such person to appear before the com-
48 missioner or his representative and produce all evidence
49 and give all testimony touching the matter in question.
50 A person failing to obey such order may be punished by
51 such court as for contempt.

52 (e) Statements of charges, notices, orders and other

53 processes of the commissioner under this article may be
54 served by anyone duly authorized by the commissioner,
55 either in the manner provided by law for service of
56 process in civil actions or by registering and mailing a
57 copy thereof to the person affected by such statement,
58 notice, order or other process at his or its residence or
59 principal office or place of business. The verified return
60 by the person so serving such statement, notice, order or
61 other process, setting forth the manner of such service,
62 shall be proof of the same and the return post card re-
63 ceipt for such statement, notice, order or other process,
64 registered and mailed as aforesaid, shall be proof of the
65 service of the same.

Sec. 7. *Cease and Desist Orders and Modification There-*
2 of.—(a) If, after such hearing, the commissioner shall
3 determine that the method of competition or the act or
4 practice in question is defined in section four and that the
5 person complained of has engaged in such method of
6 competition, act or practice in violation of this article, he
7 shall reduce his findings to writing and shall issue and
8 cause to be served upon the person charged with the
9 violation an order requiring such person to cease and
10 desist from engaging in such method of competition, act
11 or practice.

12 (b) Until the expiration of the time allowed under
13 section eight (a) of this article for filing a petition for re-
14 view by appeal if no such petition has been duly filed
15 within such time or, if a petition for review has been filed
16 within such time, then until the transcript of the record in
17 the proceeding has been filed in the circuit court of Kana-
18 wha county, as hereinafter provided, the commissioner
19 may at any time, upon such notice and in such manner as
20 he shall deem proper, modify or set aside in whole or in
21 part any order issued by him under this section.

22 (c) After the expiration of the time allowed for filing
23 such a petition for review, if no such petition has been
24 duly filed within such time, the commissioner may, at
25 any time after notice given pursuant to the requirements
26 of section six (e) and opportunity for hearing, reopen
27 and alter, modify or set aside, in whole or in part, any

28 order issued by him under this section whenever, in his
29 opinion, conditions of fact or of law have so changed as
30 to require such action or if the public interest shall so
31 require.

Sec. 8. *Judicial Review of Cease and Desist Orders.*—

2 (a) Any order or decision of the commissioner under this
3 section shall be subject to review as provided in section
4 thirteen, article two of this chapter. The findings of fact
5 of the commissioner, and any modification thereof as pro-
6 vided for in subsection (b) of this section, if supported
7 by the preponderance of the evidence, shall be conclusive.

8 (b) To the extent that the order of the commissioner
9 is affirmed, the court shall thereupon issue its own order
10 commanding obedience to the terms of such order of the
11 commissioner. If either party shall apply to the court
12 for leave to adduce additional evidence, and shall show
13 to the satisfaction of the court that such additional evi-
14 dence is material and that there were reasonable grounds
15 for the failure to adduce such evidence in the proceeding
16 before the commissioner, the court may order such addi-
17 tional evidence to be taken before the commissioner and
18 to be adduced upon the hearing in such manner and upon
19 such terms and conditions as to the court may seem proper.
20 The commissioner may modify his findings of fact, or
21 make new findings by reason of the additional evidence
22 so taken, and he shall file such modified or new findings,
23 which, if supported by the preponderance of the evidence,
24 shall be conclusive, and his recommendation, if any, for
25 the modification or setting aside of his original order,
26 with the return of such additional evidence.

27 (c) A cease and desist order issued by the commissioner
28 under section seven shall become final:

29 (1) Upon the expiration of the time allowed for filing
30 a petition for review if no such petition has been duly
31 filed within such time; except that the commissioner may
32 thereafter modify or set aside his order to the extent pro-
33 vided in section seven (b); or

34 (2) Upon the final decision of the court if the court
35 directs that the order of the commissioner be affirmed or
36 the petition for review dismissed.

37 (d) No order of the commissioner under this article or
38 order of a court to enforce the same shall in any way
39 relieve or absolve any person affected by such order from
40 any liability under any other laws of this state.

Sec. 9. *Procedure as to Unfair Methods of Competition
and Unfair or Deceptive Acts or Practices Which Are Not
Defined.*—(a) Whenever the commissioner shall have rea-

4 son to believe that any person engaged in the business of
5 insurance is engaging in this state in any method of com-
6 petition or in any act or practice in the conduct of such
7 business which is not defined in section four, that such
8 method of competition is unfair or that such act or prac-
9 tice is unfair or deceptive and that a proceeding by him
10 in respect thereto would be to the interest of the public,
11 he may issue and serve upon such person a statement of
12 the charges in that respect and a notice of a hearing there-
13 on to be held at a time and place fixed in the notice, which
14 shall not be less than ten days after the date of the service
15 thereof. Each such hearing shall be conducted in the same
16 manner as the hearings provided for in section six. The
17 commissioner shall, after such hearing, make a report in
18 writing in which he shall state his findings as to the facts,
19 and he shall serve a copy thereof upon such person.

20 (b) If such report charges a violation of this article
21 and if such method of competition, act or practice has
22 not been discontinued, the commissioner may, through
23 the attorney general of this state, at any time after
24 ten days after the service of such report, cause a
25 petition to be filed in the circuit court of Kanawha
26 county or in the circuit court of this state within
27 the district wherein the person resides or has his prin-
28 cipal place of business, to enjoin and restrain such per-
29 son from engaging in such method, act or practice.
30 The court shall have jurisdiction of the proceeding and
31 shall have power to make and enter appropriate orders
32 in connection therewith and to issue such writs as
33 are ancillary to its jurisdiction or are necessary in
34 its judgment to prevent injury to the public pendente
35 lite.

36 (c) A transcript of the proceedings before the commis-

37 sioner including all evidence taken and the report and
38 findings shall be filed with such petition. If either party
39 shall apply to the court for leave to adduce additional
40 evidence and shall show, to the satisfaction of the court,
41 that such additional evidence is material and there were
42 reasonable grounds for the failure to adduce such evi-
43 dence in the proceeding before the commissioner the court
44 may order such additional evidence to be taken before
45 the commissioner and to be adduced upon the hearing in
46 such manner and upon such terms and conditions as to
47 the court may seem proper. The commissioner may mod-
48 ify his findings of fact or make new findings by reason
49 of the additional evidence so taken, and he shall file such
50 modified or new findings with the return of such addi-
51 tional evidence.

52 (d) If the court finds that the method of competition
53 complained of is unfair or that the act or practice com-
54 plained of is unfair or deceptive, that the proceeding by
55 the commissioner with respect thereto is to the interest
56 of the public and that the findings of the commissioner
57 are supported by the weight of the evidence, it shall issue
58 its order enjoining and restraining the continuance of
59 such method of competition, act or practice.

Sec. 10. *Judicial Review by Intervenor.*—If the report
2 of the commissioner does not charge a violation of this
3 article, then any intervenor in the proceedings may, with-
4 in thirty days after the service of such report, cause a pe-
5 tition to be filed in the circuit court of Kanawha county
6 for a review of such report. Upon such review, the court
7 shall have authority to issue appropriate orders and de-
8 crees in connection therewith, including, if the court finds
9 that it is to the interest of the public, orders enjoining
10 and restraining the continuance of any method of compe-
11 tition, act or practice which it finds, notwithstanding such
12 report of the commissioner, constitutes a violation of this
13 article.

Sec. 11. *Penalty.*—Any person who violates a cease and
2 desist order of the commissioner under section seven of
3 this article, after it has become final and while such order
4 is in effect, shall forfeit and pay to the state of West Vir-

5 ginia a sum not to exceed five thousand dollars for a wil-
6 ful violation thereof; or a sum not to exceed two hundred
7 fifty dollars when such violation is not wilful; which may
8 be recovered in a civil action. Nothing herein shall be
9 construed as limiting the authority of any court to en-
10 force its orders, by contempt proceedings or otherwise.

Sec. 12. *Provisions of Article Additional to Existing*
2 *Law.*—The powers vested in the commissioner by this ar-
3 ticle shall be additional to any other powers to enforce any
4 penalties, fines or forfeitures authorized by law with re-
5 spect to the methods, acts and practices hereby declared
6 to be unfair or deceptive.

Sec. 13. *Immunity From Prosecution.*—If any person
2 shall ask to be excused from attending and testifying or
3 from producing any books, papers, records, correspond-
4 ence or other documents at any hearing on the ground
5 that the testimony or evidence required of him may tend
6 to incriminate him or subject him to a penalty or for-
7 feiture, and shall notwithstanding be directed to give such
8 testimony or produce such evidence, he must none the-
9 less comply with such direction but he shall not there-
10 after be prosecuted or subjected to any penalty or for-
11 feiture for or on account of any transaction, matter or
12 thing concerning which he may testify or produce evi-
13 dence pursuant thereto, and no testimony so given or
14 evidence produced shall be received against him upon
15 any criminal action, investigation or proceeding: *Provid-*
16 *ed, however,* That no such individual so testifying shall be
17 exempt from prosecution or punishment for any perjury
18 or false swearing committed by him while so testifying
19 and the testimony or evidence so given or produced shall
20 be admissible against him upon any criminal action, in-
21 vestigation or proceeding concerning such perjury or false
22 swearing, nor shall he be exempt from the refusal, revo-
23 cation or suspension of any license, permission or author-
24 ity conferred, or to be conferred, pursuant to the insur-
25 ance law of this state. Any such individual may execute,
26 acknowledge and file in the office of the commissioner a
27 statement expressly waiving such immunity or privilege
28 in respect to any transaction, matter or thing specified.

29 in such statement and thereupon the testimony of such
30 person or such evidence in relation to such transaction,
31 matter or thing may be received or produced before any
32 judge or justice, court, tribunal, grand jury or otherwise,
33 and if so received or produced such individual shall not
34 be entitled to any immunity or privilege on account of any
35 testimony he may so give or evidence so produced.

Sec. 14. *Trade Practice Conferences.*—(a) Trade practice conferences for the purpose of dealing with such trade practices as are within the purview of this article and not defined in section four of this article, or for the purpose of establishing supplementary regulations and rules relating to trade practices defined in section four, may be authorized by the commissioner upon his own motion, or upon written application therefor by any insurer or person as defined in this article to whom rulings arising therefrom may be directly applicable, whenever such a conference may appear to the commissioner to be in the interest of the public. The commissioner shall give reasonable notice to such persons as he shall deem directly affected, or to their representatives, of the time and place of any such conference. Such notice shall set forth briefly the subject matter for consideration or drafts of trade practice rules proposed by the commissioner or persons affected. Each such conference shall be presided over by the commissioner or a member of his staff designated by him. Any such trade practice conference may submit to the commissioner its recommendations as to rules, regulations or standards defining certain methods of competition, acts or practices as being fair or unfair, deceptive or not deceptive, within the meaning of this section. The scope of such trade conference shall be limited to the phase of the insurance business directly represented by those persons or insurers notified by the commissioner or attending such conference upon notice from the commissioner. The commissioner shall give due consideration to the recommendations, or objections, of any such trade practice conference which has acted under the authority of this section. If he shall find that a proposed rule is in the public interest and does not, in his opinion, sanction,

34 aid or abet a practice contrary to law, he may promul-
35 gate a rule, regulation or standard, enforceable under the
36 provisions of this article, applicable thereto, until modi-
37 fied or rescinded as herein provided. Before any such rule,
38 regulation or standard shall be promulgated under the
39 provisions of this section, the commissioner shall advise
40 all persons or insurers as defined in this article who would
41 be directly affected thereby and shall give thirty days'
42 notice in writing to such persons or insurers to file their
43 objections, if any. Trade practice rules, regulations or
44 standards promulgated under this section may be amend-
45 ed or rescinded by the commissioner upon his own motion,
46 or upon motion of any directly affected person or insurer,
47 after the commissioner shall have given reasonable notice
48 to the persons or insurers directly affected thereby, and
49 after there has been a hearing, if requested by such af-
50 fected persons or insurers, concerning such amendment
51 or rescission: *Provided*, That such request is made in writ-
52 ing within thirty days after notice is given. Any order
53 or decision of the commissioner under this section shall
54 be subject to review as provided in section thirteen, article
55 two of this chapter.

56 (b) The powers vested in the commissioner by this sec-
57 tion shall be in addition to any other powers authorized
58 by law and shall not be construed as limiting the authority
59 vested in the commissioner to promulgate rules, regula-
60 tions or standards generally, and shall not limit his right
61 to publish formal or informal opinions as to acts or prac-
62 tices being legal or illegal, fair or unfair, deceptive or not
63 deceptive, within the meaning of this article.

Sec. 15. *Separability Provision.*—If any provision of this
2 article, or the application of such provision to any person
3 or circumstances, shall be held invalid, the remainder of
4 the article and the application of such provision to persons
5 or circumstances other than those as to which it is held
6 invalid, shall not be affected thereby.

CHAPTER 97

(Senate Bill No. 179—By Mr. Martin)

AN ACT to amend article six, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to alternate jurors in protracted civil cases.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Trial.

Section

12-a. Alternate jurors for protracted civil cases; qualifications and challenges.

Be it enacted by the Legislature of West Virginia:

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

Section 12-a. *Alternate Jurors for Protracted Civil Cases; Qualifications and Challenges.*—Whenever, in the opinion of the court, the trial is likely to be a protracted one, the court may direct that not more than four jurors, in addition to the regular jury, be called and impaneled to sit as alternate jurors. Said alternate jurors shall be chosen from a separate panel of six after the regular jury of twelve has been selected. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors. An alternate juror

17 who does not replace a regular juror shall be discharged
18 after the jury retires to consider its verdict. Each side is
19 entitled to one peremptory challenge in addition to those
20 otherwise allowed by law if one or two alternate jurors
21 are to be impaneled, and two peremptory challenges if
22 three or four alternate jurors are to be impaneled. The
23 additional peremptory challenges may be used against
24 an alternate juror only, and the other peremptory chal-
25 lenges allowed by this section may not be used against
26 an alternate juror.

CHAPTER 98

(Senate Bill No. 178—By Mr. Martin)

AN ACT to amend and reenact section six, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the keeping together of juries in the trial of criminal cases.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 3. Trial of Criminal Cases.

Section

6. Custody of jury; expenses; no conversation with jurors.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Custody of Jury; Expenses; No Conversation with Jurors.*—After a jury in a case of felony punishable by death is impaneled and sworn, they shall be kept together until they agree upon a verdict or are discharged by the court. In a case of felony in which the punishment cannot be death, the jury shall not be kept together unless the court, in its discretion, order it to be so kept

8 together. While a jury is kept together as herein pro-
9 vided, they shall be furnished with suitable board and
10 lodging by the sheriff or other officer. After a jury has
11 been impaneled no sheriff or other officer shall converse
12 with, or permit any one else to converse with, a juror
13 unless by leave of the court.

CHAPTER 99

(House Bill No. 254—By Mr. Maxwell)

AN ACT to amend and reenact section two, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payments to justices of the peace.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. Powers, Duties and Liabilities.

Section

2. Payments to justices; bond.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Payments to Justices; Bond.*—Every justice,
2 who has executed a bond according to law, shall receive
3 money tendered to him on any claim in suit before him,
4 or on any judgment on his docket, or on any docket law-
5 fully in his possession, or on any execution, process, or
6 order issued by him, and shall pay the same on demand
7 to the person entitled thereto.

CHAPTER 100

(House Bill No. 143—By Mr. Adams and Mr. Young)

AN ACT to amend and reenact section one, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to legal holidays.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Legal Holidays; Construction of Statutes; Definitions.

Section

1. Legal holidays; official acts or court proceedings.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Legal Holidays; Official Acts or Court Proceedings.*—The following days shall be regarded, treated and observed as legal holidays, viz: The first day of January, commonly called "New Year's Day"; the twelfth day of February, commonly called "Lincoln's Birthday"; the twenty-second day of February, commonly called "Washington's Birthday"; the thirtieth day of May, commonly called "Memorial Day"; the twentieth day of June, commonly called "West Virginia Day"; the fourth day of July, commonly called "Independence Day"; the first Monday in September, commonly called "Labor Day"; the twelfth day of October, commonly called "Columbus Day"; the eleventh day of November, commonly called "Veterans Day"; the twenty-fifth day of December, commonly called "Christmas Day"; any national, state or other election day throughout the district or municipality wherein held; and all days that may be appointed or recommended by the governor of this state, or the president of the United States, as days of thanksgiving, or for the general cessation of business; and when any of

21 said days or dates falls on Sunday, then it shall be lawful
22 to observe the succeeding Monday as such holiday. When
23 the return day of any summons or other court proceedings
24 or any notice or time fixed for holding any court or doing
25 any official act shall fall on any of said holidays, the ensu-
26 ing secular day shall be taken as meant and intended.

CHAPTER 101

(Senate Bill No. 8—By Mr. Taylor, of Mingo, and Mr. Carrigan)

AN ACT to amend and reenact section four, article three, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to contracts for legislative printing.

[Passed February 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 3. Public Printing and Stationery; State Publications.

Section

4. Legislative printing.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Legislative Printing*.—Notwithstanding any
2 other provisions of this chapter, the letting of all contracts
3 for legislative printing shall be subject only to the provi-
4 sions of this section.
5 All contracts for legislative printing shall be let on
6 competitive bids by the director of purchases to the low-
7 est responsible bidder. Each such contract shall be sub-
8 ject to the approval of the governor, and in case of his
9 disapproval the contract shall be relet on competitive
10 bids submitted in the same manner as the original bids on
11 the contract that was disapproved. Each bid on every such
12 contract shall be within the maximum limits that may

13 be fixed from time to time by concurrent resolution of
14 the Legislature. The clerk of the Senate and the clerk of
15 the House of Delegates shall have exclusive control of all
16 printing authorized by their respective legislative bodies,
17 and shall approve the specifications included in any con-
18 tract before an invitation for bids is released by the di-
19 rector of purchases. Before presenting for payment any
20 bill for legislative printing, the printer shall have the
21 same approved by the department of purchases as correct
22 and according to contract specifications. A copy of all
23 bills for legislative printing shall be furnished the clerk
24 of the house for which such printing was done. When
25 properly approved bills are presented to the clerk of the
26 Senate or to the clerk of the House of Delegates, he shall
27 draw his requisition upon the auditor in the amount of
28 the bill, payable from the legislative printing fund, and
29 the auditor shall honor the requisition and issue to the
30 printer a state draft therefor.

CHAPTER 102

(Senate Bill No. 31—By Mr. Amos)

AN ACT to amend and reenact sections one and eight, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries, expenses, officers and employees of the Legislature.

[Passed January 19, 1955; in effect from passage. Approved by the Governor.]

Article 1. Officers, Members and Employees; Appropriations; Investigations; Display of Flag; Records.

Section

1. Compensation and expenses of members of the Legislature.
8. Officers and employees; tenure.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Compensation and Expenses of Members of the Legislature.*—Each member of the Legislature shall receive for his services the sum of one thousand five hundred dollars a year, payable out of the treasury on the third Wednesday in January of each year. In addition each member shall receive expenses for one round trip in connection with any session, at the rate of ten cents a mile traveled in going to and returning from the seat of government by the most direct route: *Provided*, That if party caucuses are held in advance of the date of the assembly of the Legislature in odd-numbered years for the purpose of selecting candidates for officers of the two houses, expenses for travel at the rate herein fixed shall be allowed each member for one round trip in connection with attending such caucus. The president of the Senate and the speaker of the House of Delegates shall each receive an additional compensation of five dollars a day for each day served as presiding officer. No allowance or emolument other than that by this section provided shall directly or indirectly be made or paid to the members of either house for postage, stationery, newspapers, or any other purpose whatever.

Sec. 8. *Officers and Employees; Tenure.*—Each house of the Legislature shall, at the commencement of the regular session thereof assembled and held in odd-numbered years, elect a presiding officer, a clerk, a sergeant-at-arms and a doorkeeper, whose terms of office shall, unless sooner vacated by death, resignation or removal, be and continue until the regular meeting of the Legislature in the odd-numbered year next thereafter, and until their successors are elected and qualified. At each session of the Legislature, there shall be appointed for each house such employees and technical assistants as may be authorized by law or by resolution of the respective houses. Any person so appointed may be removed by the appointing authority and another appointed in his stead: *Provided*, That nothing in this section shall be construed to prevent either house from removing any appointee.

CHAPTER 103

(House Bill No. 418—By Mr. Maxwell)

AN ACT to amend and reenact sections two, four and seven, article fourteen, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liens of factors upon goods or merchandise, and the giving and filing of notice of such liens.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 14. Factors' Liens.

Section

2. Factors' liens provided for; contents of notice of lien.
4. Time and effect of filing notice.
7. Common-law lien.

Be it enacted by the Legislature of West Virginia:

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

- Section 2. *Factors' Liens Provided for; Contents of Notice of Lien.*—If so provided by any written agreement,
- all factors shall have a continuing general lien upon all materials, goods in process, and merchandise from time to time consigned to or pledged with them, whether in their constructive, actual or exclusive occupancy or possession or not, and upon any accounts receivable or other proceeds resulting from the sale or other disposition of such materials, goods in process, and merchandise, for all their loans and advances to or for the account of the person creating the lien (hereinafter called the borrower), together with interest thereon, and also for the commissions, obligations, indebtedness, charges and expenses properly chargeable against or due from said borrower and for the amounts due or owing upon any notes or other obligations given to or received by them for or upon

17 account of any such loans or advances, interest, com-
18 missions, obligations, indebtedness, charges, and expenses,
19 and such lien shall be valid from the time of filing the
20 notice hereinafter referred to, whether such materials,
21 goods in process, or merchandise shall be in ex-
22 istence at the time of the agreement creating the lien
23 or at the time of filing such notice or shall come into
24 existence subsequently thereto or shall subsequently
25 thereto be acquired by the borrower: *Provided*, That a
26 notice of the lien is filed stating:

27 (a) The name of the factor, the name under which
28 the factor does business, if an assumed name; the prin-
29 cipal place of business of the factor within the state, or
30 if he has no place of business within the state, his prin-
31 cipal place of business outside this state; and if the
32 factor is a partnership or association, the name of the
33 partners, and if a corporation, the state under whose
34 laws it was organized;

35 (b) The name of the borrower, and the interest of
36 such person in the materials, goods in process, and mer-
37 chandise, as far as known to the factor;

38 (c) The general character of materials, goods in proc-
39 ess, and merchandise subject to the lien, or which may
40 become subject thereto, and the period of time during
41 which such loans or advances may be made under the
42 terms of the agreement providing for such loans or ad-
43 vances and for such lien and the maximum amount to
44 be loaned or advanced under such agreement. Amend-
45 ments of the notice may be filed from time to time to
46 record any changes in the information contained in the
47 original, subsequent or amended notices.

Sec. 4. *Time and Effect of Filing Notice.*—Such notice
2 shall be filed within thirty days after the making of the
3 agreement and shall be effectual from the time of the
4 filing thereof as against all claims of unsecured creditors
5 of the borrower and as against subsequent liens of
6 creditors, except that if, pursuant to the laws of this
7 state, a lien should subsequently attach to the materials,
8 goods in process, or merchandise in favor of a processor,
9 dyer, mechanic, or other artisan, or in favor of a land-

10 lord, then the lien of the factor on such materials, goods
11 in process, or merchandise shall be subject to such sub-
12 sequent lien. When materials, goods in process, or mer-
13 chandise subject to the lien provided for by this article
14 are sold in the ordinary course of the business of the
15 borrower, such lien, whether or not the purchaser has
16 knowledge of the existence thereof, shall terminate as
17 to the materials, goods in process, or merchandise and
18 shall attach to the proceeds of such sale in the hands of
19 the borrower.

Sec. 7. *Common-Law Lien*.—When any factor, or any
2 third party for the account of any such factor, shall have
3 possession of materials, goods in process, or merchandise,
4 such factor shall have a continuing general lien, as set
5 forth in section two of this article, without filing the
6 notice provided for in this article.

CHAPTER 104

(Com. Sub. for House Bill No. 228—Originating in the House Committee on the Judiciary)

AN ACT to repeal chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new chapter of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to be designated chapter twenty-seven, relating to mentally ill persons.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the Governor.]

Chapter 27. MENTALLY ILL PERSONS

Article

1. Definitions.
2. State Hospitals.
3. Mental Hygiene Commissions.
4. Voluntary Hospitalization.
5. Involuntary Hospitalization.
6. Commitment of Inebriates and Criminally Mentally Ill; Definition.
7. Release, Discharge and Readmission of Patients; Escapees.

8. Maintenance of Mentally Ill Patients.
9. Private Hospitals.
10. West Virginia Training School.
11. Committee; Disposition of Property.
12. Offenses.
13. Laws Repealed; Constitutionality.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that a new chapter of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be enacted, to be designated chapter twenty-seven, to read as follows:

Article 1. Definitions.

Section

1. Mentally ill.
2. Resident of state and county.

Section 1. *Mentally Ill.*—For the purposes of this chapter, a “mentally ill” person is (a) one having a psychiatric or other disease which substantially impairs his mental health, or (b) a mental defective, or (c) an epileptic.

Sec. 2. *Resident of State and County.*—For the purposes of this chapter, no person shall be considered a resident of this state unless he is a citizen of the United States and has been a bona fide resident of this state for at least one year, and was not mentally ill when he came into this state; and no person shall be considered a resident of a county who is not a resident of the state, as above defined, and who has not been a resident of the county for at least sixty days, and was not mentally ill when he came to the county.

Article 2. State Hospitals.

Section

1. Locations; continuation; management.
2. Superintendents of mental hospitals.
3. Rules and regulations as to patients.
4. Forms for committing patients; other records.
5. Report of admissions; registration by board of control.

Section 1. *Locations; Continuation; Management.*—The state hospitals for the mentally ill heretofore established at Weston, Spencer, Huntington, Barboursville, Lakin and

4 St. Marys shall be continued and known respectively as
5 the Weston state hospital, Spencer state hospital, Hunt-
6 ington state hospital, Barboursville state hospital, Lakin
7 state hospital and the West Virginia training school. Said
8 hospitals shall be managed, directed and controlled by the
9 West Virginia board of control as prescribed in article
10 one, chapter twenty-five of the code, and further as pro-
11 vided in this chapter.

Sec. 2. *Superintendents of Mental Hospitals.*—The chief
2 executive officers of the state's mental hospitals shall be
3 superintendents who shall be legally qualified physicians
4 scientifically trained in mental medicine, and shall be per-
5 sons of good executive ability. They shall be appointed
6 by the governor for an indefinite term by and with the
7 consent of the senate.

Sec. 3. *Rules and Regulations as to Patients.*—The state
2 board of control shall have authority to make and adopt
3 rules and regulations, not contrary to law, regulating the
4 admission of patients to the said state hospitals, the care,
5 maintenance and treatment of patients therein, and the
6 release, parole and discharge of patients therefrom.

Sec. 4. *Forms for Committing Patients; Other Records.*
2 —The board of control shall have authority to prepare,
3 prescribe and have printed forms to be used in committing
4 patients to any of such hospitals, and for the discharge of
5 such patients from said hospitals.

6 Whenever a patient is transferred from one state mental
7 hospital to another, his complete record shall be for-
8 ward to the hospital to which the patient is being trans-
9 ferred.

Sec. 5. *Report of Admissions; Registration by Board of*
2 *Control.*—The superintendent of each state mental insti-
3 tution shall, within ten days after the admission of any
4 patient, report the admission to the board of control to-
5 gether with any other information the board of control
6 may require. A copy of said report shall be sent to the
7 state health commissioner. He shall make a similar report
8 of the discharge or death of any patient.

9 From such reports and other sources the board shall
10 prepare and keep current a register of persons in this state
11 who are suffering from mental illness.

12 The name of a person so registered shall not be made
13 public, nor shall the register be accessible to anyone ex-
14 cept by order of the board of control or by order of the
15 judge of a court of record.

Article 3. Mental Hygiene Commissions.

Section

1. County mental hygiene commission.
2. Meetings.
3. Expenses.

Section 1. *County Mental Hygiene Commission.*—There
2 shall be in each county a mental hygiene commission of
3 three members, to be composed of any member of the
4 county court, the prosecuting attorney and/or an assistant
5 prosecuting attorney designated by the prosecuting attor-
6 ney and approved by the county court, and the clerk of
7 the county court and/or a deputy clerk designated by the
8 clerk of the county court and approved by the county
9 court, who shall serve as such without compensation, ex-
10 cept for traveling and other necessary expenses incurred
11 in the discharge of their duties as members of the com-
12 mission, which expenses shall be audited by the county
13 court and paid out of the county treasury. A member of
14 the county court shall be the chairman of the commission.
15 In the absence of a county court member, the prosecuting
16 attorney and/or his designated assistant as herein pro-
17 vided, shall act as such chairman. The clerk of the county
18 court and/or his designated deputy shall be the clerk of
19 the commission and shall keep in a proper book provided
20 for the purpose a full and careful record of all the acts,
21 orders and resolutions of the commission. Any two mem-
22 bers from different offices represented on the commission
23 shall be a quorum thereof. The county court of each
24 county shall at its first term of court of each year enter
25 an order designating the persons eligible to sit as members
26 of the county mental hygiene commission.

Sec. 2. *Meetings.*—All meetings of the commission shall
2 be held at the county seat, unless it shall be thought best

3 by the commission to meet at some other place, as in the
4 case of a mentally ill person whose condition makes it
5 advisable to meet at or near his residence. The time of
6 such meetings shall be established by the commission.

Sec. 3. *Expenses.*—All expenses incurred by the mental
2 hygiene commission of each county, including compensa-
3 tion of physicians and other witnesses, shall be such as
4 may be prescribed by the county court of the county and
5 shall be paid out of the county treasury.

Article 4. Voluntary Hospitalization.

Section

1. Admissions.
2. Release of voluntary patients.

Section 1. *Admissions.*—Any person, a resident of this
2 state, who desires the benefit of institutional treatment,
3 may be admitted to one of the state mental hospitals on
4 his own application or, provided such person is willing
5 to enter the hospital, upon the application of a reputable
6 physician. Such admissions shall be subject to the rules
7 and regulations of the board of control. Immediately upon
8 the admission of any voluntary patient, the mental hos-
9 pital to which he has been admitted shall notify the county
10 clerk of the county of his residence of such admission.

Sec. 2. *Release of Voluntary Patients.*—The superin-
2 tendent of the hospital shall release any voluntary patient
3 who has recovered or whose hospitalization he deter-
4 mines to be no longer advisable. He may also release
5 any voluntary patient if to do so, in the judgment of the
6 superintendent, would contribute to the more effective
7 use of the hospital in the care and treatment of the men-
8 tally ill.

9 Such a voluntary patient may at any time request his re-
10 lease by giving to the superintendent verbal notice of his
11 desire to leave; or the guardian, committee, parent, spouse
12 or adult next-of-kin of such voluntary patient may make
13 such request at any time by giving to the superintendent
14 notice in writing of the patient's desire to leave. The
15 superintendent shall, within forty-eight hours after the
16 receipt of this notice, grant the request unless upon ex-

17 amination the superintendent of the hospital and his staff
18 have determined that the patient is mentally ill and re-
19 quires further hospitalization. If such determination is
20 made, the superintendent of the hospital shall forthwith
21 forward to the clerk of the county court of the county in
22 which such person is a resident a detailed report of their
23 examination, which report shall immediately be pre-
24 sented to the mental hygiene commission of said county.
25 Such commission shall give full faith and credit to this
26 report, and if satisfied that such person is mentally ill,
27 shall issue an order legally committing the mentally ill
28 person to the hospital making the report, as though the
29 person had been brought before it. All expenses incurred
30 in this proceeding, as well as the hospitalization of the
31 mentally ill person, shall be borne by the county of
32 which he is a resident.

Article 5. Involuntary Hospitalization.

Section

1. Hospitalization of mentally ill persons by county mental hygiene commission.
2. Guardian ad litem for suspected persons.
3. Witnesses.
4. Disposition of mentally ill persons.
5. Transportation; temporary detention.
6. Emergency procedure.

Section 1. *Hospitalization of Mentally Ill Persons by*
2 *County Mental Hygiene Commission.*—If any individual
3 in the county reasonably suspects any person therein to
4 be mentally ill, he may make complaint under oath to
5 the clerk of the county court, giving such information and
6 stating such facts therein as may be required, and de-
7 liver the same to the clerk of the county court, whose
8 duty it shall be to issue a warrant ordering the person
9 suspected and named in such complaint to be brought
10 before the commission at the time and place named
11 therein, that his mental condition may be inquired into.
12 If the clerk of the county court does not deem such sus-
13 picion to be reasonable, he may require such complainant
14 to furnish the certificate of a reputable physician showing
15 the suspected person's condition, before issuing a war-
16 rant. Any member of the commission without such com-
17 plaint may have such warrant issued for any person found

18 in his county whom he shall suspect to be mentally ill.
19 All such warrants shall be signed by the clerk of the
20 county court and have impressed thereon the seal thereof,
21 and may be addressed to the sheriff of the county or to
22 any constable of any district thereof, or to a special con-
23 stable appointed for the purpose and named therein; but
24 if any relative or friend of the person so suspected will
25 serve such warrant and cause such suspected person to
26 be brought before the commission, he may be allowed
27 to do so. The officer or person to whom the warrant is
28 addressed shall take the suspected person into custody
29 and bring him before the commission at the time and
30 place named therein.

Sec. 2. *Guardian ad Litem for Suspected Person.*—

2 Before proceeding with the hearing of the matter, the
3 commission shall appoint a guardian ad litem, who shall
4 be a competent attorney, for such suspected person, and
5 such guardian shall be present at the hearing and man-
6 age the case on behalf of the person suspected. Such
7 attorney shall be paid by the county court. Such sus-
8 pected person and his counsel shall have the right to
9 cross-examine any witnesses.

Sec. 3. *Witnesses.*—The proposed patient, the petitioner
2 and all other persons interested, shall be afforded an op-
3 portunity to appear at the hearing, to testify and to pre-
4 sent and cross-examine witnesses, and the commission
5 may in its discretion receive the testimony of any other
6 person. Among the witnesses there shall be included
7 two reputable physicians duly authorized to practice
8 medicine in this state, who shall separately or together
9 make a mental examination of the suspected person, pre-
10 ferably before the hearing, and each physician shall make
11 out a certificate of the result of such examination, which
12 certificate shall be signed and sworn to by each physician
13 and shall be considered as evidence by the commission.
14 Not more than one physician of any firm or association
15 of physicians practicing medicine together shall sign any
16 such certificate respecting the mental condition of any
17 person suspected of being mentally ill.

18 The proposed patient shall not be required to be present
19 at this hearing unless it is deemed advisable by the com-
20 mission to better protect his interest. All persons not
21 necessary for the conduct of the proceedings shall be ex-
22 cluded, and the hearing shall be conducted in as informal
23 a manner as may be consistent with orderly procedure
24 and in a physical setting not likely to have a harmful
25 effect on the mental health of the proposed patient. The
26 commission shall receive all relevant and material evi-
27 dence which may be offered and shall not be bound by
28 the rules of evidence.

2 Sec. 4. *Disposition of Mentally Ill Persons.*—If, upon
3 completion of the hearing and consideration of the record,
4 the commission finds that the proposed patient (1) is
5 mentally ill, and (2) because of his illness is likely to
6 injure himself or others if allowed to remain at liberty, or
7 (3) is in need of custody, care or treatment in a mental
8 hospital and because of his illness lacks sufficient insight
9 or capacity to make responsible decisions with respect
10 to his hospitalization, and (4) is a resident of the county
11 in which the hearing is held, it shall order his hospitaliza-
12 tion for an indeterminate period or for a temporary ob-
13 servation period not exceeding six months; otherwise, it
14 shall dismiss the proceeding. An order for an indetermi-
15 nate period relieves the patient of legal capacity. If the
16 order is for a temporary period, the commission may at
17 any time prior to the expiration of such period, on the
18 basis of report by the head of the hospital and such fur-
19 ther inquiry as it may deem appropriate, order inde-
20 terminate hospitalization of the patient or dismissal of the
21 proceeding. If the commission orders hospitalization of
22 the patient, it will notify the county health officer, who
23 may make a study of the patient's family and environ-
24 ment and report his findings to the superintendent of the
25 hospital receiving the patient.

26 In lieu of ordering the patient to a mental hospital, the
27 commission may order him delivered to some relative or
28 friend who will agree to take care of him, and take from
29 such relative or friend a bond in the penalty of at least
five hundred dollars, with sufficient security to be ap-

30 proved by the commission, payable to the state of West
31 Virginia, with condition to restrain and take proper care
32 of such person until the further order of the commission.
33 But if the person found to be a mentally ill person is
34 not dangerous to himself or to others, or is found harm-
35 less, he may be delivered to any relative or friend who
36 will agree to take proper care of him without such bond
37 if, in the judgment of the commission, the same may be
38 proper.

39 If the person found to be mentally ill by the commission
40 is a resident of another county of this state, a transcript
41 of the evidence adduced at the hearing of such person,
42 properly certified by the clerk of the county court, shall
43 forthwith be forwarded to the clerk of the county court
44 of the county of which such person is a resident, who shall
45 immediately present such transcript to the mental hygiene
46 commission of said county. Such commission shall give
47 full faith and credit to the evidence contained in such
48 transcript, and, if satisfied that such person is mentally ill,
49 shall order the person to be committed to one of the state
50 hospitals for the mentally ill, as though the person had
51 been brought before it in the first instance. This order
52 shall be transmitted forthwith to the county clerk of the
53 county in which the hearing was held, who shall execute
54 said order promptly. All expenses incurred in this pro-
55 ceeding, as well as for the hospitalization of the mentally
56 ill person, shall be borne by the county of which he is a
57 resident.

58 If the person found to be mentally ill by the commission
59 is a resident of another state, this information shall be
60 forthwith given to the board of control, which shall make
61 arrangement for his transfer to his native state.

Sec. 5. *Transportation; Temporary Detention.*—When-
2 ever an individual is about to be hospitalized under the
3 provisions of section four, the commission shall, upon
4 the request of a person having a proper interest in the
5 individual's hospitalization, permit such person to ar-
6 range for the individual's transportation to the hospital
7 by such means as may be suitable for his mental condi-
8 tion. In lieu of such request, the commission may deliver

9 the patient to the hospital in any manner it may deem
10 proper.

11 Pending his removal to a hospital, a person taken into
12 custody or ordered to be hospitalized may be detained in
13 his home, a licensed foster home, or any other suitable
14 facility provided by the county court; but he shall not,
15 except because of lack of such facilities or because of an
16 extreme emergency, be detained in a non-medical facility
17 used for the detention of individuals charged with or con-
18 victed of penal offenses. The county health officer, in
19 conjunction with the commission, may take such reason-
20 able measures, including provisions of medical care, as
21 may be necessary to assure proper care of an individual
22 temporarily detained pursuant to this section.

Sec. 6. *Emergency Procedure.*—Any health or police
2 officer who has reason to believe that an individual is
3 mentally ill and, because of his illness is likely to injure
4 himself or others if allowed to remain at liberty pending
5 a hearing before a mental hygiene commission, may with
6 the help of other persons requested to assist him, take
7 the individual into custody with or without a warrant,
8 apply to a hospital for his admission and transport him
9 thereto. The application for admission shall state the
10 circumstances under which the individual was taken into
11 custody, and the reasons for the officer's belief. The su-
12 perintendent of the hospital admitting the individual shall
13 forthwith examine him, and if he is found to be mentally
14 ill, shall forward forthwith to the clerk of the county
15 court of the county in which such hospital is located a
16 detailed report of this examination, which report shall
17 immediately be presented to the mental hygiene com-
18 mission of said county. The commission shall thereupon,
19 and with the greatest possible expedition, cause a hearing
20 to be held, as provided in this article, except that no
21 warrant shall be necessary, for the purpose of inquiring
22 into the mental condition of such patient. Such com-
23 mission shall consider the detailed report submitted by
24 the superintendent along with any other evidence which
25 may be introduced at the hearing. If, after such hearing,
26 the commission be satisfied that the suspected person is

27 mentally ill, it shall forward a transcript of the evidence
28 adduced at the hearing of such person, properly certified
29 by the clerk of the county court of the county wherein
30 the matter was heard, to the county clerk of the county
31 of which such suspected person is a resident, who shall
32 immediately present such transcript to the mental hygiene
33 commission of such county; otherwise such person shall
34 forthwith be released. Such commission shall give full
35 faith and credit to the evidence contained in the tran-
36 script, and, if satisfied that such person is mentally ill,
37 shall order the person to be committed to the state hospital
38 to which he was admitted, as though the person had been
39 brought before it in the first instance. All expenses in-
40 curred in this proceeding, as well as for the hospitaliza-
41 tion of the mentally ill person, shall be borne by the
42 county of which he is a resident.

Article 6. Commitment of Inebriates and Criminally Mentally Ill; Definition.

Section

1. Commitment of inebriates; definition.
2. Commitment and admission of criminally mentally ill persons.
3. Return of criminally mentally ill person upon discharge from hospital.

Section 1. *Commitment of Inebriates; Definition.*—The
2 word "inebriate", whenever used in this chapter, shall be
3 construed to mean any person over the age of eighteen
4 years who is incapable or unfit to properly conduct him-
5 self or herself, or his or her affairs, or is dangerous to
6 himself or herself or others, by reason of periodical, fre-
7 quent or constant drunkenness, induced either by the
8 use of alcoholic or other liquors, or of opium, morphine,
9 or other narcotic or intoxicating or stupefying substance.
10 If any individual in a county reasonably suspects any
11 person therein to be an inebriate, he may make complaint
12 under oath to the clerk of the county court, giving such
13 information and stating such facts therein as may be
14 required, and he shall further furnish to said clerk the
15 certificate of a reputable physician showing the condition
16 of such suspected person. This complaint and certificate
17 shall be delivered to the clerk of the county court, whose
18 duty it shall be to issue a warrant ordering the person

19 suspected and named in such complaint and certificate to
20 be brought before the county mental hygiene commission
21 at a time and place named therein so that his condition
22 may be inquired into. All such warrants shall be signed
23 by the clerk of the county court and have impressed
24 thereon the seal thereof; and may be addressed to the
25 sheriff of the county or to any constable of any district
26 thereof, or to a special constable appointed for the pur-
27 pose and named therein; but if any relative or friend of
28 the person so suspected will serve such warrant and cause
29 such suspected person to be brought before the commis-
30 sion, he may be allowed to do so. The officer or person to
31 whom the warrant is addressed shall take the suspected
32 person into custody and bring him or her before the com-
33 mission at the time and place named therein.

34 Whenever a person apparently an inebriate is so violent
35 as to endanger his or her own safety, or the safety of
36 others, any law enforcement officer may, with or without
37 a warrant, take such person into protective custody.

38 When such suspected person is brought before the
39 county mental hygiene commission, this commission shall
40 proceed to examine such person as outlined in article
41 five of this chapter. If such person is found to be an
42 inebriate by the commission after proper hearing, he shall
43 be committed to one of the state's mental hospitals, or
44 any other institution hereafter established for inebriates,
45 for a minimum period of thirty days. After said period,
46 he shall be released therefrom when, in the opinion of
47 the superintendent of the institution, he has received the
48 maximum benefit from such hospitalization. In all such
49 cases the law applicable to mentally ill persons shall be
50 applicable to such inebriate except that such inebriate
51 shall not forfeit his legal capacity as in the case of a
52 mentally ill person who has been legally committed.

Sec. 2. *Commitment and Admission of Criminally Men-
2 tally Ill Persons.*—If any person charged with or convicted
3 of crime be found, in the court before which he is charged
4 or was convicted, to be mentally ill, and if such court
5 shall order him to be confined in one of the state hospitals,
6 he shall be received and confined in it. The sheriff or

7 other officer of the court by which the order is made shall
8 immediately proceed to ascertain whether a vacancy ex-
9 ists in a state hospital; and until it is ascertained that
10 there is a vacancy, such person shall be kept in the jail
11 of the county of such court.

Sec. 3. *Return of Criminally Mentally Ill Person Upon*
2 *Discharge from Hospital.*—When any person charged with
3 crime confined in a state hospital has recovered from his
4 mental illness, the superintendent shall give notice there-
5 of to the clerk of the court by whose order he was con-
6 fined and deliver him to the proper officer upon order of
7 the court.

8 When any person convicted of a crime and sentenced
9 to the penitentiary confined in a state hospital shall have
10 recovered from such mental illness, he shall be forthwith
11 returned to prison. Any time spent in such hospital shall
12 be computed as part of the term for which he was sen-
13 tenced. If the sentence of such convict expire while such
14 convict is in the hospital, then upon his recovery he shall
15 be discharged from said hospital.

Article 7. Release, Discharge and Readmission of Patients; Escapes.

Section

1. Discharge.
2. Release of patients on convalescent status (trial visit).
3. Released as unimproved.
4. Readmission of patients.
5. Return of escapees; veterans.

Section 1. *Discharge.*—The superintendent of a mental
2 hospital shall as frequently as practicable examine, or
3 cause to be examined, every patient, and whenever he
4 determines that the condition justifying involuntary hos-
5 pitalization no longer obtains, discharge the patient and
6 immediately make a report thereof to the board of control
7 and to the county clerk of the county wherein the patient
8 is a resident. This discharge restores said patient to legal
9 capacity.

Sec. 2. *Release of Patients on Convalescent Status*
2 *(Trial Visit).*—The superintendent of a hospital may
3 release an improved patient on convalescent status (trial

4 visit) when he believes such release is in the best interest
5 of the patient. Releases on convalescent status shall in-
6 clude provisions for continuing responsibility to and by
7 the hospital, including a plan of treatment on an outside
8 or non-hospital patient basis, if possible. Prior to the
9 end of a year on convalescent status, and not less fre-
10 quently than annually thereafter, the superintendent of
11 the hospital shall reexamine the facts relating to the
12 hospitalization of the patient on convalescent status and
13 consider any further facts regarding the patient's mental
14 health during such convalescence, and if he determines
15 that in view of the condition of the patient hospitalization
16 is no longer necessary, he shall discharge the patient.

Sec. 3. *Released as Unimproved.*—The superintendent
2 of a hospital may release a patient as unimproved when
3 the patient's family or friends, or committee or guardian,
4 or other responsible persons, request his release and are
5 willing and able to take proper care of said patient outside
6 the hospital, taking from such relative, friend, committee,
7 guardian or responsible person a bond in the penalty of at
8 least five hundred dollars, with sufficient security to be
9 approved by the superintendent, payable to the state of
10 West Virginia, conditioned to restrain and take proper
11 care of such patient until the further order of the super-
12 intendent. Reports shall be made by those in charge of
13 said patient at least once every six months to the super-
14 intendent of the hospital. No discharge shall be given to
15 said patient until he has returned to the hospital for
16 examination by the superintendent and staff thereof and
17 it has been determined that he is no longer mentally ill.
18 Where such discharges or releases are granted as indi-
19 cated in sections one, two and three above, the super-
20 intendent of the hospital shall report the same to the
21 board of control and to the county clerk of the county of
22 which the patient is a resident.

Sec. 4. *Readmission of Patients.*—While any patient is
2 out of the hospital on release or convalescent status (trial
3 visit), or released as unimproved, he may be at any time
4 readmitted to the hospital on the basis of the original
5 commitment. If there is reason to believe that it is to the

6 best interest of the patient to be hospitalized, the super-
7 intendent of the hospital may issue an order for the im-
8 mediate rehospitalization of the patient. This order shall
9 be sent to the mental hygiene commission of the county
10 wherein the patient is a resident or present. Any indi-
11 vidual member of said commission, at any time, may
12 endorse this order and authorize any health or police
13 officer to take the patient into custody and transport him
14 to the hospital where the order originated.

Sec. 5. *Return of Escapees; Veterans.*—If any person
2 confined in a state hospital escape therefrom, the super-
3 intendent thereof shall issue a notice, giving the name
4 and description of the person escaping, and requesting
5 his apprehension and return to the hospital, and may
6 offer such reward for the return of such person as the
7 board of control may authorize. The superintendent may
8 issue a warrant directed to the sheriff of the county, com-
9 manding him to arrest and carry such escaped person
10 back to the hospital, which warrant the sheriff may
11 execute in any part of the state. If such person flee to
12 another state, the superintendent shall notify the board
13 of control, and the board shall take such action as it may
14 deem proper in the premises for the return of such person
15 to the hospital.

16 If any veteran duly committed to a veterans hospital
17 or other veterans institution, either within or without the
18 state, escape or elope therefrom and any person make
19 complaint, under oath, to the clerk of the county court
20 of the county from which such veteran was so committed,
21 giving such information and stating such facts therein
22 as may be required, or if any veteran duly committed to a
23 veterans hospital or other veterans institution, either
24 within or without the state, escape or elope therefrom and
25 the superintendent or chief officer of such hospital or
26 institution issue notice to the clerk of the county court
27 of the county from which such veteran was so committed,
28 giving the name and description of such veteran and re-
29 questing his apprehension and return to such hospital or
30 institution, the clerk, upon receipt of such complaint or
31 of such notice, may issue a warrant directed to the sheriff

32 of the county commanding him to arrest and carry such
33 veteran back to such hospital or institution, which war-
34 rant the sheriff may execute in any part of the state.

35 The sheriff or other person making any arrest under
36 this section shall be paid such compensation as is pro-
37 vided for like services in other cases, and such additional
38 compensation in any case as the board of control may
39 think reasonable and just.

40 The foregoing provisions shall likewise apply to any
41 veteran released from a veterans hospital or other vet-
42 erans institution, either within or without the state, on
43 trial visit or on parole whose conduct becomes such as to
44 warrant his return to such hospital or institution.

Article 8. Maintenance of Mentally Ill Patients.

Section

1. Maintenance of patients; reimbursement.
2. When and how counties to pay.
3. Care of patients in boarding homes.

Section 1. *Maintenance of Patients; Reimbursement.*—

2 The cost of the maintenance of patients admitted to the
3 state mental institutions shall be paid out of funds ap-
4 propriated for the respective institutions, but the institu-
5 tions, through the board of control, shall have a right of
6 reimbursement for all or any part of such maintenance,
7 in no case to exceed two dollars per day, from each
8 patient or from the committee or guardian of the estate
9 of the patient, or if that be insufficient, then from the
10 patient's husband, wife, children, father and mother, or
11 any of them. If a relative so liable does not reside in this
12 state and has no estate or debts due him within the state
13 by means of which the liability can be enforced against
14 him, the other relatives shall be liable as provided by this
15 section. In exercising this right of reimbursement the
16 board of control may, whenever it is deemed just and
17 expedient to do so, exonerate any person chargeable with
18 such maintenance from the payment thereof in whole or
19 in part, if it finds that he is unable to pay or that payment
20 would work an undue hardship on him or on those de-
21 pendent upon him.

22 There shall be no discrimination on the part of the

23 institution as to food, care, protection, treatment or re-
24 habilitation, between patients who pay for their main-
25 tenance and those who are unable to do so.

26 The provisions of this section apply only to the state
27 mental hospitals proper, and not to the clinics attached
28 thereto.

29 It shall be the responsibility of the board of control to
30 determine the ability of the patient or of his relatives to
31 pay for his maintenance.

Sec. 2. *When and How Counties to Pay.*—If the state
2 mental institution is unable to collect a minimum of fifty
3 dollars per annum toward the maintenance of a patient,
4 whether on a voluntary or involuntary status, the county
5 of which the patient is a resident shall annually pay into
6 the state treasury for credit to the appropriate institution
7 the difference between the amount, if any, collected by
8 the institution and the sum of fifty dollars.

9 At every levy term of each county court it shall esti-
10 mate for and levy a sufficient amount to meet all such
11 expenses. The superintendent of such hospital, on or
12 before the tenth day of January of each year, shall certify
13 to the auditor a list of all the patients in the hospital
14 during the whole or any part of the preceding year for
15 which the counties are to pay, showing on such list under
16 the name of the county, the number from each county
17 and length of time he was in said hospital during the
18 year, and showing the amount due from each county for
19 each patient, and the total amount due from each county
20 for the year. As soon as such list is received by the
21 auditor he shall charge to each county the amount appear-
22 ing to be due from the certificates of the superintendents.
23 Within ten days after the receipt of such certificates the
24 auditor shall make out a copy thereof for each county
25 and certify the same to the county court thereof, which
26 list shall show the name of each patient in such hospital
27 from the county during the year, the length of time he
28 was in such hospital during the year, the amount charged
29 for each patient, and the total amount charged on account
30 of all such patients from the county; and such total
31 amount shall constitute a debt against the county due the

32 state. Whenever there is in the state treasury a sum of
33 money due any county from any source, the same shall
34 be at once applied on the debt aforesaid against the
35 county, and the fact of such application of such fund
36 shall be reported by the auditor to the county court of
37 the county, which report shall be a receipt for the amount
38 therein named.

Sec. 3. *Care of Patients in Boarding Homes.*—The board
2 of control may, upon the recommendation of the super-
3 intendent of the institution, provide care in a suitable
4 boarding home for any patient in a state mental institu-
5 tion, if the condition of the patient is such that his and
6 the public welfare will not be prejudiced thereby. A
7 patient in a boarding home shall be deemed to be a
8 patient of the institution from which he was removed
9 and shall, on the approval of the superintendent, be
10 placed under the supervision of a psychiatric social work-
11 er employed by the institution. All patients in such
12 homes shall be visited at least once every three months,
13 and if upon the visitation they are found to be abused,
14 neglected or improperly cared for, they shall be returned
15 to the institution or placed in a better boarding home.
16 The cost of the boarding home care shall be paid by the
17 institution from which he was removed.

Article 9. Private Hospitals.

Section

1. Permit from board of control; regulations.

Section 1. *Permit from Board of Control; Regulations.*
2 —No private hospital for the care and treatment of men-
3 tally ill persons for compensation shall be established
4 unless a permit therefor shall be first obtained from the
5 board of control. The application for such permit shall
6 be accompanied by a plan of the premises to be occupied,
7 and with such other data and facts as the board may re-
8 quire. The board of control may make such terms and
9 regulations in regard to the conduct of such hospital as
10 it may think proper and necessary. The board of control,
11 or any member thereof, or any person authorized by the
12 board to so do, shall have full authority to investigate and

13 inspect such private hospital; and the board of control
14 may revoke the permit of any such hospital for good
15 cause, after reasonable notice to the superintendent or
16 other person in charge thereof.

Article 10. West Virginia Training School.

Section

1. Persons who may be admitted.
2. Proceedings for commitment.
3. Training and treatment of inmates.
4. Discharge or parole of inmates.
5. Name of site "Spring Run."

Section 1. *Persons Who May be Admitted.*—There shall
2 be admitted to the West Virginia Training School any
3 person mentally ill from birth or from an early age, so
4 pronounced that he is unable to care for himself and man-
5 age his affairs with ordinary prudence and who, because
6 of such mental illness, is a menace to the happiness and
7 welfare of himself or others in the community, and re-
8 quires care, training or control for the protection of him-
9 self or of others. This type of person is usually classified
10 as a mental defective. Should the school at any time not
11 be able to accommodate all persons of such class offered
12 for admission, preference in admission shall be given to
13 children between the ages of seven and fourteen years,
14 inclusive, who are capable of being trained and of attend-
15 ing to their own physical needs. No deaf or blind per-
16 sons shall be admitted.

Sec. 2. *Proceedings for Commitment.*—Mental defec-
2 tives shall be admitted to said school in the following
3 manner:
4 (a) The county mental hygiene commission shall have
5 jurisdiction of all applications for commitment of persons
6 to said school. Any relative of a person affected may make
7 application, by complaint under oath, to have the person
8 adjudged a mental defective; but when the relatives of
9 a mental defective person either neglect or refuse to
10 place such person in said school, or in some private in-
11 stitution of like nature, and shall permit him or her to
12 go at large, then any reputable citizen of the county may,
13 by complaint under oath, make application to the mental
14 hygiene commission for such commitment; and such com-

15 plaint shall not be subject to exception for defects of
16 form. When application is filed for commitment of an
17 alleged mentally defective person, the commission shall
18 appoint two physicians to examine such person and deter-
19 mine whether or not he is mentally defective. Both
20 these physicians shall be selected as being the most cap-
21 able physicians available because of knowledge of and
22 training in mental medicine, and neither of them shall be
23 related in any wise to the person sought to be committed.

24 (b) Where any court of the state has on trial before it
25 a prisoner for an offense, and the judge shall have cause
26 to believe that the prisoner is mentally defective, he may
27 appoint two physicians as aforesaid to examine the
28 prisoner, to ascertain whether or not he is in reality men-
29 tally defective; and if such physicians shall pronounce the
30 prisoner to be mentally defective, the judge may commit
31 him to said school.

32 In either of the cases named above, the physicians mak-
33 ing the examination shall be required to make a complete
34 and thorough examination, both mental and physical,
35 and shall be required to make to the commission or court
36 appointing them a certificate as to their findings in the
37 matter. This certificate shall be in the form prescribed
38 by the West Virginia board of control, and shall be made
39 in duplicate, one copy of the same being sent with the
40 patient when committed to the school, and the other copy
41 being filed with the commission or court committing such
42 person; and it shall be the duty of the superintendent of
43 said school to refuse admission of any person unless he or
44 she shall present a copy of such certificate.

45 The commission or court, by order, shall designate some
46 reputable person to convey such mentally defective per-
47 son to the school and to protect such person until such
48 time as he or she can be conveyed to the institution. When
49 any female is taken to the school, a female attendant shall
50 be provided.

51 All expenses connected with the commitment of per-
52 sons hereunder and conveying of such mentally defective
53 person to the school shall be borne by the county of which
54 such person is a resident.

Sec. 3. *Training and Treatment of Inmates.*—The training and treatment of persons admitted to the school shall be along such educational, medical and industrial lines as have proved most effective in approved institutions for mental defectives. The medical staff of such institution, and the medical staffs of Weston, Spencer and Huntington state hospitals, are hereby authorized to administer such medical treatment and perform such surgical operations for the inmates therein as may be necessary and expedient for the cure and prevention of mental defectiveness or disease.

Sec. 4. *Discharge or Parole of Inmates.*—When, in the judgment of the superintendent of the school, a patient or inmate thereof shall, under the treatment and training given therein, improve mentally and physically to such an extent as to no longer constitute a menace to himself or herself or others, the superintendent shall have the right, and it shall be his duty, to discharge or parole such person, under such rules and regulations as the board of control may prescribe.

Sec. 5. *Name of Site "Spring Run."*—The name of the site of the "West Virginia Training School" shall hereafter be known as "Spring Run."

Article 11. Committee; Disposition of Property.

Section

1. To be appointed by county court.
2. Bond; refusal to act or failure to qualify; appointment of another; committal to sheriff.
3. Appraisalment of estate.
4. Powers and duties generally.
5. Mortgage, lease or sale of realty.

Section 1. *To Be Appointed by County Court.*—When a person is found to be mentally ill by any court or by the county mental hygiene commission, or is committed to a state hospital by the county court, the county court shall appoint a committee for him.

Sec. 2. *Bond; Refusal to Act or Failure to Qualify; Appointment of Another; Committal to Sheriff.*—The county court, when making the appointment of such committee,

4 shall take from him a bond in such penalty and with such
5 surety as it shall deem sufficient, with condition that the
6 person so appointed will well and truly account for and
7 pay over to the person entitled thereto all property and
8 moneys which may come into his hands by virtue of such
9 appointment, and with such other conditions as the court
10 may require. If any person so appointed as committee
11 refuse the trust or shall fail for ten days succeeding his
12 appointment to give bond as aforesaid, the court, on the
13 motion of any party interested, or at its own instance,
14 may appoint some other person as committee, taking from
15 him bond as above provided, or may commit the estate
16 of such mentally ill person to the sheriff of the county,
17 who shall act as such committee without giving any bond
18 as such, and he and the sureties on his official bond shall
19 be liable for the faithful performance of the trust.

Sec. 3. *Appraisement of Estate.*—The county court,
2 whenever any committee is appointed for a mentally ill
3 person, shall appoint appraisers and cause to be made,
4 returned and recorded an appraisement of the property,
5 both real and personal, of any such person in the same
6 manner, to the same extent, within the same time, and
7 subject to the same regulations and conditions as required
8 by law for the estate of a deceased person.

Sec. 4. *Powers and Duties Generally.*—The committee
2 of any such person shall be entitled to the custody and
3 control of his person when he resides in the state and is
4 not confined in a state hospital or in jail, and shall take
5 possession of his estate, and may sue or be sued in respect
6 thereto, and for the recovery of debts due to and from
7 such person. He shall preserve such estate and manage
8 it to the best advantage; shall apply the personal estate,
9 or so much thereof as may be necessary, to the payment
10 of the debts of such person, and the rents and profits of
11 the residue of his estate, real and personal, and the resi-
12 due of the personal estate, or so much as may be necessary,
13 to the maintenance of such person, and of his family, if
14 any; and shall make due accounting as required by law,
15 and surrender the estate, or as much as he may be ac-
16 countable for, to such person in case he shall be restored

17 to sanity, or, in case of his death without having been
18 restored to sanity, the real estate to his heirs or devisees,
19 and the personal estate to his executors or administrators.

Sec. 5. *Mortgage, Lease or Sale of Realty.*—If the personal estate of such mentally ill person be insufficient for the discharge of his debts, or if such estate or the residue thereof after payment of the debts, and the rents and profits of his real estate, be insufficient for his maintenance and that of his family, if any, the committee of such mentally ill person may proceed, as provided in article one, chapter thirty-seven of this code, to obtain authority to mortgage, lease or sell so much of the real estate of such mentally ill person as may be necessary for the purposes aforesaid, or any of them; setting forth in the bill or petition the particulars and the amount of the estate, real and personal, the application which may have been made of any personal estate, and an account of the debts and demands existing against the estate.

Article 12. Offenses.

Section

1. Malicious making of medical certificate or complaint as to sanity.
2. Trespass on grounds of hospital or training school.
3. Miscellaneous offenses.

Section 1. *Malicious Making of Medical Certificate or Complaint as to Sanity.*—Any physician who shall sign a certificate respecting the sanity of any person without having made the examination as provided for by this chapter, or shall make any statement in any such certificate maliciously for the purpose of having such person declared mentally ill, and any person who shall maliciously make application to any mental hygiene commission or other tribunal for the purpose of having another person declared mentally ill, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one year, or both fined and imprisoned at the discretion of the court.

Sec. 2. *Trespass on Grounds of Hospital or Training School.*—The enclosed premises and the lands adjoining

3 the same belonging to any one of said state hospitals or
4 training school, are hereby declared private grounds; and
5 if any person be found thereon without authority or per-
6 mission or good excuse, he shall be deemed a trespasser,
7 and, on conviction thereof, shall be fined not exceeding
8 twenty-five dollars; and if it shall appear that he was
9 thereon for any unlawful or immoral purpose, in addition
10 to being so fined, he shall be imprisoned not exceeding
11 sixty days.

Sec. 3. *Miscellaneous Offenses.*—If any person shall
2 entice any patient from any of said hospitals who has
3 been legally committed thereto, or attempt to do so; or
4 shall counsel, cause, influence or assist, or attempt to do
5 so, any such patient to escape or attempt to escape there-
6 from, or harbor or conceal any such patient who has
7 escaped therefrom; or shall, without the permission of
8 the superintendent of any such hospital, give or sell to
9 any such patient, whether on the premises thereof or
10 elsewhere, any money, firearms, drugs, cigarettes, tobacco,
11 or any other article whatever; or shall receive from the
12 hands of any such patient anything of value, whether
13 belonging to the state or not; or shall cause or influence,
14 or attempt to cause or influence, any such patient to vio-
15 late any rule or to rebel against the government or dis-
16 cipline of such institution; or shall tease, pester, annoy,
17 or molest any such patient, he shall be guilty of a mis-
18 demeanor, and on conviction thereof, shall be fined not
19 less than ten nor more than one hundred dollars, or im-
20 prisoned not exceeding six months, or, in the discretion
21 of the court, both fined and imprisoned. If any person
22 shall aid or abet the commission of any of the foregoing
23 offenses, or aid or abet an attempt to commit the same,
24 he shall be guilty the same as if he were the principal,
25 and be punished as above provided. In the trial of an
26 indictment for committing any of the above named of-
27 fenses, the accused may be found guilty of an attempt
28 to commit the same, or of aiding or abetting another in
29 committing or in an attempt to commit the same. If
30 any person, not her husband, shall have sexual intercourse
31 with any female patient who is an inmate of any of said

32 hospitals, he shall be guilty of a felony, and, on conviction
33 thereof, shall be confined in the penitentiary not less than
34 ten nor more than fifteen years; and if such female patient
35 be under sixteen years of age, he shall be imprisoned not
36 less than ten nor more than twenty years.

Article 13. Laws Repealed; Constitutionality.

Section

1. Laws repealed.
2. Constitutionality.

Section 1. *Laws Repealed.*—All other laws or parts of
2 law inconsistent with the provisions of this chapter are
3 hereby repealed to the extent of any such inconsistency.

Sec. 2. *Constitutionality.*—If any section, subsection,
2 subdivision, paragraph, sentence or clause of this chapter
3 is held invalid or unconstitutional, such decision shall not
4 affect the remaining portions of this chapter.



CHAPTER 105

(House Bill No. 312—By Mr. Lilly)

AN ACT to amend and reenact section eleven, article one, chap-
ter twenty-two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the em-
ployment and training of mine rescue teams and providing
compensation to the members of such mine rescue teams.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 1. Department of Mines.

Section

11. Mine rescue crews.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Mine Rescue Crews.*—The chief of the state department of mines is hereby authorized to have trained and employed at the rescue stations operated by that department within the state, such rescue crews as he may deem necessary. Each member of a rescue crew shall devote four hours each month for training purposes, and shall be available at all times to assist in rescue work at explosions and mine fires. Regular members shall receive for such services the sum of six dollars per month and captains shall receive seven dollars per month, payable on requisition approved by the chief of the department of mines, and such other sums, to be paid by the operating company, as may be agreed upon when engaged in rescue work at explosions or mine fires. The chief of the department of mines may remove any member of a rescue crew at any time.

CHAPTER 106

(House Bill No. 428—By Mr. Watson and Mr. Fumich)

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seven, relating to the operation of underground gas storage reservoirs.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Underground Gas Storage Reservoirs.

Section

1. Definitions.
2. Filing of maps and data by persons operating or proposing to operate gas storage reservoirs.
3. Filing of maps and data by persons operating coal mines.
4. Notice by persons operating coal mines.
5. Obligations to be performed by persons operating storage reservoirs.
6. Inspection of facilities and records; reliance on maps; burden of proof.
7. Exemptions.
8. Alternative method.

9. Powers and duties of the department.
10. Conferences, hearings and appeals.
11. Enforcement.
12. Penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definitions.*—In this article, unless the context otherwise requires:

(1) The term “coal mine” means those operations in a coal seam which include the excavated and abandoned portions as well as the places actually being worked; also all underground workings and shafts, slopes, tunnels, and other ways and openings and all such shafts, slopes, tunnels, and other openings in the course of being sunk or driven, together with all roads and facilities connected with them below the surface.

(2) The term “operating coal mine” means (a) a coal mine which is producing coal or has been in production of coal at any time during the twelve months immediately preceding the date its status is put in question under this article and any worked out or abandoned coal mine connected underground with or contiguous to such operating coal mine as herein defined and (b) any coal mine to be established or reestablished as an operating coal mine in the future pursuant to section four of this article.

(3) The term “outside coal boundaries” when used in conjunction with the term “operating coal mine” means the boundaries of the coal acreage assigned to such coal mine and which can be practicably and reasonably expected to be mined through such coal mine.

(4) The term “well” means a bore hole drilled or proposed to be drilled within the storage reservoir boundary or reservoir protective area for the purpose of or to be used for producing, extracting or injecting any gas, petroleum or other liquid but excluding bore holes drilled to produce potable water to be used as such.

(5) The term “gas” means any gaseous substance.

32 (6) The term "storage reservoir" means that portion
33 of any subterranean sand or rock stratum or strata into
34 which gas is or may be injected for the purpose of storage
35 or for the purpose of testing whether said stratum is
36 suitable for storage.

37 (7) The term "bridge" means an obstruction placed in
38 a well at any specified depth.

39 (8) The term "linear foot" means a unit of measure-
40 ment in a straight line on a horizontal plane.

41 (9) The term "person" means any individual, associa-
42 tion, partnership or corporation.

43 (10) The term "reservoir protective area" means all
44 of that area outside of and surrounding the storage reser-
45 voir boundary but within two thousand linear feet there-
46 of.

47 (11) The term "retreat mining" means the removal
48 of such coal, pillars, ribs and stumps as remain after the
49 development mining has been completed in that section
50 of a coal mine.

51 (12) The term "pillar" means a solid block of coal
52 surrounded by either active mine workings or a mined
53 out area.

54 (13) The term "inactivate" means to shut off all flow
55 of gas from a well by means of a temporary plug, or
56 other suitable device or by injecting aquagel or other
57 such equally non-porous material into the well.

58 (14) The term "storage operator" means any person
59 as herein defined who proposes to or does operate a
60 storage reservoir, either as owner or lessee.

61 (15) The term "workable coal seam" shall have the
62 same meaning as the term "workable coal bed" as set out
63 in section one of article four of this chapter.

64 (16) The terms "owner," "coal operator," "well oper-
65 ator," "department," "department of mines," "plat," "cas-
66 ing," "oil," and "cement," shall have the meanings set out
67 in section one of article four of this chapter.

Sec. 2. *Filing of Maps and Data by Persons Operating*
2 *or Proposing to Operate Gas Storage Reservoirs.*—(a)
3 Any person who, on the effective date of this article, is
4 injecting gas into or storing gas in a storage reservoir

5 which underlies or is within three thousand linear feet
6 of an operating coal mine which is operating in a coal
7 seam that extends over the storage reservoir or the
8 reservoir protective area, shall, within sixty days there-
9 after, file with the department a copy of a map and cer-
10 tain data in the form and manner provided in this sub-
11 section.

12 Any person who, on the effective date of this article, is
13 injecting gas into or storing gas in a storage reservoir
14 which is not at such date under or within three thou-
15 sand linear feet, but is less than ten thousand linear
16 feet from an operating coal mine which is operating in
17 a coal seam that extends over the storage reservoir or
18 the reservoir protective area, shall file such map and
19 data within such time in excess of sixty days as the
20 department may fix.

21 Any person who, after the effective date of this article,
22 proposes to inject or store gas in a storage reservoir
23 located as above, shall file the required map and data
24 with the department not less than six months prior to
25 the starting of actual injection or storage.

26 The map provided for herein shall be prepared by a
27 competent engineer or geologist. It shall show the
28 stratum or strata in which the existing or proposed stor-
29 age reservoir is or is to be located, the geographic loca-
30 tion of the outside boundaries of the said storage reser-
31 voir and the reservoir protective area, the location of
32 all known oil or gas wells which have been drilled into
33 or through the storage stratum within the reservoir or
34 within three thousand linear feet thereof, indicating
35 which of these wells have been, or are to be cleaned out
36 and plugged or reconditioned for storage and also indi-
37 cating the proposed location of all additional wells which
38 are to be drilled within the storage reservoir or within
39 three thousand linear feet thereof.

40 The following information, if available, shall be fur-
41 nished for all known oil or gas wells which have been
42 drilled into or through the storage stratum within the
43 storage reservoir or within three thousand linear feet
44 thereof; name of the operator, date drilled, total depth,

45 depth of production if the well was productive of oil or
46 gas, the initial rock pressure and volume, the depths at
47 which all coal seams were encountered and a copy of
48 the driller's log or other similar information. At the
49 time of the filing of the aforesaid maps and data such
50 person shall file a detailed statement of what efforts he
51 has made to determine, (1) that the wells shown on said
52 map are accurately located thereon, and (2) that to the
53 best of his knowledge they are all the oil or gas wells
54 which have ever been drilled into or below the storage
55 stratum within the proposed storage reservoir or within
56 the reservoir protective area. This statement shall also
57 include information as to whether or not the initial in-
58 jection is for testing purposes, the maximum pressures
59 at which injection and storage of gas is contemplated, and
60 a detailed explanation of the methods to be used or which
61 theretofore have been used in drilling, cleaning out,
62 reconditioning and plugging wells in the storage reser-
63 voir or within the reservoir protective area. The map
64 and data required to be filed hereunder shall be amended
65 or supplemented semiannually in case any material
66 changes have occurred: *Provided, however,* That the de-
67 partment may require a storage operator to amend or
68 supplement such map or data at more frequent intervals
69 if material changes have occurred justifying such earlier
70 filing.

71 (b) The requirements of this section shall not apply
72 to the operator of an underground gas storage reservoir
73 so long as said reservoir is located more than ten thousand
74 linear feet from an operating coal mine: *Provided, how-*
75 *ever,* That such storage operator shall give notice to the
76 department of the name of each political subdivision
77 and county in which said operator maintains and
78 operates a gas storage reservoir. In those political sub-
79 divisions and counties where both gas storage reservoirs
80 and coal mines are being operated the department may
81 request the storage operator to furnish maps showing the
82 geographical location and outside boundaries of such
83 storage reservoirs. The department shall keep a record
84 of such information and shall promptly notify both the

85 coal operator and the storage operator if it is found that
86 the coal mine and storage reservoir are within ten thou-
87 sand linear feet of each other.

88 (c) At the time of the filing of the above maps and
89 data, and the filing of amended or supplemental maps
90 or data, the department shall give written notice of said
91 filing to all persons who may be affected under the pro-
92 visions of this article by the storage reservoir described
93 in such maps or data. Such notices shall contain a des-
94 cription of the boundaries of such storage reservoir. When
95 a person operating a coal mine or owning an interest in
96 coal properties which are or may be affected by the
97 storage reservoir, requests in writing a copy of any map
98 or data filed with the department such copy shall be
99 furnished by the storage operator.

100 (d) For all purposes of this article, the outside bound-
101 aries of a storage reservoir shall be defined by the loca-
102 tion of those wells around the periphery of the storage
103 reservoir which had no gas production when drilled in
104 said storage stratum: *Provided, however,* That the bound-
105 aries as thus defined shall be originally fixed or subse-
106 quently changed where, based upon the number and
107 nature of such wells, upon the geological and production
108 knowledge of the storage stratum, its character, permea-
109 bility, and distribution, and operating experience, it is
110 determined in a conference or hearing under section ten
111 of this article that modification should be made.

Sec. 3. *Filing of Maps and Data by Persons Operating*

2 *Coal Mines.*—(a) Any person owning or operating a coal
3 mine shall, within thirty days from the effective date
4 of this article, file with the department a map, prepared
5 by a competent engineer, showing the outside coal
6 boundaries of the said operating coal mine, the existing
7 workings and exhausted areas and the relationship of
8 said boundaries to identifiable surface properties and
9 landmarks. Any person who is storing or contemplating
10 the storage of gas in the vicinity of such operating coal
11 mines shall, upon written request, be furnished a copy
12 of the aforesaid map by the coal operator and such per-
13 son and the department shall thereafter be informed of

14 any boundary changes at the time such changes occur.
15 The department shall keep a record of such information
16 and shall promptly notify both the coal operator and the
17 storage operator if it is found that the coal mine and the
18 storage reservoir are within ten thousand linear feet of
19 each other.

20 (b) Any person owning or operating any coal mine
21 which, on the date of the enactment of this article, is or
22 which thereafter comes within ten thousand linear feet of
23 a storage reservoir, and where the coal seam being
24 operated extends over the storage reservoir or the reser-
25 voir protective area, shall within forty-five days after
26 he has notice from the department of such fact, file with
27 the department, and furnish to the person operating such
28 storage reservoir, a map in the form hereinabove pro-
29 vided and showing in addition, the existing and pro-
30 jected excavations and workings of such operating coal
31 mine for the ensuing eighteen month period, and also the
32 location of any oil or gas wells of which said coal operator
33 has knowledge. Such person owning or operating said
34 coal mine shall each six months thereafter file with the
35 department and furnish to the person operating such
36 storage reservoir a revised map showing any additional
37 excavations and workings, together with the projected
38 excavations and workings for the then ensuing eighteen
39 month period which may be within ten thousand linear
40 feet of said storage reservoir: *Provided, however,* That
41 the department may require a coal operator to file such
42 revised map at more frequent intervals if material changes
43 have occurred justifying such earlier filing. Such person
44 owning or operating said coal mine shall also file with
45 the department and furnish the person operating said
46 reservoir prompt notice of any wells which have been
47 cut into, together with all available pertinent information.

Sec. 4. *Notice by Persons Operating Coal Mines.*—

2 (a) Any person owning or operating a coal mine on the
3 effective date of this article, and having knowledge that
4 it overlies or is within two thousand linear feet of a gas
5 storage reservoir, shall within thirty days notify the de-
6 partment and the storage operator of such fact.

7 (b) When any person owning or operating a coal mine
8 hereafter expects that within the ensuing nine month
9 period such coal mine will be extended to a point which
10 will be within two thousand linear feet of any storage
11 reservoir he shall notify the department and the storage
12 operator in writing of such fact.

13 (c) Any person hereafter intending to establish or re-
14 establish an operating coal mine which when established
15 or reestablished will be over a storage reservoir or within
16 two thousand linear feet of a storage reservoir, or which
17 upon being established or reestablished may within nine
18 months thereafter be expected to be within two thousand
19 linear feet of a storage reservoir, shall notify the depart-
20 ment and the storage operator in writing before doing so
21 and such notice shall include the date on which it is in-
22 tended the operating coal mine will be established or re-
23 established.

24 Any person who serves such notice of an intention to es-
25 tablish or reestablish an operating coal mine under this
26 subsection, without intending in good faith to establish or
27 reestablish such mine, shall be liable for continuing dam-
28 ages to any storage operator injured by the serving of
29 such improper notice and shall be guilty of a misdemeanor
30 under this article and subject to the same penalties as set
31 forth in section twelve of this article.

Sec. 5. *Obligations to Be Performed by Persons Operat-*
2 *ing Storage Reservoirs.*—(a) Any person who, on the
3 effective date of this article, is operating a storage reser-
4 voir which underlies or is within two thousand linear
5 feet of an operating coal mine which is operating in a coal
6 * seam that extends over the storage reservoir or the reser-
7 voir protective area, shall:

8 (1) Use every known method which is reasonable un-
9 der the circumstances for discovering and locating all
10 wells which have or may have been drilled into or through
11 the storage stratum in that acreage which is within the
12 outside coal boundaries of such operating coal mine and
13 which overlies the storage reservoir or the reservoir pro-
14 tective area;

15 (2) Plug or recondition, in the manner provided by

16 sections nine and ten of article four of this chapter and
17 subsection (e) of this section, all known wells (except
18 to the extent otherwise provided in subsections (e), (f),
19 (g) and (h) of this section) drilled into or through the
20 storage stratum and which are located within that portion
21 of the acreage of the operating coal mine overlying the
22 storage reservoir or the reservoir protective area: *Pro-*
23 *vided, however,* That where objection is raised as to the
24 use of any well as a storage well, and after a conference
25 or hearing in accordance with section ten of this article
26 it is determined, taking into account all the circumstances
27 and conditions, that such well should not be used as a
28 storage well, such well shall be plugged: *Provided, how-*
29 *ever,* That if, in the opinion of the storage operator, the
30 well to which such objection has been raised may at some
31 future time be used as a storage well, the storage operator
32 may recondition and inactivate such well instead of plug-
33 ging it, if such alternative is approved by the department
34 after taking into account all of the circumstances and
35 conditions.

36 The requirements of clause (2) of this subsection shall
37 be deemed to have been fully complied with if, as the
38 operating coal mine is extended, all wells which, from
39 time to time, come within the acreage described in said
40 clause (2) are reconditioned or plugged as provided in
41 subsections (e) or (f) of this section and in section ten
42 of article four of this chapter so that by the time the coal
43 mine has reached a point within two thousand linear
44 feet of any such wells, they will have been reconditioned
45 or plugged so as to meet the requirements of said sub-
46 sections (e) or (f) and of said section ten of article
47 four.

48 (b) Any person operating a storage reservoir referred
49 to in subsection (a) of this section shall within sixty days
50 after the effective date of this article file with the depart-
51 ment and furnish a copy to the person operating the
52 affected operating coal mine, a verified statement setting
53 forth:

54 (1) That the map and any supplemental maps required
55 by subsection (a) of section two of this article have been

56 prepared and filed in accordance with section two;

57 (2) A detailed explanation of what the storage operator
58 has done to comply with the requirements of clauses (1)
59 and (2) of subsection (a) of this section and the results
60 thereof;

61 (3) Such additional efforts, if any, as the storage op-
62 erator is making and intends to make to locate all oil and
63 gas wells; and

64 (4) Any additional wells that are to be plugged or re-
65 conditioned to meet the requirements of clause (2) of
66 subsection (a) of this section.

67 If such statement is not filed by the storage reservoir
68 operator within the time specified herein, the department
69 shall summarily order such operator to file such state-
70 ment.

71 (c) Within one hundred twenty days after the receipt
72 of any such statement, the department may, and it shall,
73 if so requested by either the storage operator or the coal
74 operator affected, direct that a conference be held in ac-
75 cordance with section ten of this article to determine
76 whether the information as filed indicates that the re-
77 quirements of section two of this article and of subsection
78 (a) of this section have been fully complied with. At
79 such conference, if any person shall be of the opinion
80 that such requirements have not been fully complied
81 with, the parties shall attempt to agree on what additional
82 things are to be done and the time within which they
83 are to be completed, subject to the approval of the de-
84 partment, to meet the said requirements.

85 If such agreement cannot be reached, the department
86 shall direct that a hearing be held in accordance with
87 section ten of this article. At such hearing the department
88 shall determine whether the requirements of said section
89 two of this article and of subsection (a) of this section
90 have been met and shall issue an order setting forth such
91 determination. If the department shall determine that
92 any of the said requirements have not been met, the order
93 shall specify, in detail, both the extent to which such re-
94 quirements have not been met, and the things which the
95 storage operator must do to meet such requirements. The

96 order shall grant to the storage operator such time as is
97 reasonably necessary to complete each of the things which
98 he is directed to do. If, in carrying out said order, the
99 storage operator encounters conditions which were not
100 known to exist at the time of the hearing and which
101 materially affect the validity of said order or the ability
102 of the storage operator to comply with the order, the
103 storage operator may apply for a rehearing or modifica-
104 tion of said order.

105 (d) Whenever, in compliance with subsection (a) of
106 this section, a storage operator, after the filing of the
107 statement provided for in subsection (b) of this section,
108 plugs or reconditions a well, he shall so notify the de-
109 partment and the coal operator affected in writing, set-
110 ting forth such facts as will indicate the manner in which
111 the plugging or reconditioning was done. Upon receipt
112 thereof, the coal operator affected or the department may
113 request a conference or hearing in accordance with section
114 ten of this article:

115 (e) In order to meet the requirements of subsection (a)
116 of this section, wells which are to be plugged shall be
117 plugged in the manner specified in section ten of article
118 four of this chapter. When a well located within the
119 storage reservoir or the reservoir protective area has been
120 plugged prior to the enactment of this article and on
121 the basis of the data, information and other evidence
122 submitted to the department it is determined that: (1)
123 such plugging was done in the manner required in section
124 ten of article four of this chapter; and (2) said plugging
125 is still sufficiently effective to meet the requirements of
126 this article, the obligations imposed by subsection (a) of
127 this section as to plugging said well shall be considered
128 fully satisfied.

129 (f) In order to meet the requirements of subsection (a)
130 of this section wells which are to be reconditioned shall
131 be cleaned out from the surface through the storage hori-
132 zon and the following casing strings shall be pulled and
133 replaced with new casing, using the same procedure as
134 is applicable to drilling a new well as provided for in
135 sections five, six, seven and eight of article four of this

chapter: (1) the producing casing; (2) the largest diameter casing passing through the lowest workable coal seam unless such casing extends at least twenty-five feet below the bottom of such coal seam and is determined to be in good physical condition: *Provided, however,* That the storage operator may, instead of replacing the largest diameter casing, replace the next largest casing string if such casing string extends at least twenty-five feet below the lowest workable coal seam; and (3) such other casing strings which are determined not to be in good physical condition. In the case of wells to be used for gas storage, the annular space between each string of casing, and the annular space behind the largest diameter casing to the extent possible, shall be filled to the surface with cement or aquagel or such equally non-porous material as is approved by the department pursuant to section eight of this article. At least fifteen days prior to the time when a well is to be reconditioned the storage operator shall give notice thereof to the coal operator or owner and to the department setting forth in such notice the manner in which it is planned to recondition such well and any pertinent data known to the storage operator which will indicate the then existing condition of such well. In addition the storage operator shall give the coal operator or owner and such representative of the department as the chief of the department shall have designated at least seventy-two hours notice of the time when such reconditioning is to begin. The coal operator or owner shall have the right to file, within ten days after the receipt of the first notice required herein, objections to the plan of reconditioning as submitted by the storage operator. If no such objections are filed or if none is raised by the department within such ten day period, the storage operator may proceed with the reconditioning in accordance with the plan as submitted. If any such objections are filed by the coal operator or owner or are made by the department, the department shall fix a time and place for a conference in accordance with section ten of this article at which conference the well operator and the person who has filed such objections shall endeavor to agree

176 upon a plan of reconditioning which meets the require-
177 ments herein and which will satisfy such objections. If
178 no plan is approved at such conference the department
179 shall direct that a hearing be held in accordance with
180 section ten of this article and, after such hearing, shall
181 by an appropriate order determine whether the plan as
182 submitted meets the requirements set forth herein, or
183 what changes, if any, should be made to meet such re-
184 quirements. If, in reconditioning a well in accordance
185 with said plan, physical conditions are encountered which
186 justify or necessitate a change in said plan, the storage
187 operator or the coal operator may request that the plan
188 be changed. If the storage operator and the coal operator
189 cannot agree upon such change, the department shall ar-
190 range for a conference or hearing in accordance with sec-
191 tion ten of this article to determine the matter in the
192 same manner as set forth herein in connection with origi-
193 nal objections to said plan. Application may be made to the
194 department in the manner prescribed in section eight of
195 this article for approval of an alternative method of re-
196 conditioning a well. When a well located within the
197 storage reservoir or the reservoir protective area has
198 been reconditioned prior to the enactment of this article
199 or was so drilled and equipped previously and on the
200 basis of the data, information and other evidence sub-
201 mitted to the department it is determined that: (1) such
202 reconditioning or previous drilling and equipping was
203 done in the manner required in this subsection, or in a
204 manner approved as an alternative method in accordance
205 with section eight of this article and (2) such recondition-
206 ing or previous drilling and equipping is still sufficiently
207 effective to meet the requirements of this article, the ob-
208 ligations imposed by subsection (a) as to reconditioning
209 said well shall be considered fully satisfied. Where a
210 well requires emergency repairs this subsection shall not
211 be construed to require the storage operator to give the
212 notices specified herein before making such repairs.

213 (g) When a well located within the reservoir protec-
214 tive area is a producing well in a stratum below the stor-
215 age stratum the obligations imposed by subsection (a) of

216 this section shall not begin until such well ceases to be a
217 producing well.

218 (h) When a well within a storage reservoir or the
219 reservoir protective area penetrates the storage stratum
220 but does not penetrate the coal seam being mined by an
221 operating coal mine the department may, upon applica-
222 tion of the operator of such storage reservoir, exempt such
223 well from the requirements of this section. Either party
224 affected may request a conference and hearing with re-
225 spect to the exemption of any such well in accordance
226 with section ten of this article.

227 (i) In fulfilling the requirements of clause (2) of sub-
228 section (a) of this section with respect to a well within
229 the reservoir protective area, the storage operator shall
230 not be required to plug or recondition such well until
231 he has received from the coal operator written notice that
232 the mine workings will within the period stated in such
233 notice, be within two thousand linear feet of such well.
234 Upon the receipt of such notice the storage operator shall
235 use due diligence to complete the plugging or recondition-
236 ing of such well in accordance with the requirements of
237 this section and of section ten of article four of this chap-
238 ter. If the said mine workings do not, within a period
239 of three years after said well has been plugged, come
240 within two thousand linear feet of said well, the coal
241 operator shall reimburse the storage operator for the cost
242 of said plugging, provided such well is still within the
243 reservoir protective area as of that time.

244 (j) When retreat mining approaches a point where
245 within ninety days it is expected that such retreat work
246 will be at the location of the pillar surrounding an active
247 storage well the coal operator shall give written notice
248 of such approach to the storage operator and by agree-
249 ment said parties shall determine whether it is necessary
250 or advisable to inactivate effectively said well tempor-
251 arily. The well shall not be reactivated until a reasonable
252 period has elapsed, such reasonable period to be deter-
253 mined by the said parties. In the event that the said
254 parties cannot agree upon either of the foregoing matters,
255 such question shall be submitted to the department for

256 decision in accordance with section ten of this article.
257 The number of wells required to be temporarily inacti-
258 vated during the retreat period shall not be such as to
259 materially affect the efficient operation of such storage
260 pool. This provision shall not preclude the temporary
261 inactivation of a particular well where the practical effect
262 of inactivating such well is to render the pool temporarily
263 inoperative.

264 (k) The requirements of subsection (a), (l), and (m)
265 of this section shall not apply to the injection of gas into
266 any stratum when the sole purpose of such injection (such
267 purpose being herein referred to as testing) is to deter-
268 mine whether the said stratum is suitable for storage pur-
269 poses: *Provided, however,* That such testing shall be con-
270 ducted only in compliance with the following require-
271 ments:

272 (1) The person testing or proposing to test shall comply
273 with all the provisions and requirements of section two
274 of this article and shall verify the statement required to
275 be filed thereby;

276 (2) If any part of the proposed storage reservoir is
277 under or within two thousand linear feet of an operating
278 coal mine which is operating in a coal seam that extends
279 over the proposed storage reservoir or the reservoir pro-
280 tective area, the storage operator shall give at least six
281 months' written notice to the department and to the coal
282 operator of the fact that injection of gas for testing pur-
283 poses is proposed;

284 (3) The coal operator affected may at any time file
285 objections with the department in accordance with sub-
286 section (d) of section nine of this article. If any such
287 objections are filed by the coal operator or if the depart-
288 ment shall have any objections, the department shall fix
289 a time and place for a conference in accordance with
290 section ten of this article, not more than ten days from
291 the date of the notice to the storage operator, at which
292 conference the storage operator and the person who has
293 filed such objections shall attempt to agree, subject to
294 the approval of the department, on the questions involved.
295 If such agreement cannot be reached at such conference,

the department shall direct that a hearing be held in accordance with section ten of this article. At such hearing the department shall determine and set forth in an appropriate order the conditions and requirements which it shall deem necessary or advisable in order to prevent gas from such storage reservoir from entering any operating coal mine. The storage operator shall comply with such conditions and requirements throughout the period of the testing operations. In determining such conditions and requirements the department shall take into account the extent to which the matters referred to in subsection (a) of this section have been performed. If, in carrying out said order, either the storage operator or the coal operator encounters or discovers conditions which were not known to exist at the time of the hearing and which materially affect said order or the ability of the storage operator to comply with the order, either operator may apply for a rehearing or modification of said order;

(4) Where, at any time, a proposed storage reservoir being tested comes under or within two thousand linear feet of an operating coal mine either because of the extension of the storage reservoir being tested or because of the extension or establishment or reestablishment of the operating coal mine, then and at the time of any such event the requirements of this subsection shall become applicable to such testing.

(1) Any person, who, after the effective date of this article, proposes to establish a storage reservoir under, or within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall, prior to establishing such reservoir, in addition to complying with the requirements of section two of this article and subsection (a) of this section, file the verified statement required by subsection (b) of this section and fully comply with such order or orders, if any, as the department may issue in the manner provided for under subsections (b) or (c) of this section before beginning the operation of such storage reservoir. After the person proposing to operate such storage reservoir shall have

336 complied with such requirements and shall have there-
337 after begun to operate such reservoir, he shall continue
338 to be subject to all of the provisions of this article.

339 (m) When a gas storage reservoir, (1) is in operation
340 on the effective date of this article, and at any time there-
341 after it is under or within two thousand linear feet of an
342 operating coal mine, or (2) when a gas storage reservoir
343 is put in operation after the effective date of this article
344 and at any time after such storage operations begin it is
345 under or within two thousand linear feet of an operating
346 coal mine, then and in either such event, the storage
347 operator shall comply with all of the provisions of this
348 section except that the time for filing the verified state-
349 ment under subsection (b) shall be sixty days after the
350 date stated in the notice filed by the coal operator under
351 subsections (b) or (c) of section four of this article as
352 to when the operating coal mine will be at a point within
353 two thousand linear feet of such reservoir: *Provided,*
354 *however,* That if the extending of the projected workings
355 or the proposed establishment or reestablishment of the
356 operating coal mine is delayed after the giving of the
357 notice provided in subsections (b) and (c) of section four
358 of this article, the coal operator shall give notice of such
359 delay to the department and the department shall, upon
360 the request of the storage operator, extend the time for
361 filing such statement by the additional time which will
362 be required to extend or establish or reestablish such
363 operating coal mine to a point within two thousand linear
364 feet of such reservoir. Such verified statement shall also
365 indicate that the map referred to in subsection (a) of
366 section two of this article has been currently amended
367 as of the time of the filing of such statement. The person
368 operating any such storage reservoir shall continue to be
369 subject to all of the provisions of this article.

370 (n) If, in any proceeding under this article, the depart-
371 ment shall determine that any operator of a storage reser-
372 voir has failed to carry out any lawful order of the de-
373 partment issued under this article, the department shall
374 have authority to require such storage operator to suspend
375 the operation of such reservoir and to withdraw the gas

therefrom until such violation is remedied. In such an event the gas shall be withdrawn under the following conditions: The storage operator shall remove the maximum amount of gas which is required by the department to be removed from the storage reservoir that can be withdrawn in accordance with recognized engineering and operating procedures and shall proceed with due diligence insofar as existing facilities used to remove gas from the reservoir will permit.

(o) In addition to initial compliance with the other provisions of this article and any lawful orders issued thereunder, it shall be the duty at all times of the person owning or operating any storage reservoir which is subject to the provisions of this article to keep all wells drilled into or through the storage stratum in such condition and to operate the same in such manner as to prevent the escape of gas into any coal mine therefrom, and to operate and maintain such storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from such reservoir or its facilities into any coal mine, provided that this duty shall not be construed to include the inability to prevent the escape of gas where such escape results from an act of God or an act of any person not under the control of the storage operator other than in connection with any well which the storage operator has failed to locate and to make known to the department: *Provided, however,* That if any escape of gas into a coal mine does result from an act of God or an act of any person not under the control of the storage operator, the storage operator shall be under the duty of taking such action thereafter as is reasonably necessary to prevent further escape of gas into the coal mine.

Sec. 6. Inspection of Facilities and Records; Reliance on Maps; Burden of Proof.—(a) In determining whether a particular coal mine or operating coal mine is or will be within any distance material under this article from any storage reservoir, the owner or operator of such coal mine and the storage operator may rely on the most

7 recent map of the storage reservoir or coal mine filed by
8 the other with the department.

9 (b) In any proceeding under this article where the
10 accuracy of any map or data filed by any person pursuant
11 to the requirements of this article is in issue, the person
12 filing the same shall at the request of any party to such
13 proceeding be required to disclose the information and
14 method used in compiling such map and data and such
15 information as is available to such person that might
16 affect the current validity of such map or data. If any
17 material question is raised in such proceeding as to the
18 accuracy of such map or data with respect to any partic-
19 ular matter or matters contained therein, the person filing
20 such map or data shall then have the burden of proving
21 the accuracy of the map or data with respect to such
22 matter or matters.

23 (c) The person operating any storage reservoir affected
24 by the terms of this article shall, at all reasonable times,
25 be permitted to inspect the applicable records and facil-
26 ities of any coal mine overlying such storage reservoir
27 or the reservoir protective area, and the person operating
28 any such coal mine affected by the terms of this article,
29 shall similarly, at all reasonable times, be permitted to
30 inspect the applicable records and facilities of any such
31 storage reservoir underlying any such coal mine. In the
32 event that either such storage operator or coal operator
33 shall refuse to permit any such inspection of records or
34 facilities, the department shall, on its own motion, or on
35 application of the party seeking the inspection after
36 reasonable written notice, and a hearing thereon, if re-
37 quested by either of the parties affected, make an order
38 providing for such inspection.

Sec. 7. *Exemptions.*—(a) The provisions of this article
2 shall not apply to strip mines and auger mines operating
3 from the surface.

4 (b) Injection of gas for storage purposes in any work-
5 able coal seam, whether or not such seam is being or has
6 been mined, shall be prohibited. Nothing in this article
7 shall be construed to prohibit the original extraction of
8 natural gas, crude oil, or coal. No storage operator shall

9 have authority to appropriate any coal or coal measure
10 whether or not being mined, or any interest therein.

Sec. 8. *Alternative Method.*—(a) Whenever provision
2 is made in this article by reference to this section for
3 using an alternative method or material in carrying out
4 any obligation imposed by the article, the person seeking
5 the authority to use such alternative method or material
6 shall file an application with the department describing
7 such proposed alternative method or material in rea-
8 sonable detail. Notice of filing of any such application
9 shall be given by registered mail to any coal operator or
10 operators affected. Any such coal operator may within
11 ten days following such notice, file objections to such pro-
12 posed alternative method or material. If no objections are
13 filed within said ten day period or if none is raised by the
14 department, the department shall forthwith issue a permit
15 approving such proposed alternative method or material.

16 (b) If any such objections are filed by any coal operator
17 or are raised by the department, the department shall
18 direct that a conference be held in accordance with sec-
19 tion ten of this article within the ten days following the
20 filing of such objections. At such conference the per-
21 son seeking approval of the alternative method or mate-
22 rial and the person who has filed such objections shall
23 attempt to agree on such alternative method or material
24 or any modification thereof, and if such agreement is
25 reached and approved by the department, the department
26 shall forthwith issue a permit approving the alternative
27 method or material. If no such agreement is reached and
28 approved, the department shall direct that a hearing be
29 held in accordance with section ten of this article: *Provid-*
30 *ed, however,* That if the alternative method or material
31 involves a new development in technology or technique
32 the department may, before such a hearing is held, grant
33 such affected parties a period not to exceed ninety days
34 to study and evaluate said proposed alternative method
35 or material. Following such hearing, if the department
36 shall find that such proposed alternative method or mate-
37 rial will furnish adequate protection to the workable coal
38 seams, the department shall by order approve such alter-

39 native method or material; otherwise the department
40 shall deny the said application.

Sec. 9. *Powers and Duties of the Department.*—(a) The
2 department may review the maps and data filed under
3 sections two and three hereof for the purpose of deter-
4 mining the accuracy thereof. Where any material ques-
5 tion is raised by any interested storage operator or coal
6 operator or owner as to the accuracy of any such map
7 or data, the department shall hold hearings thereon and
8 shall by an appropriate order require the person filing
9 such map or data to correct the same if they are found
10 to be erroneous.

11 (b) It shall be the duty of the department to receive
12 and keep in a safe place for public inspection any map,
13 data, report, well log, notice or other writing required
14 to be filed with it pursuant to the provisions of this article.
15 The department shall keep such indices of all such infor-
16 mation as will enable any person using the same to readily
17 locate such information either by the identity of the per-
18 son who filed the same or by the person or persons affected
19 by such filing or by the geographic location of the subject
20 matter by political subdivision. The department shall
21 also keep a docket for public inspection of all proceedings,
22 in which shall be entered the dates of any notices, the
23 names of all persons notified and their addresses, the dates
24 of hearings, conferences and all orders, decrees, decisions,
25 determinations, rulings or other actions issued or taken
26 by the department and such docket shall constitute the
27 record of each and every proceeding before the depart-
28 ment.

29 (c) The department shall have authority to make any
30 inspections and investigations of records and facilities
31 which it shall deem necessary or desirable to perform its
32 functions under this article.

33 (d) Where in any section of this article provision is
34 made for the filing of objections, such objections shall be
35 filed in writing with the department by the person en-
36 titled to file the same or by the department, and shall
37 state as definitely as is reasonably possible the reasons
38 for such objections. The person filing such objections

39 shall send a copy thereof by registered mail to the person
40 or persons affected thereby.

Sec. 10. *Conferences, Hearings and Appeals.*—(a) The
2 department or any person having a direct interest in the
3 subject matter of this article may at any time request that
4 a conference be held for the purpose of discussing and
5 endeavoring to resolve by mutual agreement any matter
6 arising under the provisions of this article. Prompt notice
7 of any such conference shall be given by the department
8 to all such interested parties. At such conference a repre-
9 sentative of the department shall be in attendance, and
10 the department may make such recommendations as it
11 deems appropriate. Any agreement reached at such con-
12 ference shall be consistent with the requirements of this
13 article and, if approved by such representative of the
14 department, it shall be reduced to writing and shall be
15 effective unless reviewed and rejected by the department
16 within ten days after the close of the conference. The
17 record of any such agreement approved by the depart-
18 ment shall be kept on file by the department with copies
19 furnished to the parties. The conference shall be deemed
20 terminated as of the date any party refuses to confer
21 thereafter. Such a conference shall be held in all cases
22 prior to conducting any hearing under this section.

23 (b) Within ten days after termination of the conference
24 provided for in this section at which no approved agree-
25 ment has been reached or within ten days after the rejec-
26 tion by the department of any agreement approved at any
27 such conference, any person who has a direct interest in
28 the subject matter of the conference may submit the mat-
29 ter or matters, or any part thereof, considered at the
30 conference, to the department for determination at a
31 public hearing. The hearing procedure shall be for-
32 mally commenced by the filing of a petition with the
33 department upon forms prescribed by the department
34 or by specifying in writing the essential elements of
35 the petition, including name and address of the peti-
36 tioner and of all other persons affected thereby, a clear
37 and concise statement of the facts involved, and a
38 specific statement of the relief sought. The hearing

39 shall thereafter be conducted in accordance with such
40 regulations and such provisions as to reasonable notice
41 as the department may prescribe. Consistent with the
42 requirements for reasonable notice, all hearings under
43 this article shall be held by the department promptly.
44 All testimony taken at such hearings shall be under oath
45 and shall be reduced to writing by a reporter appointed
46 by the department, and the parties shall be entitled to
47 appear and be heard in person or by attorney. The depart-
48 ment may present at such hearing any evidence which is
49 material to the matter under consideration and which has
50 come to the department's attention in any investigation
51 or inspection made pursuant to provisions of this article.

52 (c) After the conclusion of hearings, the department
53 shall make and file its findings and order with its opinion,
54 if any. A copy of such order shall be served by registered
55 mail upon the person against whom it runs, or his attorney
56 of record, and notice thereof shall be given to the other
57 parties to the proceedings, or their attorney of record.

58 (d) The department may, at any time after notice and
59 after opportunity to be heard as provided in this section,
60 rescind or amend any approved agreement or order made
61 by it. Any order rescinding or amending a prior agree-
62 ment or order shall, when served upon the person affected,
63 and after notice thereof is given to the other parties to
64 the proceedings, have the same effect as is herein provided
65 for original orders; but no such order shall affect the
66 legality or validity of any acts done by such person in
67 accordance with the prior agreement or order before
68 receipt by such person of the notice of such change.

69 (e) The chief of the department shall have power,
70 either personally or by any of his authorized represent-
71 atives, to subpoena witnesses and take testimony, and
72 administer oaths to any witness in any hearing, proceed-
73 ing or examination instituted before the department or
74 conducted by it with reference to any matter within the
75 jurisdiction of the department. In all hearings or proceed-
76 ings before the department the evidence of witnesses and
77 the production of documentary evidence may be required
78 at any designated place of hearing; and in case of dis-

79 obedience to a subpoena or other process the department
80 or any party to the proceedings before the department
81 may invoke the aid of any circuit court in requiring the ev-
82 idence and testimony of witnesses and the production of
83 such books, records, maps, plats, papers, documents and
84 other writings as it may deem necessary or proper in and
85 pertinent to any hearing, proceeding or investigation held
86 or had by it. Such court, in case of the refusal of any such
87 person to obey the subpoena, shall issue an order requir-
88 ing such person to appear before the department and pro-
89 duce the required documentary evidence, if so ordered,
90 and give evidence touching the matter in question. Any
91 failure to obey such order of the court may be punished
92 by such court as contempt thereof. A claim that any such
93 testimony or evidence may tend to criminate the person
94 giving the same shall not excuse such witness from tes-
95 tifying, but such witness shall not be prosecuted for any
96 offense concerning which he is compelled hereunder to
97 testify.

98 (f) With the consent of the department, the testimony
99 of any witness may be taken by deposition at the instance
100 of a party to any hearing before the department at any
101 time after hearing has been formally commenced. The
102 department may, of its own motion, order testimony to be
103 taken by deposition at any stage in any hearing, proceed-
104 ing or investigation pending before it. Such deposition
105 shall be taken in the manner prescribed by the laws of
106 West Virginia for taking depositions in civil cases in courts
107 of record.

108 (g) Whether or not it be so expressly stated, an appeal
109 from any final order, decision or action by the department
110 in administering the provisions of this article may be
111 taken by any aggrieved person within ten days of notice
112 of such order, decision or action, to the circuit court of the
113 county in which the subject matter of such order, decision
114 or action is located, and in all cases of appeals to the
115 circuit court, that court shall certify its decisions to the
116 department. The circuit court to which the appeal is
117 taken shall hear the appeal without a jury on the record
118 certified by the department. In any such appeal the find-

119 ings of the department shall, if supported by substantial
120 evidence, be conclusive. If the order of the department is
121 not affirmed, the court may set aside or modify it, in
122 whole or in part, or may remand the proceedings to the
123 department for further disposition in accordance with the
124 order of the court. From all final decisions of the circuit
125 court an appeal shall lie to the supreme court of appeals
126 as is now provided by law in cases in equity, by the de-
127 partment as well as by any other party of record before the
128 circuit court.

129 Any party feeling aggrieved by the final order of the
130 circuit court affecting him, may present his petition in
131 writing to the supreme court of appeals, or to a judge
132 thereof in vacation, within twenty days after the entry
133 of such order, praying for the suspension or modification
134 of such final order. The applicant shall deliver a copy of
135 such petition to the department and to all other parties of
136 record before presenting the same to the court or judge.
137 The court or judge shall fix a time for the hearing on the
138 application, but such hearing shall not be held sooner
139 than seven days after its presentation unless by agree-
140 ment of the parties, and notice of the time and place of
141 such hearing shall be forthwith given to the department
142 and to all other parties of record. If the court or judge, after
143 such hearing, be of opinion that such final order should be
144 suspended or modified, the court or the judge may require
145 bond, upon such conditions and in such penalty, and
146 impose such terms and conditions upon the petitioner as
147 are just and reasonable. For such hearing the entire rec-
148 ord before the circuit court, or a certified copy thereof,
149 shall be filed in the supreme court, and that court, upon
150 such papers, shall promptly decide the matter in con-
151 troversy as may seem to it to be just and right, and may
152 award costs in each case as to it may seem just and
153 equitable.

Sec. 11. *Enforcement.*—(a) The department or any
2 person having a direct interest in the subject matter of
3 this article may complain in writing setting forth that any
4 person is violating or is about to violate any provisions
5 of this article, or has done, or is about to do, any act, mat-

6 ter or thing therein prohibited or declared to be unlawful,
7 or has failed, omitted, neglected or refused, or is about to
8 fail, omit, neglect or refuse, to perform any duty enjoined
9 upon him by this article. Upon the filing of a complaint
10 against any person, the department shall cause a copy
11 thereof to be served upon such person by registered mail
12 accompanied by a notice from the department setting such
13 complaint for hearing at a time and place specified in such
14 notice. At least five days' notice of such hearing shall be
15 given to the parties affected and such hearing shall be
16 held in accordance with the provisions of section ten of
17 this article. Following such hearing, the department shall,
18 if it finds that the matter alleged in the complaint is not
19 in violation of this article, dismiss the complaint, but if
20 the department shall find that the complaint is justified,
21 it shall by appropriate order compel compliance with this
22 article.

23 (b) Whenever the department shall be of the opinion
24 that any person is violating, or is about to violate, any
25 provisions of this article, or has done, or is about to do,
26 any act, matter or thing therein prohibited or declared
27 to be unlawful, or has failed, omitted, neglected or refused,
28 or is about to fail, omit, neglect or refuse, to perform any
29 duty enjoined upon him by this article, or has failed,
30 omitted, neglected or refused, or is about to fail, omit,
31 neglect or refuse to obey any lawful requirement or order
32 made by the department, or any final judgment, order or
33 decree made by any court pursuant to this article, then
34 and in every such case the department may institute in
35 the circuit court of the county or counties wherein the
36 operation is situated, injunction, mandamus or other ap-
37 propriate legal proceedings to restrain such violations of
38 the provisions of this article or of orders of the department
39 to enforce obedience therewith. No injunction bond shall
40 be required to be filed in any such proceeding. Such
41 persons or corporations as the court may deem necessary
42 or proper to be joined as parties in order to make its
43 judgment, order or writ effective may be joined as parties.
44 The final judgment in any such action or proceeding shall
45 either dismiss the action or proceeding or direct that the

46 writ of mandamus or injunction or other order, issue or be
47 made permanent as prayed for in the petition or in such
48 modified or other form as will afford appropriate relief.
49 An appeal may be taken as in other civil actions.

50 (c) In addition to the other remedies herein provided,
51 any storage operator or coal operator affected by the pro-
52 visions of this article may proceed by injunction or other
53 appropriate remedy to restrain violations or threatened
54 violations of the provisions of this article or of orders of
55 the department or the judgments, orders or decrees of
56 any court or to enforce obedience therewith.

57 (d) Each remedy prescribed in this section shall be
58 deemed concurrent or contemporaneous with any other
59 remedy prescribed herein and the existence or exercise of
60 any one such remedy shall not prevent the exercise of any
61 other such remedy.

Sec. 12. *Penalties.*—Any person who shall wilfully
2 violate any order of the department issued pursuant to the
3 provisions of this article shall be guilty of a misdemean-
4 or, and, on conviction thereof, shall be punished by a fine
5 not exceeding two thousand dollars, or imprisoned in jail
6 for not exceeding twelve months, or both, in the discretion
7 of the court, and prosecutions under this section may be
8 brought in the name of the state of West Virginia in the
9 court exercising criminal jurisdiction in the county in
10 which the violation of such provisions of the article or
11 terms of such order was committed, and at the instance
12 and upon the relation of any citizen of this state.

CHAPTER 107

(House Bill No. 184—By Mr. Bowles)

AN ACT to amend and reenact section five, article three, chap-
ter seventeen-a of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to applica-
tion for specially constructed, reconstructed, foreign ve-
hicles, or new vehicles purchased from dealers other than
licensed dealers of this state.

[Passed February 11, 1965; in effect ninety days from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

5. Application for specially constructed, reconstructed, foreign vehicles, or new vehicles purchased from dealers other than licensed dealers of this state.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Application for Specially Constructed, Reconstructed, Foreign Vehicles, or New Vehicles Purchased from Dealers Other Than Licensed Dealers of This State.*

— (a) In the event the vehicle to be registered is specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the application and with reference to every foreign vehicle which has been registered heretofore outside of this state the owner shall surrender to the department all registration plates, registration cards, and certificates of title or other evidence of such foreign registration as may be in his possession or under his control except as provided in subdivision (b) hereof.

(b) Where in the course of interstate operation of a vehicle registered in another state it is desirable to retain registration of said vehicle in such other state, such applicant need not surrender but shall submit for inspection said evidences of such foreign registration and the department upon a proper showing shall register said vehicle in this state but shall not issue a certificate of title for such vehicle.

(c) In the event application for registration and certificate of title is made for a new vehicle purchased from a dealer other than a licensed dealer of this state, a certificate of title shall not be issued for such vehicle nor shall such vehicle be registered by the department unless and until such application shall be accompanied by a cer-

27 tificate of title or a manufacturer's certificate of origin,
28 or if the state of purchase does not require a certificate
29 of title such application shall be accompanied by a manu-
30 facturer's certificate of origin, accompanied by evidence
31 that such seller is a bona fide dealer of the state in which
32 such vehicle was purchased.

CHAPTER 108

(House Bill No. 186—By Mr. Bowles)

AN ACT to amend and reenact section seventeen, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to application for and renewal of registration.

[Passed February 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

17. Application for and renewal of registration.

Be it enacted by the Legislature of West Virginia:

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

Section 17. *Application For and Renewal of Registration.*—Application for renewal of a vehicle registration shall be made by the owner by proper application and payment of the registration fee provided by law.
The department may receive applications for renewal of registration and issue new registration cards and plates at any time prior to expiration, but no person shall display upon a vehicle the new registration plates prior to the first day of the month preceding the new registration period.

CHAPTER 109

(House Bill No. 230—By Mr. Thompson, of Lincoln)

AN ACT to amend and reenact sections two and four, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transfer of title or interest.

[Passed February 15, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Transfers of Title or Interest.

Section

2. Endorsement of certificate of title upon transfer by owner.
4. Transfers to dealers and others.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Endorsement of Certificate of Title Upon*

- 2 *Transfer by Owner.*—Whenever the owner of a registered
- 3 vehicle transfers or assigns his title, he shall endorse an
- 4 assignment and warranty of title upon the certificate of
- 5 title for such vehicle with a statement of all liens and
- 6 encumbrances thereon, which statement shall be verified
- 7 under oath by the owner, and he shall within five days
- 8 from date of sale deliver the certificate of title to the
- 9 purchaser or transferee, except in the case of a vehicle
- 10 sold as scrap or to be dismantled.

- Sec. 4. *Transfers to Dealers and Others.*—When the
- 2 transferee of a vehicle is a dealer who holds the same
- 3 for resale and lawfully operates the same under dealer's
- 4 plates, such dealer shall not be required to obtain a new
- 5 registration of said vehicle or be required to forward the
- 6 certificate of title to the department, but such dealer upon
- 7 transferring his title or interest to another person shall
- 8 execute and acknowledge an assignment and warranty of
- 9 title upon the certificate of title and deliver the same not

10 later than five days from date of sale to the person to
11 whom such transfer is made.

12 When the transferee of a vehicle does not drive such
13 vehicle or permit it to be driven upon the highways, such
14 transferee shall not be required to obtain a new registra-
15 tion of said vehicle, but such transferee shall be required
16 within ten days from the date of such transfer to forward
17 the certificate of title to the department accompanied by
18 an application for a new certificate of title in his name.

CHAPTER 110

(House Bill No. 188—By Mr. Booth)

AN ACT to amend and reenact section five, article six, chapter seventeen-a, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to temporary registration plates or markers.

[Passed February 23, 1955; in effect from passage. Approved by the Governor.]

Article 6. Issuance of Special Plates to Dealers.

Section

5. Temporary registration plates or markers.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Temporary Registration Plates or Markers.*—

2 The commissioner may, subject to the limitations and
3 conditions hereinafter set forth, deliver temporary vehicle
4 registration plates or markers to dealers when the appli-
5 cation therefor is accompanied by the fee prescribed in
6 this chapter. Such application shall be made upon a form
7 prescribed and furnished by the department. Dealers sub-
8 ject to the limitations and conditions hereinafter set forth,
9 may issue such temporary registration plates or markers

10 to owners of vehicles, provided that such owners shall
11 comply with the pertinent provisions of this section.

12 Every dealer who has made application for temporary
13 registration plates or markers shall maintain in perma-
14 nent form a record of all temporary registration plates
15 or markers delivered to him, and shall also maintain in
16 permanent form a record of all temporary registration
17 plates or markers issued by him, and in addition thereto,
18 shall maintain in permanent form a record of any other
19 information pertaining to the receipt or the issuance of
20 temporary registration plates or markers that the com-
21 missioner may require. Each record shall be kept for a
22 period of at least three years from the date of entry of
23 such record. Every dealer shall allow full and free access
24 to such records during regular business hours, to duly
25 authorized representatives of the department and to peace
26 officers. Every dealer who issues temporary registration
27 plates or markers shall, on the day that he issued such
28 plates or markers, send to the department a copy of the
29 temporary registration plate or marker application, prop-
30 erly executed by such dealer and the owner.

31 A dealer shall not issue, assign, transfer or deliver tem-
32 porary registration plates or markers to anyone other than
33 the bona fide purchaser or owner of the vehicle to be
34 registered; nor shall a dealer issue temporary registration
35 plates or markers to anyone possessed of annual registra-
36 tion plates for a vehicle that has been sold or exchanged,
37 except a dealer may issue a temporary registration plate
38 or marker to the bona fide purchaser or owner of a vehicle
39 to be registered who possesses annual registration plates
40 of a different class and makes application to the depart-
41 ment to exchange such annual registration plates of a
42 different class in accordance with the provisions of sec-
43 tion one, article four, of this chapter; nor shall a dealer
44 lend to anyone or use on any vehicle that he may own,
45 temporary registration plates or markers. It shall be un-
46 lawful for any dealer to issue any temporary registration
47 plate or marker, or plates or markers, containing any mis-
48 statement of fact, or knowingly to insert any false infor-
49 mation upon the face thereof.

50 Every dealer who issues temporary plates or markers
51 shall affix or insert clearly and indelibly on the face of
52 each temporary registration plate or marker the date of
53 issuance and expiration, and the make and motor or serial
54 number of the vehicle for which issued.

55 If the commissioner finds that the provisions of this
56 section or the directions of the commissioner are not being
57 complied with by the dealer, he may suspend, after notice
58 and hearing, the right of a dealer to issue temporary reg-
59 istration plates or markers.

60 Every person who makes application for temporary reg-
61 istration plates or markers shall execute the temporary
62 registration plate or marker application and shall return
63 such application to the dealer from whom the vehicle to
64 be registered has been or will be purchased.

65 Every person who makes application for temporary
66 registration plates or markers shall execute and send an
67 application for annual registration plates to the depart-
68 ment, previous to or not later than fifteen days from the
69 day that the dealer sends to the department a copy of the
70 executed temporary registration certificate, but in no
71 event shall such application for annual registration plates
72 be made later than fifteen days from the day on which
73 the temporary registration plates or markers are issued
74 to such owner.

75 Every person to whom temporary registration plates or
76 markers have been issued shall permanently destroy such
77 temporary registration plates or markers immediately
78 upon receiving the annual registration plates from the
79 department: *Provided*, That if the annual registration
80 plates are not received within twenty days of the issuance
81 of the temporary registration plates or markers, the
82 owner shall, notwithstanding, immediately upon the ex-
83 piration of such twenty day period, permanently destroy
84 the temporary registration plates or markers: *Provided*
85 *further*, That not more than one temporary registration
86 plate or marker shall be issued to the same bona fide pur-
87 chaser or owner for the same vehicle.

88 Temporary registration plates or markers shall expire
89 and become void upon the receipt of the annual registra-

90 tion plates from the department, or upon the rescission of
91 a contract to purchase a motor vehicle, or upon the ex-
92 piration of twenty days from the date of issuance, de-
93 pending upon whichever event shall first occur. No re-
94 fund or credit of fees paid by dealers to the department
95 for temporary registration plates or markers shall be
96 allowed, except in the event that the commissioner dis-
97 continues the issuance of temporary registration plates or
98 markers, dealers returning temporary registration plates
99 or markers to the department may petition for refund or
100 a credit thereof.

101 The commissioner shall have the power to make such
102 rules and regulations, not inconsistent herewith, as he
103 shall deem necessary for the purpose of carrying out the
104 provisions of this section.

105 Any person who violates any of the provisions of this
106 section is guilty of a misdemeanor.

CHAPTER 111

(Senate Bill No. 63—By Mr. Amos)

AN ACT to amend and reenact section eight, article ten, chap-
ter seventeen-a of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to exemp-
tion from registration fees.

[Passed February 23, 1955; in effect from passage. Approved by the Governor.]

Article 10. Registration, License and Other Fees.

Section

8. Exemption from registration fees.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Exemption from Registration Fees.*—The
2 United States government, the state, or any political sub-

3 division thereof, shall be exempted from the payment of
4 any fee on account of registration of any vehicle owned
5 or operated by the United States government, the state,
6 or any political subdivision thereof, as the case may be:
7 *Provided*, That the proper representative of the federal
8 government, the state, or any such political subdivision
9 thereof, shall make, or cause to be made, on the form
10 provided for that purpose, an application for registration
11 of such vehicle so owned and operated, and that the reg-
12 istration plate or plates issued for such vehicle shall be
13 displayed or caused to be displayed as provided in this
14 chapter: *Provided further*, That fire apparatus owned by
15 the United States government, the state, or any political
16 subdivision thereof, and by an incorporated volunteer fire
17 department organized for protection of community prop-
18 erty, shall be exempt from all the provisions of this article
19 pertaining to the payment of registration fees: *Provided*
20 *further*, That any ambulance used exclusively for chari-
21 table purposes, for which use there is no charge, shall be
22 exempt from the payment of all registration fees required
23 by this article: *And provided further*, That any disabled
24 veteran owning an automobile under the provisions of
25 Public Law 663 of the 79th Congress of the United
26 States or Public Law 187 of the 82nd Congress of the
27 United States shall be exempt from the payment of any
28 fee on account of registration of any vehicle owned by
29 such disabled veteran. This exemption shall not apply to
30 such disabled veterans owning vehicles used for hire, but
31 such exemption shall be in force and effect for such
32 passenger car vehicles owned by such disabled veterans
33 during their natural life.

CHAPTER 112

(Senate Bill No. 163—By Mr. Bean, Mr. President, and Mr. Martin)

AN ACT to amend and reenact section five, article two, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to applications and fees for motor vehicle drivers' instruction permits.

[Passed March 2, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 2. Issuance of License, Expiration and Renewal.

Section

5. Instruction permits; fees.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Instruction Permits; Fees.*—Any person who
2 is at least sixteen years of age may apply to the depart-
3 ment for an instruction permit. The department may, in
4 its discretion, after the applicant has appeared before the
5 department of public safety and successfully passed all
6 parts of the examination other than the driving test, issue
7 to the applicant an instruction permit which shall entitle
8 the applicant while having such permit in his immediate
9 possession to drive a motor vehicle upon the public high-
10 ways for a period of sixty days when accompanied by a
11 licensed operator or chauffeur who is occupying a seat
12 beside the driver, except in the event the permittee is
13 operating a motorcycle. Any such instruction permit may
14 be renewed or a new permit issued for an additional
15 period of sixty days. The fee for such instruction permit
16 shall be two dollars, one dollar of which shall be paid
17 into the state treasury and credited to the state road fund,
18 and the other one dollar of which shall be paid into the
19 state treasury and credited to the account of the depart-
20 ment of public safety for application in the enforcement
21 of the road laws.

CHAPTER 113

(Senate Bill No. 71—By Mr. Amos)

AN ACT to amend and reenact section two, article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the of-

fense of driving while under the influence of intoxicating liquor or drugs and to the penalties therefor.

[Passed February 24, 1955; in effect from passage. Approved by the Governor.]

Article 5. Negligent Homicide, Driving While Intoxicated and Reckless Driving.

Section

2. Persons under the influence of intoxicating liquor or of drugs.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Persons Under the Influence of Intoxicating Liquor or of Drugs.*—(a) It is unlawful and punishable as provided in paragraph (c) of this section for any person who is under the influence of intoxicating liquor to drive any vehicle on any highway of this state or for any owner of such vehicle to knowingly permit the same to be so operated by one under influence of intoxicating liquor.

(b) It is unlawful and punishable as provided in paragraph (c) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charges of violating this paragraph.

(c) A person violating any provision of this section shall, for the first offense, occurring within a five-year period, be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than one hundred dollars or by imprisonment in the county jail for a period of not less than five days nor more than six months, or by both such fine and im-

26 imprisonment, and his operator's or chauffeur's license shall
27 be revoked for a period of six months. A person violat-
28 ing any provision of this section shall, for the second
29 offense, occurring within a five-year period, be guilty of
30 a misdemeanor, and upon conviction thereof shall be
31 punished by imprisonment in the county jail for a period
32 of not less than six months nor more than one year, which
33 sentence shall not be subject to probation, and whenever
34 the records of the department disclose that a conviction
35 is the second such conviction of such person, within a
36 period of five years, for a violation of this section, his
37 operator's or chauffeur's license shall be revoked by the
38 commissioner for a period of ten years, unless reissued
39 by the department of motor vehicles as hereinafter pro-
40 vided. Whenever the commissioner of motor vehicles,
41 after full investigation, shall find that the character of
42 any person who was convicted of a second offense under
43 this section and the circumstances at the time indicate
44 that he is not likely again to repeat his offense, and that
45 the public good does not require that his license be longer
46 revoked, the commissioner may, if it is deemed advisable,
47 reissue such license at any time more than five years
48 after the date on which it was revoked. A person violat-
49 ing any provision of this section shall, for the third or
50 any subsequent offense, occurring within a five-year pe-
51 riod, be guilty of a felony, and upon conviction thereof
52 shall be punished by imprisonment in the penitentiary
53 for not less than one nor more than three years, and
54 whenever the records of the department disclose that a
55 conviction is the third such or any subsequent conviction
56 of such person, within a period of five years, for a vio-
57 lation of this section, his operator's or chauffeur's license
58 shall be revoked by the commissioner for a period of ten
59 years and indefinitely thereafter unless reissued as here-
60 inafter provided. Whenever the commissioner of motor
61 vehicles, after full investigation, shall find that the char-
62 acter of any person who was convicted of a third or sub-
63 sequent offense under this section and the circumstances
64 at the time indicate that he is not likely again to repeat
65 his offense, and the public good does not require that his
66 license be longer revoked, the commissioner may, if it is

67 deemed advisable, reissue such license at any time more
68 than ten years after the date on which it was revoked.
69 The discretionary power herein conferred may be exer-
70 cised by the commissioner and the department of motor
71 vehicles with respect to the reissuing of licenses revoked
72 because of convictions prior to the passage hereof.

CHAPTER 114

(Senate Bill No. 337—By Mr. Traubert)

AN ACT to amend and reenact section seven, article twelve, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to overtaking and passing school bus.

(Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.)

Article 12. Special Stops Required.

Section

7. Overtaking and passing school bus.

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Overtaking and Passing School Bus.*—(a) The
2 driver of a vehicle on any street or highway upon meet-
3 ing or overtaking from either direction any school bus
4 which has stopped on the highway for the purpose of
5 receiving or discharging any school children shall stop
6 the vehicle before reaching such school bus and shall
7 not proceed until such school bus resumes motion, or
8 until signaled by the driver or other authorized person
9 or persons to proceed.
10 (b) Every bus used for the transportation of school
11 children shall bear upon the front and rear thereon a

12 plainly visible sign containing the words "school bus"
13 in letters not less than six inches in height. When a con-
14 tract school bus is being operated upon a highway for
15 purposes other than the actual transportation of children
16 either to or from school all markings thereon indicating
17 "school bus" shall be covered or concealed.

18 (c) The driver of a vehicle upon a highway with sepa-
19 rate roadways need not stop upon meeting or passing
20 a school bus which is on a different roadway or when
21 upon a controlled-access highway and the school bus is
22 stopped in a loading zone which is a part of or adjacent
23 to such highway and where pedestrians are not permitted
24 to cross the roadway.

CHAPTER 115

(House Bill No. 318—By Mr. Johnston)

An ACT to amend and reenact sections twenty, twenty-one, twenty-eight and twenty-nine, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to motor vehicle headlamps and approval of vehicle lighting devices.

[Passed February 25, 1955; in effect from passage. Approved by the Governor.]

Article 15. Equipment.

Section

20. Multiple-beam road lighting equipment.
21. Use of multiple-beam road-lighting equipment.
28. Selling or using lamps or equipment.
29. Authority of state road commissioner with reference to lighting devices.

Be it enacted by the Legislature of West Virginia:

That sections twenty, twenty-one, twenty-eight and twenty-nine, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 20. *Multiple-Beam Road Lighting Equipment.*

2 —Except as hereinafter provided, the headlamps or the
3 auxiliary driving lamp or the auxiliary passing lamp or
4 combinations thereof on motor vehicles other than a
5 motorcycle or motor driven cycles shall be so arranged
6 that the driver may select at will between distributions
7 of light projected to different elevations and such lamps
8 may, in addition, be so arranged that such selection can
9 be made automatically, subject to the following limita-
10 tions:

11 (a) There shall be an uppermost distribution of light,
12 or composite beam, so aimed and of such intensity as to
13 reveal persons and vehicles at a distance of at least three
14 hundred and fifty feet ahead for all conditions of loading.

15 (b) There shall be a lowermost distribution of light, or
16 composite beam so aimed and of sufficient intensity to re-
17 veal persons and vehicles at a distance of at least one hun-
18 dred feet ahead; and on a straight level road under any
19 condition of loading none of the high-intensity portion of
20 the beam shall be directed to strike the eyes of an ap-
21 proaching driver.

22 (c) Every new motor vehicle, other than a motorcycle
23 or motor driven cycle, registered in the state after Jan-
24 uary first, one thousand nine hundred fifty-two, which has
25 multiple-beam road lighting equipment shall be equipped
26 with a beam indicator, which shall be lighted whenever
27 the uppermost distribution of light from the head lamps
28 is in use, and shall not otherwise be lighted. Said indicator
29 shall be so designed and located that when lighted it will
30 be readily visible without glare to the driver of the vehicle
31 so equipped.

Sec. 21. *Use of Multiple-Beam Road-Lighting Equip-*

2 *ment.*—(a) Whenever a motor vehicle is being operated
3 on a roadway or shoulder adjacent thereto during the
4 times specified in section two, the driver shall use a dis-
5 tribution of light, or composite beam, directed high
6 enough and of sufficient intensity to reveal persons and
7 vehicles at a safe distance in advance of the vehicle, sub-
8 ject to the following requirements and limitations:

9 (b) Whenever a driver of a vehicle approaches an on-

10 coming vehicle within five hundred feet, such driver shall
11 use a distribution of light, or composite beam, so aimed
12 that the glaring rays are not projected into the eyes of the
13 oncoming driver. The lowermost distribution of light, or
14 composite beam specified in section twenty, paragraph
15 (b) shall be deemed to avoid glare at all times, regardless
16 of road contour and loading.

17 (c) Whenever the driver of a vehicle follows another
18 vehicle within two hundred feet to the rear, except when
19 engaged in the act of overtaking and passing, such driver
20 shall use a distribution of light permissible under this
21 chapter other than the uppermost distribution of light
22 specified in paragraph (a) of section twenty.

Sec. 28. *Selling or Using Lamps or Equipment.*—(a)

2 No person shall have for sale, sell, or offer for sale for use
3 upon or as a part of the equipment of a motor vehicle,
4 trailer, or semitrailer, or use upon any such vehicle any
5 headlamp, auxiliary, or fog lamp, real lamp, signal lamp,
6 or reflector, which reflector is required hereunder, or
7 parts of any of the foregoing which tend to change the
8 original design or performance, unless of a type which has
9 been submitted to the state road commissioner and approved
10 by him. The foregoing provisions of this section
11 shall not apply to equipment in actual use when this section
12 is adopted or replacement parts therefor, provided
13 that such equipment complies with the laws relating
14 thereto prior to the enactment hereof.

15 (b) No person shall have for sale, sell, or offer for sale
16 for use upon or as a part of the equipment of a motor
17 vehicle, trailer, or semitrailer any lamp or device mentioned
18 in this section which has been approved by the
19 state road commissioner unless such lamp or device bears
20 thereon the trademark or name under which it is approved
21 so as to be legible when installed.

22 (c) No person shall use upon any motor vehicle,
23 trailer, or semitrailer any lamps mentioned in this section
24 unless said lamps are mounted, adjusted and aimed in
25 accordance with instructions of the state road commissioner.
26

- 2 *Sec. 29. Authority of State Road Commissioner with*
3 *Reference to Lighting Devices.*—(a) The state road com-
4 missioner is hereby authorized to approve or disapprove
5 lighting devices and to issue and enforce regulations
6 establishing standards and specifications for the approval
7 of such lighting devices, their installation, adjustment and
8 aiming, and adjustment when in use on motor vehicles.
9 Such regulations shall correlate with and, so far as practi-
10 cable, conform to the then current standards and specifi-
11 cations of the society of automotive engineers applicable
12 to such equipment.
13 (b) The state road commissioner is hereby required
14 to approve or disapprove any lighting device, of a type on
15 which approval is specifically required in this chapter,
16 within a reasonable time after such device has been sub-
17 mitted.
18 (c) The state road commissioner is further authorized
19 to set up the procedure which shall be followed when any
20 device is submitted for approval.
21 (d) The state road commissioner upon approving any
22 such lamp or device shall issue to the applicant a certifi-
23 cate of approval together with any instructions deter-
24 mined by him.
25 (e) The state road commissioner shall publish lists of
26 all lamps and devices by name and type which have been
 approved by him.



CHAPTER 116

(Senate Bill No. 60—By Mr. Amos)

AN ACT to amend and reenact sections five and six, article sixteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of official inspection stations; fees for certificate of inspection, operation of official inspection stations.

[Passed March 9, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 16. Inspection of Vehicles.**Section**

5. Official inspection stations; fees for and certificate of inspection.
6. Operation of official inspection stations.

Be it enacted by the Legislature of West Virginia:

That sections five and six, article sixteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted as follows:

- Section 5. Official Inspection Stations; Fees for and**
2 **Certificate of Inspection.**—The superintendent of the de-
3 partment of public safety shall be responsible for the in-
4 spection as provided in this article and shall prescribe
5 requirements and qualifications for official inspection sta-
6 tions. He shall select and designate such stations and
7 shall issue permits therefor and furnish instructions and
8 all necessary forms thereto for the inspection of vehicles
9 as herein required and the issuance of official certificates
10 of inspection and approval. The certificate of inspection
11 shall be a paper sticker or decal to be affixed to the wind-
12 shield of a motor vehicle, shall be serially numbered and
13 shall properly identify the official inspection station by
14 which issued. A charge of twenty-five cents per sticker
15 shall be charged by the department of public safety to
16 the inspection station and the funds so received shall be
17 deposited into the state treasury and credited to the ac-
18 count of the department of public safety for application
19 in the administration of the provisions of this article.
20 Any balance remaining in the fund on the last day of June
21 of each fiscal year, not required for operating expenses
22 for the ensuing fiscal year, shall be transferred to the
23 state road fund. The superintendent is authorized to ex-
24 change stickers or to make refunds to official inspection
25 stations for stickers on hand when permits are revoked
26 or when, for any reason, the stickers become obsolete.
27 Application for permit shall be made upon an official
28 form prescribed by the superintendent and permits shall
29 be granted only when the superintendent is satisfied that
30 the station is properly equipped, and has competent per-
31 sonnel to make such inspections and adjustments and that
32 the inspections and adjustments will be properly con-

33 ducted. The superintendent, before issuing a permit, may
34 require the applicant to file a bond with surety approved
35 by the superintendent, conditioned that such applicant, as
36 a station operator, will make compensation for any dam-
37 age to a vehicle during an inspection or adjustment due
38 to negligence on the part of such station operator or em-
39 ployees thereof.

40 The superintendent shall properly supervise and cause
41 inspections to be made of such stations and shall revoke
42 and require the surrender of the permit issued to a sta-
43 tion which he finds is not properly equipped or conducted.
44 He shall maintain and post at his office and at such other
45 places as he may select lists of all stations holding per-
46 mits and of those whose permits have been revoked.

Sec. 6. *Operation of Official Inspection Stations.*—No
2 permit for an official inspection station shall be assigned
3 or transferred or used at any location other than therein
4 designated and every said permit shall be posted in a con-
5 spicuous place at the station location designated.

6 The person operating any such station shall issue a cer-
7 tificate of inspection and approval, upon an official form,
8 to the owner of a vehicle upon inspecting such vehicle
9 and determining that its equipment required hereunder
10 is in good condition and proper adjustment, but other-
11 wise no certificate shall be issued, except such as may be
12 issued pursuant to section two of this article. When re-
13 quired by the superintendent, a record and report shall be
14 made of every inspection and every certificate so issued.

15 A fee of not more than one dollar twenty-five cents
16 may be charged for an inspection and issuance of such
17 certificate, but the imposition of such charge shall not be
18 mandatory.

CHAPTER 117

(House Bill No. 407—By Mr. Bowles) •

AN ACT to amend and reenact section one, article twenty,
chapter seventeen-c of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to

laws and regulations limiting and controlling traffic on toll roads of the West Virginia turnpike commission and providing penalties for violations thereof.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 20. West Virginia Turnpike Commission.

Section

1. West Virginia turnpike commission; authority of West Virginia turnpike commission.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *West Virginia Turnpike Commission; Authority of West Virginia Turnpike Commission.*—The provisions of this chapter shall apply to toll roads under the jurisdiction of the West Virginia turnpike commission insofar as they are not in conflict with the provisions of chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-seven, as amended. The turnpike commission shall have all rights, privileges, and powers in regard to turnpike projects under its jurisdiction, which are by this chapter granted, reserved or otherwise accorded to the state road commission or commissioner or to any local or public authority or body in regard to other public highways. In addition, the turnpike commission shall have full authority to adopt rules and regulations for the movement of traffic upon any turnpike project under its jurisdiction and to amend the limits imposed by article six (speed restrictions) and article seventeen (size, weight, and load) of this chapter insofar as their application to toll roads under its jurisdiction are concerned by resolution entered upon the turnpike commission's minute book: *Provided*, That speed limits so established shall be posted conspicuously at intervals along the turnpike. Violations of any

24 amendments by the turnpike commission of said limits
25 as aforesaid or of any rules, regulations, or resolutions
26 of the turnpike commission adopted pursuant to this
27 article shall be punishable in the same manner and to
28 the same extent as elsewhere in this chapter provided
29 for the punishment of violations of limits set forth herein
30 and of rules, regulations, resolutions, and ordinances of
31 the state road commission or commissioner and local or
32 public authorities or bodies in regard to roads, streets, or
33 highways within their respective jurisdictions, unless no
34 punishment is provided elsewhere herein, in which event
35 each such violation shall be a misdemeanor subject to the
36 jurisdiction of justices of the peace and circuit courts upon
37 conviction of which a fine not to exceed fifty dollars shall
38 be levied.

CHAPTER 118

(Senate Bill No. 138—By Mr. Smith)

AN ACT to amend and reenact section ten-g, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries of officers of class I cities.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

10-g. Salaries of officers of class I cities.

Be it enacted by the Legislature of West Virginia:

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

Section 10-g. *Salaries of Officers of Class I Cities.*—Not-
2 withstanding any provision of its existing charter to the

3 contrary, the governing board of any Class I city, as
4 defined in section four, article one, chapter eight-a of
5 this code, shall have the authority to fix the salary of cer-
6 tain of its officers within the following limitations:

7 (1) The salary of the mayor shall not exceed ten thou-
8 sand dollars.

9 (2) The salary of the city manager shall not exceed
10 eight thousand dollars.

11 (3) The salary of the city attorney and the city engi-
12 neer shall not exceed eight thousand dollars.

13 The authority granted by this section shall in no case
14 be construed to deprive any class I city of any authority
15 under its existing charter to fix the salary of the of-
16 ficers named above in excess of the limits imposed by
17 this section.

18 This section shall not be construed to prohibit a class I
19 city from paying salaries to its mayor, city manager,
20 city attorney and city engineer in excess of the maxi-
21 mum salaries hereinabove provided, if such city adopts a
22 charter under the provisions of the home rule act.

CHAPTER 119

(House Bill No. 439—By Mr. Holderby and Mr. Kincaid)

AN ACT to amend and reenact section twenty, article four,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the
powers, duties and allied relations of municipal corpora-
tions.

[Passed March 8, 1955; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

20. Special charges for municipal services.

Be it enacted by the Legislature of West Virginia:

That section twenty, article four, chapter eight of the code of

West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 20. *Special Charges for Municipal Services.*—

2 The governing authority of every municipal corporation
3 that furnishes any essential or special municipal service,
4 including police and fire protection, parking facilities on
5 the streets or otherwise, recreational facilities, street
6 cleaning, sewerage and sewage disposal, and the collection
7 and disposal of garbage, ashes or other waste materials,
8 may by ordinance provide for the continuance, main-
9 tenance, installation or improvement of such service, may
10 make reasonable regulations with respect thereto, may
11 impose upon the users of such service reasonable rates,
12 fees and charges to be collected in the same manner as
13 municipal taxes are collected or in some other manner
14 specified in the ordinance, and may provide penalties for
15 any violation of such ordinance. The municipal corpora-
16 tion shall not, however, have a lien on any property as
17 security for payments due under such ordinance: *Pro-*
18 *vided, however,* That any ordinance enacted under the
19 provisions of this section shall be published at least once
20 a week for two successive weeks in two newspapers
21 published in such municipality, or if there be only one
22 newspaper published therein then in that newspaper, or
23 if there be no such newspaper published then by posting
24 copies of such ordinance for a like period in at least ten
25 conspicuous places in such municipality, and in the event
26 ten per cent of the registered voters by written petition
27 duly signed by them and filed with the municipal author-
28 ity within fifteen days after the expiration of such pub-
29 lishing or posting protest against such ordinance, the
30 ordinance shall not become effective until it shall be
31 ratified by a majority of the votes cast by the duly
32 qualified voters of such municipality at an election duly
33 and regularly held as provided by the laws and ordinances
34 of the municipality and the result of such election as-
35 certained and declared. Such election shall be held after
36 notice of such submission shall be given by publication
37 or posting of the same for two successive weeks next
38 prior to the date of such election as above provided for the

39 publication of the ordinance when adopted. The powers
40 hereby given to such municipalities and to the authorities
41 thereof are in addition to and supplemental of the powers
42 named in the respective charters thereof: *Provided,*
43 That in the event fees and charges herein provided for,
44 shall be imposed by the governing body of any municipal
45 corporation for the purpose of, and in amounts approxi-
46 mately sufficient, to replace in its general fund such
47 amounts as shall be appropriated to be paid out of ad
48 valorem taxes upon property within the municipality
49 pursuant to an election duly called and held under the
50 constitution and laws of the state to authorize the issuance
51 and sale of general obligation bonds of the municipality
52 for public improvement purposes, in the call for which
53 election it shall be stated that the governing body of the
54 municipality proposes to impose fees and charges in speci-
55 fied amounts under this section for the use of one or more
56 of the services above specified, which shall be related to
57 the public improvement proposed to be made with the
58 proceeds of the bonds, no notice, publication or posting of
59 notice, or referendum or election or other condition or
60 prerequisite to the imposition of such rates shall be re-
61 quired or necessary, other than the legal requirements
62 for the issuance and sale of such general obligation bonds.

CHAPTER 120

(Com. Sub. for House Bill No. 309—Originating in the House Committee on
Counties, Districts and Municipalities)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-one-a, authorizing municipalities owning a waterworks system or sewerage system or combined waterworks and sewerage system, or hereafter acquiring such waterworks system or sewerage system or combined waterworks and sewerage system, to provide pension plan or plans on behalf of employees.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

21-a. Pension plans for employees of municipal waterworks systems or sewerage systems or combined waterworks and sewerage systems.

Be it enacted by the Legislature of West Virginia:

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

Section 21-a. *Pension Plans for Employees of Municipal Waterworks Systems or Sewerage Systems or Combined Waterworks and Sewerage Systems.*—Any city in West Virginia which owns the waterworks system or sewerage system or combined waterworks and sewerage system, is hereby authorized to provide a pension plan or plans on behalf of and pertaining to all, or part, of the employees of said waterworks system or sewerage system or combined waterworks and sewerage system. Said pension plan or plans shall be financed from the general operation funds of said waterworks system or sewerage system or combined waterworks and sewerage system, and shall provide for a board or commission to administer such pension plan. Said board or commission shall be composed of such members as shall be approved by the governing body of the municipality and shall give proper representation to the employees of such waterworks system or sewerage system or combined waterworks and sewerage system. The chief financial executive officer or treasurer of such board or commission shall give bond with a surety company in an amount equal to the value of any funds or securities in the control of or owned by the board or commission. After reserving such funds as may be deemed necessary by the board or commission to provide such amounts

26 as may be required to meet temporary commitments,
27 the remainder shall be invested in bonds of the govern-
28 ment of the United States, the state of West Virginia,
29 or any political subdivision thereof.

CHAPTER 121

(Senate Bill No. 293—By Mr. Hedrick)

AN ACT to amend and reenact section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirty-six, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to definitions, including the definition of municipal public works.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1. Definitions.

Be it enacted by the Legislature of West Virginia:

That section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred thirty-six, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 1. *Definitions.*—(a) The term “municipality”,
2 as used in this article, shall be construed to mean any city
3 or incorporated town in the state of West Virginia; (b)
4 the term “municipal authorities”, as used in this article
5 shall be construed to mean the mayor and council, or
6 similar governing body, board or commission of any city
7 or incorporated town; (c) the term “municipal public
8 works”, as used in this article, shall be construed to mean

9 and include cemeteries, incinerator plants, land fill or
10 other garbage disposal systems, hospitals, piers, docks,
11 terminals, airports, drainage systems, flood control sys-
12 tems, the construction, reconstruction and alteration of
13 intracity bridges, including approaches, causeways, via-
14 ducts, underpasses and connecting roadways, public mar-
15 kets, automobile parking facilities (including parking lots,
16 buildings, ramps, curb-line parking, meters and other
17 facilities deemed necessary or incidental to the regula-
18 tion, control and parking of automobiles), stadiums, pub-
19 lic recreation parks, swimming pools, tennis courts, golf
20 courses, polo grounds, public buildings, including librar-
21 ies and museums, common jails, grading and/or paving,
22 and/or repaving streets, avenues and alleys; where such
23 works or projects will be made self-supporting, and the
24 construction and/or acquisition cost thereof, together with
25 interest thereon, will be returned within a reasonable
26 period, not exceeding thirty years, by means of tolls, fees,
27 rents, special assessments or charges other than taxation,
28 and shall mean and include such system, building, plant
29 or project in its entirety, and all integral parts thereof,
30 including all necessary appurtenances and equipment in
31 connection with any one or more of the above: *Provided,*
32 That when such municipal public works consist of grad-
33 ing and/or paving and/or repaving streets, avenues, and
34 alleys the cost of which is to be paid by special assess-
35 ment against the abutting property, represented by pav-
36 ing certificates which constitute a lien upon such prop-
37 erty and said paving certificates are pledged by any mu-
38 nicipality to retire revenue bonds issued and sold to pay
39 the cost of such construction, the payor of such paving
40 certificate shall have the right to pay the same at any
41 time before maturity, together with interest thereon to
42 date of payment, and upon the payment of such paving
43 certificate the treasurer of such municipality shall deliver
44 to the payor a release for such lien, and the funds re-
45 ceived therefrom shall by said treasurer be deposited in
46 a special fund to be expended only in the payment of
47 such revenue bonds. •

CHAPTER 122

(House Bill No. 266—By Mr. Adams)

AN ACT to amend and reenact section one-a, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the financing of municipal parking facilities.

[Passed March 7, 1955; in effect from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1-a. Municipal parking facilities.

Be it enacted by the Legislature of West Virginia:

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

Section 1-a. *Municipal Parking Facilities.*—Every municipality shall have the authority to establish, operate and finance under the provisions of this article automobile parking facilities, including buildings, lots and other facilities appropriate for that purpose and such facilities shall be public works within the meaning of this article.

Whenever any municipality shall establish any such parking facility, then in order to help finance the same, such municipality shall have the authority to use any revenue derived from parking meters or other parking facilities, unless such revenue is otherwise pledged to pay for such meters or parking facilities.

CHAPTER 123

(House Bill No. 147—By Mr. Andrews)

AN ACT to amend and reenact section nine, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the maximum

hours of duty by members of fire departments in municipal corporations in the state of West Virginia, and determining the schedule of hours to be worked by such firemen.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

9. Maximum hours of duty for firemen.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Maximum Hours of Duty for Firemen.*—In any
2 municipal corporation in this state having or which may
3 hereafter have, a fire department supported in whole or
4 in part by public expenses, the members of the fire
5 department shall not be required to remain on duty in
6 excess of one hundred twenty hours during any fourteen
7 consecutive days period. The members of such fire depart-
8 ment shall, by majority vote, determine the schedule of
9 hours to be worked in any twenty-four hour period:
10 *Provided, however,* That the members of said fire depart-
11 ment shall not remain on duty for more than twenty-four
12 consecutive hours except in case of a conflagration requir-
13 ing the service of more than one half of the department.
14 The chief executive officer of the department is hereby
15 authorized and directed to make the necessary assignments
16 as provided in this section.
17 Nothing in this section shall apply to any town which
18 does not maintain and pay for a fire department and
19 employees thereof for full time or on a full time basis.

CHAPTER 124

(House Bill No. 71—By Mr. Goshorn)

AN ACT to amend and reenact section fourteen, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fire department, fire companies, and firemen's and policemen's pensions or relief funds.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

14. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Levy to Maintain Fund; Gifts, etc.; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy annually and in the manner provided by law for other municipal levies, and include within the maximum levy or levies permitted by law, and if necessary in excess of any charter provisions, a tax of not less than one cent on each one hundred dollars of all real and personal property as listed for taxation in such municipality, and, if necessary, in excess of one cent, but not in excess of three and one-half cents so as to meet the estimated expenditures of the boards of trustees of the respective funds, for the firemen's pension or relief fund and a like levy on all real and personal property as listed for taxation in such municipality,

18 for a policemen's pension fund: *Provided*, That in any city
19 or municipality of eight thousand three hundred popula-
20 tion or less the laying of the levies herein provided for shall
21 be within the discretion of the common council or other
22 body of like power and duties in such city or municipality.

23 The levies authorized under this section, or any part of
24 them, may by the council or other governing body be laid
25 in addition to all other municipal levies, and to that
26 extent beyond the limit of levy imposed by the charter
27 of such municipality; and such levies shall supersede and
28 if necessary exclude levies for other purposes if such
29 priority or exclusion is necessary under limitation upon
30 taxes or tax levies imposed by law.

31 Such corporations are authorized to take by gift, grant,
32 devise or bequest, any money or real or personal property,
33 upon such terms as to the investment and expenditure
34 thereof as may be fixed by the grantor or determined by
35 said trustees.

36 In addition to all other sums provided for pensions in
37 this section, it shall be the duty of every municipal corpora-
38 tion to assess and collect from each member of such fire
39 department and police department each month, the sum
40 of three per cent of the monthly basic pay of such fire
41 or police department, that is, the monthly basic pay for
42 all equally and regardless of rank or position of the mem-
43 ber of such department and so that the amount of such
44 deduction shall be the same for all members of such fire
45 department and the same for all members of such police
46 department, which amount so to be deducted shall be
47 deducted from the monthly pay of such person; and the
48 amount so collected shall become a regular part of the
49 firemen's pension fund, if collected from a fireman, and of
50 the policemen's pension fund, if collected from a police-
51 man.

52 Any member of a municipal fire or police department
53 who is released or who before retirement on any pension
54 severs his connection with said department, provided he
55 has served two full years or more, shall, upon request,
56 be refunded all deductions made from his salary, but
57 without interest. In event such refund is made and such

58 member subsequently reenters the department no credit
59 shall be allowed him for any former service, unless any
60 such member of a municipal fire or police department
61 repays to the pension fund all sums refunded to him
62 within one year from the date he reenters the depart-
63 ment with interest at the rate of six per cent per annum:
64 *And provided further*, That any member who, at the
65 time this amendment becomes effective, has already
66 reentered the department, he shall be allowed credit
67 for any former service upon repaying all sums with-
68 drawn or refunded to him within one year from the
69 date this amendment becomes effective with interest at
70 the rate of six per cent per annum, but in no case shall
71 interest be charged for more than three years.

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CHAPTER 125

(House Bill No. 453—By Mr. Tucker)

AN ACT to amend and reenact section twenty-one, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payments from firemen's and policemen's pension or relief funds to certain surviving dependents.

[Passed March 11, 1955; in effect from passage. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

21. Payments in case of death.

Be it enacted by the Legislature of West Virginia:

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

Section 21. *Payments in Case of Death.*—In case any
2 such municipal employee who has been in continuous

3 service for more than five years shall die while in service,
4 leaving surviving him a dependent wife, or any dependent
5 minor child or children, or dependent mother and/or
6 father, or any dependent brothers and/or sisters under
7 the age of sixteen years, or in case any such former
8 municipal employee who is receiving or is entitled to
9 receive a pension under the provisions of this article, or
10 on a disability basis after he shall have been in continuous
11 service for more than five years, shall die, leaving sur-
12 viving him a dependent wife to whom he was married
13 prior to the date of his retirement, or any dependent
14 minor child or children who were born prior to or within
15 ten months after such retirement, or dependent mother
16 and/or father, or any dependent brothers and/or sisters
17 under the age of sixteen years, then, and in either of such
18 cases, the board of trustees of such pension fund shall pay
19 to or for each of such entitled surviving dependents the
20 following pensions, viz: To such dependent widow, the
21 sum of fifty dollars per month until her death or re-
22 marriage; for the support and maintenance of each such
23 dependent child the sum of fifteen dollars per month until
24 such child shall attain the age of eighteen years, or marry,
25 whichever first occurs: *Provided, however,* That the sum
26 of twenty dollars per month shall be paid for each such
27 surviving orphaned child; to each such dependent mother
28 or father the sum of fifteen dollars per month, or if either
29 of them be dead or die, then the sum of twenty dollars
30 per month to the survivor thereof; to each such dependent
31 brother or sister the sum of five dollars per month until
32 such person shall attain the age of sixteen years or marry,
33 whichever first occurs, but in no event shall the aggregate
34 amount paid to such brothers and sisters exceed thirty
35 dollars per month. But if at any time, because of the
36 number of dependents, all such dependents cannot be
37 paid in full as herein provided, then each dependent shall
38 receive his pro rata share of such payments: *Provided,*
39 *however,* That in no case shall the payments to the widow
40 and children be cut below sixty per cent.

41 The dependent wife, child or children, or dependent
42 father or mother, brothers or sisters, of any such municipal

43 employee who shall be killed in the performance of his
44 duties shall, regardless of the length of his service, receive
45 a pension as provided for in that portion of this section
46 fixing the amount to be paid to the dependents.

47 Absence from service because of sickness or injury shall
48 not be construed as time out of service.

49 The dependent wife, child or children, or dependent
50 father or mother, brothers or sisters of any such municipi-
51 pal employee or former municipal employee, who at the
52 time this section takes effect is receiving any pension,
53 payment or benefit from the firemen's or policemen's
54 pension or relief funds, shall continue to receive a
55 pension as provided in the portion of this section fixing
56 the amount to be paid to such dependents.

57 The provisions of this section shall not be construed
58 as creating or establishing any contractual or vested rights
59 in favor of any person who may be or become qualified
60 as a beneficiary of the payments herein authorized to be
61 made, all the provisions of this article and benefits pro-
62 vided for hereunder being expressly subject to such
63 subsequent legislative enactments as may provide for any
64 change, modification or elimination of the beneficiaries
65 or benefits specified herein.

○

CHAPTER 126

(House Bill No. 60—By Mr. Francis)

AN ACT to amend and reenact section two, article seven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection of municipal taxes, fines and assessments.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 7. Taxation and Finance.

Section

2. Collection of municipal taxes, fines and assessments; duties of sergeant.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Collection of Municipal Taxes, Fines and Assessments; Duties of Sergeant.*—It shall be the duty of the sergeant or such other officer as may be designated by the municipal council to collect and promptly pay into the treasury all taxes, special assessments, fines and other moneys due the municipality. All taxes, special assessments (except assessments for permanent or semi-permanent public improvements), fines and other moneys due the municipality are hereby declared to be debts owing to the municipality, for which the debtor shall be personally liable, and the sergeant or other officer may enforce this liability by appropriate action, including an action in assumpsit or notice of motion for judgment, in any court of competent jurisdiction, and is hereby vested with the same rights to distrain for the same as is vested in the sheriff for the collection of taxes. Such officer shall give bond, conditioned according to law, in such penalty and with such security as the council may require.

CHAPTER 127

(House Bill No. 335—By Mr. Bowles)

AN ACT to amend and reenact section six, article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assessments to improve streets, sidewalks and sewers.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 8. Assessments to Improve Streets, Sidewalks and Sewers.

Section

6. Apportionment and assessment of cost.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Apportionment and Assessment of Cost.—

2 The cost of the entire project, including the cost of all im-
3 provements at and within intersections, shall be appor-
4 tioned to, and assessed against and borne by the properties
5 abutting upon the streets, public ways, alleys or ease-
6 ments upon which the improvements involved in the
7 project shall have been made. Each lot or parcel of land
8 so abutting shall be assessed with that portion of the total
9 cost of the entire project which is represented by the pro-
10 portion which the abutting frontage in feet of such lot or
11 parcel bears to the total abutting frontage in feet of all the
12 lots or parcels of land abutting on the streets, public
13 ways, alleys or easements so improved: *Provided how-*
14 *ever,* That if the character of the improvements shall be
15 substantially different upon different streets, public ways,
16 easements or alleys, or portions thereof, the cost may be
17 equitably apportioned to the respective streets, public
18 ways, alleys, easements, or portions thereof, in proportion
19 to the character and cost of the improvements respectively
20 thereon; and as the part of the cost so apportioned to each
21 respective street, public way, easement, or alley, or por-
22 tion thereof, shall be apportioned to and assessed against
23 the respective lots or parcels of land abutting thereupon
24 in the proportion as hereinabove provided: *Provided fur-*
25 *ther,* That if any part of the street, alley, easement or pub-
26 lic way improved is used by a railway then the cost of the
27 portion of the improvements between the rails and for
28 two feet outside said rails shall be assessed against and
29 wholly borne by the owner of the railway: *Provided*
30 *further,* That if there be any land or other property
31 abutting on the portion of the street or alley so improved
32 which it has been determined by the governing body of
33 the municipality, and shown in the ordinance or resolution
34 authorizing the improvement, not to be specially bene-
35 fited by the improvement, or for other reasons would not
36 be liable to assessment for any of the cost of improve-

37 ment, then the cost of improvements abutting such part
38 of said street or alley, as is so determined to be nonas-
39 sessable shall be apportioned among, assessed and borne
40 by the remaining property abutting upon the portion of
41 the street, alley, public way or easement improved in pro-
42 portion to the frontage of such remaining abutting prop-
43 erty as hereinabove provided: *Provided further*, That if
44 there be any land or other property abutting on the por-
45 tion of the street or alley so improved which it has been
46 determined by the governing body of the municipality,
47 and shown in the ordinance or resolution, not to be bene-
48 fitted to the extent of the cost of the improvement, then
49 the cost of the improvements abutting such part of said
50 street or alley shall be prorated. The property so benefited
51 shall be assessed for only that part of the cost to the ex-
52 tent of which it has been benefited, and the remainder of
53 the cost shall be apportioned among, assessed and borne
54 by the remaining property abutting upon the portion of
55 the street, alley, public way or easement improved in
56 proportion to the frontage of such remaining abutting
57 property as hereinabove provided: *Provided further*,
58 That if such improvement include the construction or re-
59 construction of sidewalks on only one side of a street, al-
60 ley, public way or easement, then the cost of such side-
61 walk shall be assessed only on the property abutting on
62 that side where the sidewalks are so constructed: *Pro-*
63 *vided further*, That in apportioning and assessing the cost
64 of sewers or sewer systems the provisions of section four
65 hereof shall be observed: *Provided, further*, That if there
66 be land or other property abutting the street, alley, ease-
67 ment or public way so improved which is owned by the
68 United States of America, and, for that reason; not legally
69 subject to assessment, then the municipality shall pay the
70 proportionate part of the cost of the improvement which
71 otherwise would be assessable against such federally
72 owned land or property.

CHAPTER 128

(House Bill No. 315—By Mr. Adams)

AN ACT to amend and reenact section nine, article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assessments to improve streets, sidewalks and sewers.

[Passed March 8, 1955; in effect from passage. Approved by the Governor.]

Article 8. Assessments to Improve Streets, Sidewalks and Sewers.

Section

9. Assessment certificates; issuance, sale and negotiation; recording assessing resolution or ordinance.

Be it enacted by the Legislature of West Virginia:

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

- Section 9. *Assessment Certificates; Issuance, Sale and Negotiation; Recording Assessing Resolution or Ordinance.*—Immediately on laying of the assessment against the abutting property, certificates shall be issued evidencing said assessments and each installment of principal and interest payable. Said certificates may be payable to the municipality or to the bearer and be signed by the mayor and clerk or other equivalent officers of the municipality, and shall refer to the ordinance or resolution laying the assessments; shall show the amount and date of the assessment and describe the property against which the assessment is laid, describe the same as to ownership, amount, frontage and briefly as to location. Said certificates shall also show the dates on which principal and interest payments are due, and shall contain a provision that in event of default in the payment of any one of such installments, and such default continuing for a period of sixty days, then all unpaid installments shall become due

19 and payable at the election of the certificate holder and
20 the holder may proceed to collect all of the unpaid
21 balances of installments, with interest until paid. Said
22 certificates may be issued to the contractor making the
23 improvements in payment therefor, upon the contractor's
24 reimbursing the municipality for those items of the cost
25 and expense advanced by the municipality and mentioned
26 in section five hereof. Said certificates payable to the
27 bearer shall be assignable by delivery of the certificates
28 and be enforceable by the holder. The municipality
29 issuing such certificates shall not be held as guarantor or
30 in any way liable for the payment of bearer certificates. A
31 notice of the lien of said assessment, referring to the assess-
32 ing ordinance or resolution, and setting forth a list of the
33 property assessed, described respectively as to amounts
34 of assessment, frontage, location and ownership of the
35 property, shall be certified by the clerk or recorder of
36 the municipality to the clerk of the county court of the
37 county wherein the improvement is located. The county
38 clerk shall record the same in a proper trust deed book
39 and index the same in the name of each owner of abutting
40 property assessed.

CHAPTER 129

(House Bill No. 343—By Mr. Beneke and Mr. Adams)

AN ACT to amend and reenact sections two, four, five, six, seven, eight and nine, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to employees retirement and benefit fund of municipal corporations having a population in excess of fifteen thousand.

[Passed March 11, 1955; in effect from passage. Approved by the Governor.]

Article 15. Employees' Retirement and Benefit Fund.

Section

2. Definitions.
4. Employees eligible for participation in fund.

5. Prior, earned and total service credits; service breaks.
6. Retirement age and benefits.
7. Disability retirement payments.
8. Death benefits.
9. Contributions by the municipality.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five, six, seven, eight and nine, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. *Definitions.*—For the purpose of this article:

- 2 (a) "Prior service credit" shall mean the number of years
- 3 that the member has been in the service of the city prior
- 4 to the effective date of the retirement and benefit fund.
- 5 (b) "Earned service credits" shall mean the number
- 6 of years that the member has contributed to the retirement
- 7 and benefit fund.
- 8 (c) "Total service credit" shall mean a total of all prior
- 9 service credit and all earned service credit.
- 10 (d) "Fund" shall mean the employees' retirement and
- 11 benefit fund.
- 12 (e) "Board" shall mean the board of trustees of the
- 13 employees' retirement and benefit fund.
- 14 (f) "Member" shall mean an eligible employee of the
- 15 city, who is a member of the employees' retirement and
- 16 benefit fund.
- 17 (g) "Total disability in line of duty" shall mean total
- 18 and permanent disablement from performing any work
- 19 for pay, whether for the municipality or other employer,
- 20 that shall be caused by injury sustained in the course of
- 21 the operations usual to his employment, and shall include
- 22 all operations necessary, incident or appurtenant thereto,
- 23 or connected therewith, whether such operations are con-
- 24 ducted at the usual place of employment or elsewhere in
- 25 connection with or in relation to his usual and customary
- 26 employment.
- 27 (h) The pronoun "he" shall mean both masculine and
- 28 feminine.

29 (i) "Mayor" shall mean the chief executive officer of
30 the city.

31 (j) The term "actuarial equivalent" shall mean an
32 annuity of equal value to the accumulated contributions,
33 annuity or benefit when computed upon the basis of the
34 actuarial tables in use by the fund.

35 (k) "Salary" shall mean the amount earned by a mem-
36 ber as an employee of a municipality, provided that the
37 maximum amount of salary to be considered hereunder
38 for purposes of contributions and in the computation of
39 benefits, shall be four hundred dollars per month.

40 (l) "Average salary" shall mean the highest annual
41 average rate of salary earnable by a member during a
42 period of five consecutive years within the total service
43 of the member subject to a maximum amount of four
44 hundred dollars per month.

Sec. 4. *Employees Eligible for Participation in Fund.*

2 —Employees eligible for participation in the fund shall
3 include all employees who are employed by the munic-
4 ipality on a permanent basis. The following employees,
5 however, shall not be eligible for participation in the
6 fund:

7 (1) Appointive members of administrative boards and
8 commissions, except employees of such boards and com-
9 missions;

10 (2) Persons employed under contract for a definite
11 period or for the performance of a particular, special
12 service;

13 (3) Employees serving on a part-time basis of less than
14 one-half time;

15 (4) Policemen and firemen who are now covered by a
16 pension or relief fund;

17 (5) Employees who are paid in part by the county, state
18 or other governmental agency, and only in part by the
19 municipality;

20 (6) Employees who are past sixty years of age who
21 entered the service of the city after the effective date of
22 the retirement and benefit fund;

23 (7) Persons employed after the establishment date of
24 the fund who are over fifty years of age.

25 In case of doubt, the board of trustees of the fund may
26 make determination as to any person's eligibility to be-
27 come a member of the fund.

28 All employees eligible for participation at the effective
29 date of the fund shall become members of the fund, unless
30 they file a written election not to become a member with-
31 in thirty days after the effective date of the fund.

Sec. 5. *Prior, Earned and Total Service Credits; Service Breaks.*—(1) For prior service, each participating
2 employee, on the effective date, shall be credited, as of
3 such date, with a prior service credit equal to the period
4 or periods of service that the member has rendered to
5 the city prior to the effective date of the fund.

7 (2) Each member shall pay into the fund six per cent
8 of his salary up to four hundred dollars a month. Unless
9 the members' percentage of contributions is changed as
10 hereinafter provided, no member shall be required to con-
11 tribute more than twenty-four dollars per month.

12 These contributions shall continue until such time as
13 the member has twenty-three years of earned service
14 credit; he shall continue to contribute to the fund until
15 he retires or until he has contributed to the fund for a
16 period of twenty-three years, that is, has twenty-three
17 years of "earned service credit." However, a member
18 who has prior service credit shall be entitled to a full
19 retirement payment when his prior service credit and
20 his earned service credit totals twenty-three years of
21 total service credit, if he has reached compulsory retire-
22 ment age, or when he becomes so physically or mentally
23 disabled as to render him unfit for the performance of the
24 duties of the position he occupies.

25 Whenever it is found that the total contributions are
26 more than necessary to adequately maintain the fund,
27 upon recommendation of a reputable actuary, a proper
28 reduction shall be made of an equal percentage from the
29 contributions by the members and from the contributions
30 by the municipality.

31 (3) In order to participate one hundred per cent in the
32 retirement fund the member must have a total service
33 credit of twenty-three years which may be composed of

34 either prior service credit or earned service credit, or both.
35 At retirement, because of having reached the compulsory
36 retirement age, the member shall participate in the fund
37 only to the extent of his total service.

38 A person who is employed by the municipality at the
39 time of the effective date of the fund and becomes a mem-
40 ber of the fund shall be entitled to prior service credit
41 even though such prior service was not continuous.

42 A person who is not employed by the municipality at
43 the time of the effective date of the fund, but who has
44 been employed in the past, shall be entitled to prior serv-
45 ice credit if he returns to the service within two years
46 from the date of his termination of service and becomes
47 a member of the fund within such two-year period.

48 A member upon separation from the service without
49 right to a retirement benefit shall be entitled to with-
50 draw his contributions without interest. If such employee
51 returns to the service of the municipality within two
52 years and becomes a member of the fund, he shall be con-
53 sidered as a new employee and shall have lost all prior
54 service credits unless he shall repay to the fund in cash
55 at the time of reemployment the amount of money which
56 he has withdrawn plus two per cent interest compounded
57 annually on said amount during the time he was separated
58 from the service.

59 If, however, the service breaks of such member is more
60 than two years, he shall not be entitled to any prior serv-
61 ice credits nor shall he be entitled to redeposit with-
62 drawals but he shall reenter the fund as a new member.

Sec. 6. *Retirement Age and Benefits.*—After the effec-
2 tive date of the fund any member of the fund who has
3 had at least twenty-three years service and has reached
4 the age of sixty years while in service may, at his option,
5 retire from the service of the city upon a retirement pay-
6 ment as hereinafter provided.

7 Retirement for all members of the fund shall be com-
8 pulsory at the age of sixty-five, subject to the following
9 conditions:

10 The employee may be permitted to continue in the

11 service if he so desires; if his services are still valuable
12 to the municipality.

13 Whether an employee's services are valuable at the
14 age of sixty-five shall be determined by the appointing
15 officer of the municipality. If he determines that such
16 services are valuable, his determination must be certified
17 to the board for approval. If the board approves, the
18 employee may continue in the service of the municipality.
19 The appointing officer shall annually certify to the board
20 relative to the ability and competency of all employees
21 over sixty-five years. A member of the fund, upon retire-
22 ment, shall be entitled to the following retirement pay-
23 ment:

24 A member with at least ten years of service credits, who
25 has attained age sixty or over or who has become so phys-
26 ically or mentally disabled as to render him unfit for the
27 performance of the duties of the position he occupies
28 shall upon retirement be paid according to the following
29 table:

30 Twenty-three or more years of total service credits,
31 fifty per cent of average salary: *Provided*, That if a
32 member has twenty-three years of total service credits
33 he shall be entitled to a minimum retirement payment
34 of one hundred dollars per month.

35 Twenty-two years of total service credits, forty-nine
36 per cent of average salary.

37 Twenty-one years of total service credits, forty-eight
38 per cent of average salary.

39 Twenty years of total service credits, forty-seven per
40 cent of average salary.

41 Nineteen years of total service credits, forty-five per
42 cent of average salary.

43 Eighteen years of total service credits, forty-three per
44 cent of average salary.

45 Seventeen years of total service credits, forty-one per
46 cent of average salary.

47 Sixteen years of total service credits, thirty-nine per
48 cent of average salary.

49 Fifteen years of total service credits, thirty-six per
50 cent of average salary.

51 Fourteen years of total service credits, thirty-three per
52 cent of average salary.

53 Thirteen years of total service credits, thirty-one per
54 cent of average salary.

55 Twelve years of total service credits, twenty-nine per
56 cent of average salary.

57 Eleven years of total service credits, twenty-seven per
58 cent of average salary.

59 Ten years of total service credits, twenty-five per cent
60 of average salary.

Sec. 7. *Disability Retirement Payments.*—(1) If a
2 member becomes disabled by bodily injury effected di-
3 rectly or independently of all other causes through acci-
4 dental means while engaged in the course of his employ-
5 ment with the city and while in line of duty, and is totally
6 disabled from performing any work for pay, whether for
7 the municipality or other employer, he shall be entitled
8 during the time of his disability to a retirement payment
9 equal to fifty per cent of the rate of salary of the member
10 at date of disability: *Provided*, That the minimum pay-
11 ment shall be one hundred dollars per month.

12 (2) If a member becomes disabled while an employee
13 of the municipality after he has had at least ten years of
14 total service credits, and before he has reached age sixty,
15 but such disability is not incurred in the line of duty dur-
16 ing the course of his employment, he shall be entitled to
17 one-half of the benefit provided for service retirement
18 during the time of his disability: *Provided*, That he shall
19 be entitled to a minimum payment of twenty-five dollars
20 per month and a maximum payment of one hundred
21 dollars per month.

22 (3) When a member has reached the retirement age
23 or has become so physically or mentally disabled as to
24 render him unfit for the performance of the duties of the
25 position he occupies and who has less than ten years serv-
26 ice credits, he shall be entitled to an annuity which shall
27 be the actuarial equivalent of his total accumulation ac-
28 count at the time of his retirement.

29 (4) The board of trustees of the employees' retirement
30 and benefit fund may order a reexamination of members

31 of the fund receiving disability retirement payment and
32 if the disability no longer exists the payments shall be
33 discontinued.

Sec. 8. *Death Benefits.*—(1) A member who dies after
2 he has had ten or more years total service credits shall
3 be entitled, for a period not to exceed ten years, to a re-
4 tirement payment in accordance to the table contained in
5 section six of this article. The payments shall be made to
6 the person having an insurable interest in his life, as he
7 shall nominate to the board. If the beneficiary is a widow,
8 marriage shall have occurred at least one year prior to the
9 death of the member in order that the widow may be
10 eligible for a benefit under this paragraph.

11 Upon death of a member prior to the completion of ten
12 years of total service, the designated beneficiary of the
13 member, or the estate of the member, shall be entitled to
14 a return of his total contributions to the fund, without
15 interest.

16 (2) Death benefits after retirement shall be the same
17 as death before retirement except a widow shall not be
18 entitled to benefits unless she has been married to the
19 member before the date of his retirement. Payment shall
20 be made for the remaining period of ten years from the
21 date of the member's retirement. If a widow of a member
22 remarries, her retirement payments shall be terminated.

23 (3) If a member dies as a result of personal injury or
24 disease arising out of and in the course of his employment
25 with the city, the surviving widow shall be entitled dur-
26 ing her widowhood to a benefit equal to thirty-three and
27 one third per cent of the final rate of salary of the mem-
28 ber, subject to the maximum rate herein prescribed, but
29 not to exceed one hundred and twenty-five dollars per
30 month. In the event there be no widow, or if remarriage
31 occurs before the youngest child attains age eighteen,
32 each child shall be entitled to twenty per cent of the mem-
33 ber's final rate of salary, subject to a total payment to all
34 children of fifty per cent of salary, or one hundred twenty-
35 five dollars per month, whichever is the lesser. If there
36 be no widow or minor children, the dependent father and/
37 or mother, as the board shall determine, shall each be en-

38 titled to one-sixth of the deceased employee's final salary,
39 but the payment to either parent shall not exceed fifty
40 dollars per month.

Sec. 9. *Contributions by the Municipality.*—The council or other governing body shall annually provide sufficient funds in the budget, on an actuarially funded basis, to take care of the estimated cost of the employees' retirement and benefit fund over and above the amount contributed by the members.

The municipality shall also contribute not less than the amount contributed by the members of the fund, plus an amount required, at three per cent interest per annum, to amortize, over the remainder of the period of forty years following the effective date, the amount as of the beginning of such year, of the obligation for the prior service credits granted to the employees, and a sufficient amount to pay the cost of the administration of the fund.

CHAPTER 130

(Senate Bill No. 309—By Mr. Ballard)

AN ACT to amend and reenact section one, article sixteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment and operation of flood control project by counties and municipalities.

[Passed March 2, 1955; in effect from passage. Approved by the Governor.]

Article 16. Flood Control Project.

Section

1. Establishment and operation of flood control project by counties and municipalities.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Establishment and Operation of Flood Control Project by Counties and Municipalities.* — Any county, city, or town in this state may establish, construct, maintain, and operate for such county, city, or town, a flood control project, including the removal of accumulated snags and other debris, and clearing and straightening the channel of navigable streams and tributaries thereof, and such county, city, or town may accept all benefits, moneys, services, and assistance from the federal government in connection with any agreement as authorized by federal statutes and laws relating to flood control, and such county, city, or town, under such agreements as required by Section 701c, Title 33, United States Code Annotated, or other federal statutes, shall be authorized to give assurances satisfactory to the secretary of the army or other proper federal authority that such county, city, or town will provide: (a) Without cost to the United States all lands, easements and rights of way necessary for the construction of the project; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with the regulations prescribed by the secretary of the army. Any such county, city, or town is further empowered to levy, within the constitutional and statutory limitations, for the maintenance or operation of flood control project, and to purchase land situate therein for the same, and is empowered to institute condemnation proceedings for the acquiring of any such land required under the flood control project, and may authorize the issuance and sale of bonds within constitutional and statutory limitation, as is provided under the general provisions of law for the issuance and sale of bonds by counties and municipalities for public purposes generally, and any county, city, or town, shall have authority to adopt zoning ordinances restricting the use of the lands and construction of buildings and structures within the flood control area and one hundred feet on each side thereof and to enforce such ordinances by fine or imprisonment, or both, or by injunction proceedings, in the circuit court of the county in which the offense occurred. Real or personal property

42 or moneys may also be acquired for such purpose by
43 gifts by such county, city or town. The authority granted
44 by this section may be exercised by any county, city or
45 town in this state in cooperation with each other or
46 separately where such flood control project is located
47 regardless of the sponsoring agency of such project.

CHAPTER 131

(House Bill No. 222—By Mr. Burke)

AN ACT to amend and reenact section two, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article thirteen by adding thereto three new sections, to be designated sections eleven-a, eleven-b, and eleven-c, all relating to combined municipal waterworks and sewerage systems, so as to provide for the acquisition, construction, extension and improvement of combined waterworks and sewerage systems and the issuance of revenue bonds in connection therewith and providing for the rights and remedies of the holders of said bonds.

[Passed March 2, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 13. Combined Waterworks and Sewerage Systems.

Section

- 2. General powers.
- 11-a. Operating contract.
- 11-b. Exemption from taxation.
- 11-c. Covenants with bond holders.

Be it enacted by the Legislature of West Virginia:

That section two, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article thirteen be amended by adding thereto three new sections, to be designated sections eleven-a, eleven-b and eleven-c, all to read as follows:

Section 2. *General Powers.*—Any municipality may
2 acquire or construct and thereafter maintain and operate
3 a combined waterworks and sewerage system either
4 within or partly without the corporate limits thereof,
5 under the provisions of this article, and any municipality
6 owning and operating either a waterworks or a sewerage
7 system, but not both, may acquire or construct the water-
8 works or sewerage system which it does not then own
9 and operate, and in either of such cases such municipality
10 may provide by ordinance that when such waterworks
11 or sewerage system, or both, shall have been acquired or
12 constructed, same shall thereafter be owned, maintained
13 and operated as a combined undertaking under the pro-
14 visions of this article, and any municipality already own-
15 ing and operating an existing waterworks system and
16 an existing sewerage system may by ordinance combine
17 the same into a single undertaking under the provisions
18 of this article. Any municipality which has combined
19 its waterworks and sewerage system under the provisions
20 of this article, or pursuant to provisions of any other law,
21 may thereafter construct extensions and improvements
22 to either the waterworks system or the sewerage system
23 of said combined waterworks and sewerage system, or
24 both, and may finance the construction or acquisition
25 of any such waterworks or sewerage system, or both, or
26 the construction of extensions and improvements to either
27 the waterworks system or the sewerage system of such
28 combined waterworks and sewerage system, or both, by
29 the issuance of revenue bonds under the provisions of
30 this article. Notwithstanding the provisions of any other
31 law or laws to the contrary, any such municipality may
32 serve and supply the area included within twenty miles
33 outside its corporate limits with the water or sewer
34 services and facilities, or both, of its combined water-
35 works and sewerage system: *Provided, however,* That
36 such water or sewer services and facilities shall not be
37 served or supplied within the corporate limits of any
38 other municipality without the consent of the governing
39 body thereof.

Sec. 11-a. *Operating Contract*.—Any such municipality
2 may enter into contracts or agreements with any persons,
3 firms or corporations for the operation and management
4 of the facilities and properties of said combined water-
5 works and sewerage system, or any part thereof, for such
6 period of time and under such terms and conditions as
7 shall be agreed upon between such municipality and such
8 persons, firms or corporations. Such municipality shall
9 have power to provide in the resolution authorizing the
10 issuance of bonds hereunder, or in any trust indenture
11 securing such bonds, that such contracts or agreements
12 shall be valid and binding upon the municipality as long
13 as any of said bonds, or interest thereon, are outstanding
14 and unpaid.

Sec. 11-b. *Exemption From Taxation*.—Said bonds and
2 the interest thereon, together with all properties and
3 facilities of said municipality owned or used in connection
4 with said combined waterworks or sewerage system, and
5 all the moneys, revenues and other income of such munici-
6 pality derived from such combined waterworks and
7 sewerage system shall be exempt from all taxation by the
8 state of West Virginia or any county, municipality, politi-
9 cal subdivision or agency thereof.

Sec. 11-c. *Covenants With Bond Holders*.—Any reso-
2 lution authorizing the issuance of bonds hereunder, or any
3 trust indenture with any bank or trust company within
4 or without the state, for the security of said bonds, which
5 any such municipality is hereby authorized to enter into
6 and execute, may contain covenants with the holders of
7 such bonds as to:

8 (a) The purpose or purposes to which the proceeds of
9 sale of such bonds, or the revenues derived from said
10 combined waterworks and sewerage system, may be
11 applied and the securing, use and disposition thereof,
12 including, if deemed desirable, the appointment of a
13 trustee or depositary for any of such funds;

14 (b) The pledging of all or any part of the revenues
15 derived from the ownership, operation or control of such
16 combined waterworks and sewerage systems, including
17 any part thereof heretofore or hereafter constructed or

18 acquired or derived from any other sources, to the pay-
19 ment of the principal of or interest thereon of bonds issued
20 hereunder and for such reserve or other funds as may
21 be deemed necessary or desirable;

22 (c) The fixing, establishing and collecting of such fees,
23 rentals or other charges for the use of the services and
24 facilities of the combined waterworks and sewerage sys-
25 tem, including the parts thereof heretofore or hereafter
26 constructed or acquired and the revision of same from
27 time to time, as will always provide revenues at least
28 sufficient to provide for all expenses of operation, main-
29 tenance and repair of such combined waterworks and
30 sewerage system, the payment of the principal of and
31 interest on all bonds or other obligations payable from
32 the revenues of such combined waterworks and sewerage
33 system, and all reserve and other funds required by the
34 terms of the ordinance authorizing the issuance of such
35 bonds;

36 (d) The transfer from the general funds of the munici-
37 pality to the account or accounts of the combined water-
38 works and sewerage system of an amount equal to the cost
39 of furnishing the municipality or any of its departments,
40 boards or agencies with the services and facilities of such
41 combined waterworks and sewerage system;

42 (e) Limitations or restrictions upon the issuance of
43 additional bonds or other obligations payable from the
44 revenues of such combined waterworks and sewerage
45 system, and the rank or priority, as to lien and source
46 and security for payment from the revenues of such com-
47 bined waterworks and sewerage system, between bonds
48 payable from such revenues;

49 (f) The manner and terms upon which all bonds and
50 other obligations issued hereunder may be declared im-
51 mediately due and payable upon the happening of a
52 default in the payment of the principal of or interest
53 thereon, or in the performance of any covenant or agree-
54 ment with bondholders, and the manner and terms upon
55 which such defaults may be declared cured and the ac-
56 celeration of the maturity of such bonds rescinded and
57 repealed;

58 (g) Budgets for the annual operation, maintenance and
59 repair of such combined waterworks and sewerage system
60 and restrictions and limitations upon expenditures for
61 such purposes, and the manner of adoption, modification,
62 repeal or amendment thereof, including the approval of
63 such budgets by consulting engineers designated by
64 holders of bonds issued hereunder;

65 (h) The amounts of insurance to be maintained upon
66 such combined waterworks and sewerage system, or any
67 part thereof, and the use and disposition of the proceeds
68 of any insurance;

69 (i) The keeping of books of account, relating to such
70 undertakings and the audit and inspection thereof, and
71 the furnishing to the holders of bonds issued hereunder
72 or their representatives, reports prepared, certified, or
73 approved by accountants designated or approved by the
74 holders of bonds issued hereunder;

75 (j) Such other additional covenants as shall be deemed
76 necessary or desirable for the security of the holders of
77 bonds issued hereunder, notwithstanding that such other
78 covenants are not expressly enumerated hereunder, it
79 being the intention hereof to grant to such municipalities
80 the power to make any and all covenants or agreements
81 necessary in order to secure greater marketability for
82 bonds issued hereunder as fully and to the same extent
83 as such covenants or agreements could be made by a
84 private corporation rendering similar services and facili-
85 ties and to grant such municipalities full and complete
86 power to enter into any contracts, covenants or agree-
87 ments with holders of bonds issued hereunder not incon-
88 sistent with the constitution of the state of West Virginia.

CHAPTER 132

(House Bill No. 223—By Mr. Burke)

AN ACT to amend and reenact section one, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, and to further amend said chapter

twenty-five by adding thereto three new sections, to be designated sections twenty-two-e, twenty-two-f and twenty-two-g, all relating to municipal sewerage systems, so as to provide for the acquisition, construction, extension and improvement of municipal sewerage systems and the issuance of revenue bonds in connection therewith and providing for the rights and remedies of the holders of said bonds.

[Passed March 3, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

- 1. Acquisition, operation, etc.; issuance of bonds.
- 22-e. Operating contract.
- 22-f. Exemption from taxation.
- 22-g. Covenants with bond holders.

Be it enacted by the Legislature of West Virginia:

That section one, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, be amended and reenacted, and that said chapter twenty-five be further amended by adding thereto three new sections, to be designated sections twenty-two-e, twenty-two-f and twenty-two-g, all to read as follows:

- Section 1. *Acquisition, Operation, Etc.; Issuance of*
- 2 *Bonds.*—Any municipal corporation and/or sanitary dis-
 - 3 trict in the state of West Virginia is hereby authorized
 - 4 and empowered to own, acquire, construct, equip, operate
 - 5 and maintain within and/or without the corporate limits
 - 6 of such municipal corporations, a sewage collection system
 - 7 and/or a sewage treatment plant or plants, intercepting
 - 8 sewers, outfall sewers, force mains, pumping stations,
 - 9 ejector stations, and all other appurtenances necessary
 - 10 or useful and convenient for the collection and/or treat-
 - 11 ment, purification and disposal, in a sanitary manner, of
 - 12 the liquid and solid waste, sewage, night soil and indus-
 - 13 trial waste of such municipal corporation and/or sanitary
 - 14 district, and shall have authority to acquire by gift, grant,
 - 15 purchase, condemnation, or otherwise, all necessary lands,

16 rights-of-way and property therefor, within and/or with-
17 out the corporate limits of such municipal corporation
18 and/or sanitary district, and to issue revenue bonds to pay
19 the cost of such works and property; and any such municipi-
20 pality may serve and supply the facilities of such sewer-
21 age system within the corporate limits of such municipi-
22 pality and within the area extending twenty miles beyond
23 the corporate limits of such municipality: *Provided, how-*
24 *ever,* That such municipality shall not serve or supply
25 the facilities of such sewerage system within the corpor-
26 ate limits of any other municipality without the consent
27 of the governing body thereof. No obligations shall be
28 incurred by any such municipality and/or sanitary dis-
29 trict in such construction or acquisition except such as
30 is payable solely from the funds provided under the au-
31 thority of this article.

Sec. 22-e. *Operating Contract.*—Any such municipality
2 may enter into contracts or agreements with any persons,
3 firms or corporations for the operation and management
4 of the facilities and properties of said sewerage system,
5 or any part thereof, for such period of time and under
6 such terms and conditions as shall be agreed upon be-
7 tween such municipality and such persons, firms or cor-
8 porations. Such municipality shall have power to provide
9 in the resolution authorizing the issuance of bonds here-
10 under, or in any trust indenture, securing such bonds,
11 that such contracts or agreements shall be valid and bind-
12 ing upon the municipality as long as any of said bonds,
13 or interest thereon, are outstanding and unpaid.

Sec. 22-f. *Exemption From Taxation.*—Said bonds and
2 the interest thereon, together with all properties and
3 facilities of said municipality owned or used in connec-
4 tion with sewerage system, and all the moneys, revenues
5 and other income of such municipality derived from such
6 sewerage system shall be exempt from all taxation by
7 the state of West Virginia or any county, municipality,
8 political subdivision or agency thereof.

Sec. 22-g. *Covenants With Bond Holders.*—Any resolu-
2 tion authorizing the issuance of bonds hereunder, or any

3 trust indenture with any bank or trust company within
4 or without the state, for the security of said bonds, may
5 contain covenants with the holders of such bonds as to:

6 (a) The purpose or purposes to which the proceeds of
7 sale of such bonds, or the revenues derived from said
8 sewerage system, may be applied and the securing, use
9 and disposition thereof, including, if deemed desirable,
10 the appointment of a trustee or depository for any of
11 such funds;

12 (b) The pledging of all or any part of the revenues
13 derived from the ownership, operation or control of such
14 sewerage systems, including any part thereof heretofore
15 or hereafter constructed or acquired or derived from any
16 other sources, to the payment of the principal of or inter-
17 est thereon of bonds issued hereunder and for such reserve
18 or other funds as may be deemed necessary or desirable;

19 (c) The fixing, establishing and collecting of such fees,
20 rentals or other charges for the use of the services and fa-
21 cilities of such sewerage system, including the parts there-
22 of heretofore or hereafter constructed or acquired and the
23 revision of same from time to time, as will always provide
24 revenues at least sufficient to provide for all expenses of
25 operation, maintenance and repair of such sewerage sys-
26 tem, the payment of the principal of and interest on all
27 bonds or other obligations payable from the revenues of
28 such sewerage system, and all reserve and other funds
29 required by the terms of the ordinance authorizing the
30 issuance of such bonds;

31 (d) The transfer from the general funds of the mu-
32 nicipality to the account or accounts of such sewerage
33 system of an amount equal to the cost of furnishing the
34 municipality or any of its departments, boards or agencies
35 with the services and facilities of such sewerage system;

36 (e) Limitations or restrictions upon the issuance of
37 additional bonds or other obligations payable from the
38 revenue of such sewerage system, and the rank or priority,
39 as to lien and source and security for payment from the
40 revenues of such sewerage system, between bonds payable
41 from such revenues;

42 (f) The manner and terms upon which all bonds and

43 other obligations issued hereunder may be declared im-
44 mediately due and payable upon the happening of a de-
45 fault in the payment of the principal of or interest there-
46 on, or in the performance of any covenant or agreement
47 with bondholders, and the manner and terms upon which
48 such defaults may be declared cured and the acceleration
49 of the maturity of such bonds rescinded and repealed;

50 (g) Budgets for the annual operation, maintenance
51 and repair of such sewerage system and restrictions and
52 limitations upon expenditures for such purposes, and the
53 manner of adoption, modification, repeal or amendment
54 thereof, including the approval of such budgets by con-
55 sulting engineers designated by holders of bonds issued
56 hereunder;

57 (h) The amounts of insurance to be maintained upon
58 such sewerage system, or any part thereof, and the use
59 and disposition of the proceeds of any insurance;

60 (i) The keeping of books of account, relating to such
61 undertakings and the audit and inspection thereof, and
62 the furnishing to the holders of bonds issued hereunder
63 or their representatives, reports prepared, certified, or
64 approved by accountants designated or approved by the
65 holders of bonds issued hereunder;

66 (j) Such other additional covenants as shall be deemed
67 necessary or desirable for the security of the holders of
68 bonds issued hereunder, notwithstanding that such other
69 covenants are not expressly enumerated hereunder, it be-
70 ing the intention hereof to grant to such municipalities
71 the power to make any and all covenants or agreements
72 necessary in order to secure greater marketability for
73 bonds issued hereunder as fully and to the same extent
74 as such covenants or agreements could be made by a pri-
75 vate corporation rendering similar services and facilities
76 and to grant such municipalities full and complete power
77 to enter into any contracts, covenants or agreements with
78 holders of bonds issued hereunder not inconsistent with
79 the constitution of the state of West Virginia.

CHAPTER 133

(House Bill No. 224—By Mr. Burke)

AN ACT to amend and reenact sections one and three, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, and to further amend said chapter twenty-six by adding thereto three new sections, to be designated sections nine-a, nine-b and nine-c, all relating to municipal waterworks systems, so as to provide for the acquisition, construction, extension and improvement of municipal waterworks systems and the issuance of revenue bonds in connection therewith and providing for the rights and remedies of the holders of said bonds.

[Passed March 3, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Acquisition and operation of municipal waterworks; extension beyond corporate limits.
3. Estimate of cost and ordinance for issuance of revenue bonds; interest, etc.
- 9-a. Discontinuance of water service.
- 9-b. Operating contract.
- 9-c. Covenants with bond holders.

Be it enacted by the Legislature of West Virginia:

That sections one and three, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, as amended, be amended and reenacted, and that said chapter twenty-six be further amended by adding thereto three new sections, to be designated sections nine-a, nine-b and nine-c, all to read as follows:

- Section 1. *Acquisition and Operation of Municipal*
2 *Waterworks; Extension Beyond Corporate Limits.*—Sub-
3 ject to, and in accordance with the provisions of this
4 article, any municipal corporation in the state of West
5 Virginia may purchase, construct, extend and operate, or
6 lease to others for operation, a waterworks system, or
7 construct and operate additions, betterments, and im-

8 improvements to an existing waterworks system, within the
9 corporate limits of said municipality and within the area
10 extending twenty miles beyond the corporate limits of
11 such municipality, notwithstanding any provision or
12 limitation to the contrary in any other general law or
13 municipal charter: *Provided, however,* That such municipi-
14 pality shall not serve or supply water facilities or services
15 within the corporate limits of any other municipality
16 without the consent of the governing body thereof.

Sec. 3. *Estimate of Cost and Ordinance for Issuance of*
2 *Revenue Bonds; Interest, Etc.*—Whenever the municipi-
3 pality shall determine to acquire (by purchase or other-
4 wise), improve or construct a waterworks system under
5 the provisions of this article, it shall cause an estimate
6 to be made of the cost thereof, and shall, by ordinance,
7 provide for the issuance of revenue bonds under the
8 provisions of this article, which ordinance shall set forth
9 a brief description of the contemplated improvement, the
10 estimated cost thereof, the amount, rate or rates of
11 interest, time and place of payment, and other details in
12 connection with the issuance of the bonds. Such bonds
13 shall be in such form and shall be negotiated in such
14 manner and upon such terms as the governing body of
15 such municipality may by ordinance specify. All such
16 bonds and the interest thereon, and all properties and
17 revenues and income derived from such waterworks
18 system, shall be exempt from all taxation by the state
19 of West Virginia, or any county, municipality, political
20 subdivision or agency thereof. Such bonds shall bear
21 interest at not more than six per centum per annum,
22 payable semiannually, and shall be payable at such
23 times, not exceeding forty years from their date, and at
24 such place or places, within or without the state, as shall
25 be prescribed in the ordinance providing for their issu-
26 ance. Such ordinance shall also declare that a statutory
27 mortgage lien shall exist upon the property so to be
28 acquired, improved or constructed, fix a minimum rate
29 or rates for water to be collected prior to the payment of
30 all of said bonds and shall pledge the revenues derived
31 from the waterworks system for the purpose of paying

32 such bonds and interest thereon, which pledge shall
33 definitely fix and determine the amount of revenues which
34 shall be necessary to be set apart and applied to the pay-
35 ment of the principal of, and interest on the bonds and
36 the proportion of the balance of such revenues and in-
37 come which are to be set aside as a proper and adequate
38 depreciation account, and the remainder shall be set
39 aside for the reasonable and proper operation thereof.
40 The rates to be charged for the services from such water-
41 works shall be sufficient at all times to provide for the
42 payment of interest upon all bonds and to create a sink-
43 ing fund to pay the principal thereof as and when the
44 same become due, and reasonable reserves therefor, and
45 to provide for the operation and maintenance of the sys-
46 tem, and to provide an adequate depreciation fund, and
47 to make any other payments which shall be required or
48 provided for in the ordinance authorizing the issuance of
49 said bonds.

Sec. 9-a. *Discontinuance of Water Service.*—Any such
2 municipality shall also have power, and may covenant
3 with the holders of any bonds issued hereunder, to shut
4 off and discontinue the supplying of water services of
5 said waterworks system for the nonpayment of charges
6 for said water services.

Sec. 9-b. *Operating Contract.*—Any such municipality
2 may enter into contracts or agreements with any persons,
3 firms or corporations for the operation and management
4 of the facilities and properties of said waterworks system,
5 or any part thereof, for such period of time and under
6 such terms and conditions as shall be agreed upon be-
7 tween such municipality and such persons, firms or cor-
8 porations. Such municipality shall have power to provide
9 in the resolution authorizing the issuance of bonds here-
10 under, or in any trust indenture, securing such bonds,
11 that such contracts or agreements shall be valid and
12 binding upon the municipality as long as any of said
13 bonds, or interest thereon, are outstanding and unpaid.

Sec. 9-c. *Covenants With Bond Holders.*—Any reso-
2 lution authorizing the issuance of bonds hereunder, or

3 any trust indenture with any bank or trust company,
4 within or without the state, for the security of said bonds,
5 which any such municipality is hereby authorized to
6 enter into and execute, may contain covenants with the
7 holders of such bonds as to:

8 (a) The purpose or purposes to which the proceeds of
9 sale of such bonds, or the revenues derived from said
10 waterworks system may be applied and the securing, use
11 and disposition thereof, including, if deemed desirable,
12 the appointment of a trustee or depository for any of such
13 funds;

14 (b) The pledging of all or any part of the revenues
15 derived from the ownership, operation or control of such
16 waterworks systems, including any part thereof hereto-
17 fore or hereafter constructed or acquired or derived from
18 any other sources, to the payment of the principal of or
19 interest thereon of bonds issued hereunder and for such
20 reserve or other funds as may be deemed necessary or
21 desirable;

22 (c) The fixing, establishing and collecting of such fees,
23 rentals or other charge for the use of the services and
24 facilities of the waterworks system, including the parts
25 thereof heretofore or hereafter constructed or acquired
26 and the revision of same from time to time, as will always
27 provide revenues at least sufficient to provide for all
28 expenses of operation, maintenance and repair of such
29 waterworks system, the payment of the principal of and
30 interest on all bonds or other obligations payable from
31 the revenues of such waterworks system, and all reserve
32 and other funds required by the terms of the ordinance
33 authorizing the issuance of such bonds;

34 (d) The transfer from the general funds of the munici-
35 pality to the account or accounts of the waterworks sys-
36 tem of an amount equal to the cost of furnishing the
37 municipality or any of its departments, boards or agencies
38 with the services and facilities of such waterworks
39 systems;

40 (e) Limitations or restrictions upon the issuance of
41 additional bonds or other obligations payable from the
42 revenues of such waterworks system, and the rank or

43 priority, as to lien and source and security for payment
44 from the revenues of such waterworks system, between
45 bonds payable from such revenues;

46 (f) The manner and terms upon which all bonds and
47 other obligations issued hereunder may be declared im-
48 mediately due and payable upon the happening of a
49 default in the payment of the principal of or interest
50 thereon, or in the performance of any covenant or agree-
51 ment with bondholders, and the manner and terms upon
52 which such defaults may be declared cured and the ac-
53 celeration of the maturity of such bonds rescinded and
54 repealed;

55 (g) Budgets for the annual operation, maintenance
56 and repair of such waterworks system and restrictions
57 and limitations upon expenditures for such purposes, and
58 the manner of adoption, modification, repeal or amend-
59 ment thereof, including the approval of such budgets by
60 consulting engineers designated by holders of bonds
61 issued hereunder;

62 (h) The amounts of insurance to be maintained upon
63 such waterworks system, or any part thereof, and the
64 use and disposition of the proceeds of any insurance;

65 (i) The keeping of books of account, relating to such
66 undertakings and the audit and inspection thereof, and
67 the furnishing to the holders of bonds issued hereunder
68 or their representatives, reports prepared, certified, or
69 approved by accountants designated or approved by the
70 holders of bonds issued hereunder;

71 (j) Such other additional covenants as shall be deemed
72 necessary or desirable for the security of the holders of
73 bonds issued hereunder, notwithstanding that such other
74 covenants are not expressly enumerated hereunder, it
75 being the intention hereof to grant to such municipalities
76 the power to make any and all covenants or agreements
77 necessary in order to secure greater marketability for
78 bonds issued hereunder as fully and to the same extent
79 as such covenants or agreements could be made by a
80 private corporation rendering similar services and facili-
81 ties and to grant such municipalities such full and com-
82 plete power to enter into any contracts, covenants or

83 agreements with holders of bonds issued hereunder not
84 inconsistent with the constitution of the state of West
85 Virginia.

CHAPTER 134

(Senate Bill No. 140—By Mr. Smith)

AN ACT to amend and reenact section three, article five, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the license and privilege taxes which may be imposed by a city under the provisions of a home rule charter, and providing for the imposition by a city of an annual privilege tax upon businesses and occupations as authorized by general law and under a special charter prior to the adoption of a home rule charter.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. Taxation and Finance.

Section

3. License and privilege taxes.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *License and Privilege Taxes.*—A city may
2 levy and collect an annual license tax upon businesses,
3 occupations, or economic activities regularly conducted
4 within the city, and a special license tax upon an itiner-
5 ant or transitory business, occupation or economic activ-
6 ity conducted within the city, as follows:
7 (1) Upon any public utility business exercising a fran-
8 chise from the city. The annual tax shall not exceed five
9 hundred dollars in class I cities, three hundred fifty dol-

10 lars in class II cities, and two hundred dollars in class
11 III cities;

12 (2) Upon any manufacturing or other production busi-
13 ness or activity. The annual tax shall not exceed two
14 hundred dollars in class I cities, one hundred fifty dollars
15 in class II cities, and one hundred dollars in class III
16 cities;

17 (3) Upon any wholesale or other intermediate distri-
18 bution business or activity. The annual tax shall not ex-
19 ceed one hundred fifty dollars in class I cities, one hun-
20 dred twelve dollars fifty cents in class II cities and
21 seventy-five dollars in class III cities;

22 (4) Upon any amusement or entertainment business
23 or activity, other than literary, dramatic, musical, or be-
24 nevolent societies not conducted for private profit or gain.
25 The annual tax shall not exceed two hundred dollars in
26 class I cities, one hundred fifty dollars in class II cities,
27 and one hundred dollars in class III cities;

28 (5) Upon the business of selling tangible personal
29 property at retail, except farmers selling products pro-
30 duced by them, and upon any service, business, agency or
31 calling. The annual tax shall not exceed one hundred
32 dollars in class I cities, seventy-five dollars in class II
33 cities, and fifty dollars in class III cities;

34 (6) Upon any profession, recognized and regulated as
35 such by the laws of this state. The annual tax shall not
36 exceed twenty-five dollars in a class I or class II city and
37 fifteen dollars in a class III city;

38 (7) If the business, occupation, or activity taxed under
39 this section is conducted at two or more separate places,
40 or locations, each of which is a distinct branch or business
41 unit, a separate license tax may be imposed and collected
42 for each place or location;

43 (8) A license tax levied under this section may be
44 further classified within the classes for which maximum
45 amounts of taxes are fixed to the extent that such further
46 classifications are not unreasonable or discriminatory in
47 effect;

48 (9) Notwithstanding the foregoing provisions of this
49 section, a city under a home rule charter may exercise

50 the power to levy and collect an annual privilege tax
51 upon businesses and occupations as authorized by section
52 thirteen-b, article four, chapter eight of this code.

CHAPTER 135

(Com. Sub. for House Bill No. 438—Originating in the House Committee on the Judiciary)

AN ACT to amend article thirteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-three-a, relating to municipal sewerage systems, so as to provide for the acquisition, construction and operation of municipal sewerage systems by an alternative method of financing.

[Passed March 8, 1955; in effect from passage. Approved by the Governor.]

Article 13. Sewage Works of Municipal Corporations and Sanitary Districts.

Section

23-a. Acquisition, operation, etc.; alternative method of finance.

Be it enacted by the Legislature of West Virginia:

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

Section 23-a. *Acquisition, Operation, Etc.; Alternative Method of Finance.*—Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the state water commission requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities

11 of the existing sewer system of such municipal corpora-
12 tion, and/or for the use of the services and facilities to
13 be rendered upon completion of any works and system
14 necessary by virtue of said order, to be paid by the owner,
15 tenant or occupant of each and every lot or parcel of
16 real estate or building that is connected with and uses
17 any part of such sewer system, or that in any way uses or
18 is served thereby, and may change and readjust such
19 rates or charges from time to time. Such rates or charges
20 shall be sufficient for the payment of all the proper and
21 reasonable costs and expenses of the acquisition and
22 construction of plants, machinery and works for the
23 collection and/or treatment, purification and disposal
24 of sewage, and the repair, alteration and extension of
25 existing sewer facilities, as may be necessary to comply
26 with such order of the state water commission, and for the
27 operation, maintenance and repair of the entire works
28 and system; and the governing body shall create, by
29 ordinance, a sinking fund to accumulate and hold any
30 part or all of the proceeds derived from rates or
31 charges until completion of said construction, to be
32 remitted to and administered by the state sinking fund
33 commission by expending and paying said costs and
34 expenses of construction and operation in the manner
35 as provided by said ordinance; and after the com-
36 pletion of the construction such rates or charges shall
37 be sufficient in each year for the payment of the proper
38 and reasonable costs and expenses of operation, main-
39 tenance, repair replacement, and extension from time to
40 time, of the entire sewer and works. No such rates
41 or charges shall be established until after a public hear-
42 ing, at which all the potential users of the works and
43 owners of property served or to be served thereby and
44 others interested shall have an opportunity to be heard
45 concerning the proposed rates or charges. After intro-
46 duction of the ordinance fixing such rates or charges,
47 and before the same is finally enacted, notice of such
48 hearing, setting forth the proposed schedule of such
49 rates or charges, shall be given by publication once
50 each week for two consecutive weeks in two newspa-
51 pers of opposite political faith published and having

52 general circulation in such municipality, or in one news-
53 paper, if only one political faith is represented by news-
54 papers in the said municipality, the first publication of
55 which notice shall be at least ten days before the date
56 fixed therein for the hearing, and if there be no news-
57 paper published in said municipality, then notice shall
58 be given by posting a copy of the same in each of at
59 least ten conspicuous places in the municipality at least
60 ten days before said hearing date. After such hearing,
61 which may be adjourned from time to time, the ordi-
62 nance establishing the rates or charges, either as origi-
63 nally introduced or as modified and amended, may be
64 passed and put into effect. A copy of the schedule of such
65 rates and charges so established shall be kept on file
66 in the office of the sanitary board having charge of the
67 construction and operation of such works, and also in
68 the office of the clerk of the municipality, and shall
69 be open to inspection by all parties interested. The rates
70 or charges so established for any class of users or prop-
71 erty served shall be extended to cover any additional
72 premises thereafter served which fall within the same
73 class, without the necessity of any hearing or notice.
74 Any change or readjustment of such rates or charges
75 may be made in the same manner as such rates or charges
76 were originally established as hereinbefore provided: *Pro-*
77 *vided, however,* That if such change or readjustment be
78 made substantially pro rata, as to all classes of service,
79 no hearing or notice shall be required. If any rate or
80 charge so established shall not be paid within thirty
81 days after the same is due, the amount thereof, together
82 with a penalty of ten per cent, and a reasonable attorney's
83 fee, may be recovered by the sanitary board of such mu-
84 nicipal corporation in a civil action in the name of the
85 municipality. Any municipal corporation exercising the
86 powers given herein shall have authority to construct,
87 acquire, improve, equip, operate, repair and maintain
88 any plants, machinery or works necessary to comply
89 with such order of the state water commission, and the
90 authority provided herein to establish, maintain and col-
91 lect rates or charges shall be construed as a further ad-
92 ditional and alternative method of financing such works

93 and matters, and shall be independent of any other pro-
94 vision of this article insofar as such article provides for
95 or requires the issuance of revenue bonds or the im-
96 position of rates and charges in connection with such
97 bonds: *Provided, however,* That except for the method
98 of financing such works and matters, the construction,
99 acquisition, improvement, equipment, custody, operation,
100 repair and maintenance of any plants, machinery or
101 works in compliance with an order of the state water
102 commission, and the rights, powers, and duties of such
103 municipal corporation and the respective officers and de-
104 partments thereof, including the sanitary board, shall be
105 governed by the provisions of this article.

CHAPTER 136

(House Bill No. 73—By Mr. Maxwell)

AN ACT to amend and reenact section two, article two, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the practice of law in West Virginia of attorneys from other jurisdictions.

[Passed March 1, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Attorneys at Law.

Section

2. Attorneys from other jurisdictions.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Attorneys from Other Jurisdictions.*—Any
2 person duly authorized to practice as an attorney at law

3 in any jurisdiction other than this state may be admitted
4 to practice as such in the courts of this state, as a visiting
5 attorney, or as a resident attorney, upon first complying
6 with the rules and regulations applicable thereto pre-
7 scribed by the supreme court of appeals of West Vir-
8 ginia, without being required to take the bar examina-
9 tions of this state, if the other jurisdiction in which such
10 person is already authorized to practice allows attorneys
11 of this state to be admitted to the bar or to practice law
12 in such jurisdiction without making it one of the neces-
13 sary requirements that attorneys of this state take the
14 bar examinations of such jurisdiction. The supreme
15 court of appeals of West Virginia shall prescribe specific
16 rules and regulations dealing with the admission of such
17 person from another jurisdiction to practice law in this
18 state either as a visiting attorney or as a resident attorney;
19 and no person from another jurisdiction shall be per-
20 mitted to practice in the courts of this state in either
21 classification until he has complied with the rules and
22 regulations pertaining to such classification established
23 by the supreme court of appeals. Nothing herein con-
24 tained shall affect the right or status of attorneys ad-
25 mitted to practice in this state prior to the enactment of
26 this section.



CHAPTER 137

(Senate Bill No. 154—By Mr. Vassar)

AN ACT to amend and reenact sections three, four, five, six, seven, eleven, thirteen, fourteen and eighteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto three new sections, designated sections four-a, seventeen-a and seventeen-b, all relating to dentists and dental hygienists.

[Passed February 15, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Dentists and Dental Hygienists.**Section**

3. Who deemed practitioner of dental hygiene; scope of practice.
4. Board of dental examiners.
- 4-a. Powers and duties.
5. License required as prerequisite to practice dentistry; exceptions.
6. Qualifications of applicant for license; examinations; examination fee; licensing.
7. Refusal to issue, suspension or revocation of license; grounds.
11. Right of dentist to prescribe drugs and perform surgical operations; sign death certificates; prescriptions.
13. Dental hygienists; permitted operations; revocation of license.
14. Prerequisites to practice dental hygiene; examination fee; licensing.
- 17-a. Specialties; qualifications; application fee; limitation of practice.
- 17-b. Annual information and renewal fee; notice; reinstatement; penalty fee; waiver of payment of fee on retirement or disability; change of address.
18. Practicing dentistry or dental hygiene without complying with provisions of this article; penalty; injunction.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, six, seven, eleven, thirteen, fourteen and eighteen, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto three new sections, designated sections four-a, seventeen-a and seventeen-b, all to read as follows:

Section 3. *Who Deemed Practitioner of Dental Hygiene; Scope of Practice.*--A person shall be deemed to be practicing dental hygiene within the meaning of this article, who, under the supervision of a licensed dentist, removes deposits, accretions and stains from the surface of the teeth, makes topical applications of drugs to the exposed surfaces of the teeth, takes dental x-rays and instructs patients in the practice of dental hygiene procedures.

Sec. 4. *Board of Dental Examiners.*--There shall be a state board of dental examiners, known as the "West Virginia Board of Dental Examiners", which shall consist of five practicing dentists, who shall be appointed by the governor, by and with the advice and consent of the Senate. Each member of the board at the time

7 of his appointment, and during his term as such member,
8 shall be both a resident and licensed dentist of this state,
9 and shall have been both such resident and licensed
10 dentist, for a period of not less than five years immedi-
11 ately preceding his appointment: *Provided, however,*
12 That no person shall be eligible for appointment to said
13 board who is in any way connected with or interested
14 in any dental college or dental department of any insti-
15 tution of learning or in a dental supply business.

16 The members of the board in office on the date this
17 section takes effect shall, unless sooner removed, con-
18 tinue to serve until their respective terms expire and
19 until their successors have been appointed and have
20 qualified. On or before the first day of July, after this
21 section takes effect, and on or before the first day in
22 July in each year thereafter, the governor shall appoint
23 one member to serve a term of five years commencing
24 on the said first day of July and any member shall be
25 eligible for reappointment for one additional consecu-
26 tive term.

Sec. 4-a. *Powers and Duties.*—The West Virginia board
2 of dental examiners shall examine all qualified appli-
3 cants for license to practice dentistry or dental hygiene,
4 and it shall license all such applicants who are qualified
5 under applicable statutes and who pass the examinations
6 that may be required by statute or by any legally adopted
7 rule or regulation.

8 The said board shall have the power to make such
9 examination of all applicants appearing before it for
10 any type of license as may be necessary to determine that
11 the applicant is qualified. The said board shall also have
12 the power to revoke or suspend any license issued by it,
13 for cause, after having given the person whose license
14 is sought to be revoked or suspended, an opportunity to
15 be heard in the manner provided by section eight, article
16 one, chapter thirty of this code. It shall have the power
17 to reinstate any license revoked or suspended by it.

18 The said board is authorized and empowered to hold
19 and conduct hearings and investigations on the issuance,
20 suspension, revocation, or reinstatement of licenses and

21 on charges of unauthorized practice of dentistry or dental
22 hygiene.

23 The said board shall have the power to hire, fix the
24 compensation of, and discharge such employees as are
25 necessary for the performance of the powers and duties
26 vested in the said board by law and to expend such sums
27 as said board may deem necessary to maintain an office
28 and to carry out and enforce the provisions of this article.

Sec. 5. *License Required as Prerequisite to Practice
2 Dentistry; Exceptions.*—Except as otherwise provided in
3 this section, no person shall practice or offer to practice
4 dentistry or dental hygiene in this state until a license
5 for such purpose shall be issued to him by the board of
6 dental examiners, nor shall any person so practice after
7 the first anniversary of the issuance of such license until
8 he shall have in his possession a current renewal certifi-
9 cate issued by the board.

10 The board of dental examiners under such regulations
11 as it may prescribe may issue a temporary permit to
12 practice dentistry or dental hygiene to graduates of
13 schools of dentistry or dental hygiene approved by the
14 board who are certified to the board of directors of dental
15 clinics established by law, by the chief executive of any
16 hospital or sanitarium licensed or operated by the state
17 or by the chief dental officer of the health department
18 of the state. Such permits shall expire thirty days after
19 the date of the next examination given by the board for
20 licenses in dentistry or dental hygiene and shall not be
21 subject to renewal. Such permits shall terminate when
22 the holder thereof ceases to be employed by the person
23 certifying him. A fee of five dollars shall be paid to the
24 board upon issuance of such permit by the person certify-
25 ing the applicant.

26 The board of dental examiners under such regulations
27 as it may prescribe may issue a dental intern or dental
28 residency permit to graduates of dental schools approved
29 by the board who are not licensed to practice dentistry
30 in this state and who have not failed an examination for
31 a license to practice dentistry in this state. Applicants
32 for such permits shall be certified to the board by the

33 director of a hospital operated or licensed by the state
34 which maintains a dental intern or residency program.
35 Such permits shall authorize the holder thereof to serve
36 as a dental intern or a dental resident for a period of
37 not more than one year in any hospital licensed or oper-
38 ated by the state which maintains an established dental
39 department under the supervision of a licensed dentist.
40 The holder of such a permit shall function under the
41 supervision of the dental staff of the hospital and shall
42 limit his practice to patients selected by the hospital.
43 The holder of such a permit shall not be entitled to re-
44 ceive any fee or other compensation other than such
45 salary as may be paid by such hospital. Permits may be
46 revoked by the board for cause and shall expire at the
47 end of one year or on the date the dental internship or
48 residency is discontinued, whichever first occurs. A fee
49 of five dollars shall be paid to the board upon the issu-
50 ance of such a permit by the hospital nominating him.

51 The board of dental examiners under such regulations
52 as it may prescribe may issue teaching permits to per-
53 sons who are graduates of a school of dentistry or dental
54 hygiene approved by the board where such persons are
55 not licensed to practice dentistry or dental hygiene in
56 this state. Such permits shall be issued only upon the
57 certification of the dean of a dental school located in this
58 state that the applicant is a bona fide member of the
59 staff of that school. Such permits shall be valid for one
60 year and may be reissued by the board in its discretion.
61 The holder of such a permit shall be entitled to perform
62 all operations which a person licensed to practice den-
63 tistry or dental hygiene in this state would be entitled
64 to perform, but only within the facilities of the dental
65 school and as an adjunct to his teaching functions in
66 such school. A fee of five dollars shall be paid to the
67 board on the issuance of a teaching permit or upon each
68 renewal thereof by the school nominating the applicant.

69 Nothing in this article shall be deemed to prohibit the
70 practice of dentistry or dental hygiene by persons li-
71 censed in another state who, at the request of an ap-
72 proved dental school or any regularly organized dental
73 society, may give a clinic at such school or at a scientific

74 meeting of such dental society for the purpose of advanc-
75 ing the professional knowledge of members of the dental
76 profession or members of the student body of a dental
77 school.

Sec. 6. *Qualifications of Applicant for License; Ex-*
2 *aminations; Examination Fee; Licensing.*—An applicant
3 for a dental license shall be of good moral character, at
4 least twenty-one years of age at the time of making
5 application, and be a graduate of, and possess an accept-
6 able dental diploma from the faculty of, a dental school
7 approved by the board. The board may require the ap-
8 plication to be accompanied by sufficient evidence of
9 these qualifications.

10 The applicant shall transmit with his application an
11 examination fee of thirty-five dollars, which sum the
12 board is authorized to expend in an investigation of the
13 applicant's qualifications.

14 An applicant whose application has been accepted by
15 the board shall be given an examination on subjects
16 selected by the board from among those currently being
17 taught in approved dental schools which shall test the
18 qualifications of the applicant to practice dentistry. Such
19 examinations shall be given by the board under rules and
20 regulations promulgated by it.

21 The board may recognize a certificate granted by the
22 national board of dental examiners in lieu of the written
23 portion of the required examination.

24 An applicant obtaining a satisfactory grade on such
25 examination and otherwise fulfilling the requirements
26 of the board shall be granted a license by the board to
27 practice dentistry, which license shall bear a serial num-
28 ber, the full name of the licensee, the date of issuance
29 of the license, the seal of the board and the signatures
30 of a majority of the members of the board.

31 The board shall not issue a license to any person found
32 guilty of cheating, deception or fraud in the examination
33 or on any part of the application. All manuscripts used
34 in any examination and all applications for licensure
35 shall be filed for a period of two years by the secretary
36 of the board for the purpose of reference and inspection.

Sec. 7. *Refusal to Issue, Suspension or Revocation of*

2 *License; Grounds.*—The state board of dental examiners
3 may refuse to issue a license to practice dentistry or
4 dental hygiene in this state, or after issuance may sus-
5 pend or revoke the same, for any of the following causes:

6 (1) The presentation to the board of any diploma,
7 license or certificate illegally or fraudulently obtained,
8 or one obtained from an institution which is not repu-
9 table, or one obtained from an unrecognized or irregular
10 institution or state board.

11 (2) Be guilty of gross ignorance or gross inefficiency
12 in his profession.

13 (3) Conviction of a felony; and a certified copy of the
14 record of the court of conviction shall be sufficient proof
15 of such conviction.

16 (4) Announcing or otherwise holding himself out to
17 the public as a specialist or as being specially qualified
18 in any particular branch of dentistry or as giving special
19 attention to any branch of dentistry or as limiting his
20 practice to any branch of dentistry without first comply-
21 ing with the requirements established by the board of
22 dental examiners for such specialty and having been
23 issued a certificate of qualification in such specialty by
24 the board.

25 (5) Be guilty of unprofessional conduct. The following
26 acts or any of them shall be conclusively presumed to
27 be unprofessional conduct:

28 (a) Be guilty of any fraud or deception.

29 (b) The commission of a criminal operation or con-
30 viction of a crime involving moral turpitude.

31 (c) Chronic or persistent inebriety or addiction to
32 narcotics or drugs.

33 (d) Be guilty of the violation of any professional con-
34 fidence or be guilty of disclosing any professional secret.

35 (e) Be grossly immoral.

36 (f) Be guilty of employing what are known as "cap-
37 pers" or "steerers" to obtain business.

38 (g) The obtaining of any fee by fraud or misrepre-
39 sentation.

40 (h) Employ directly or indirectly, or direct or permit
41 any suspended or unlicensed person so employed, to per-

42 form operations of any kind or to treat lesions of the
43 human teeth or jaws or correct malimposed formations
44 thereof.

45 (i) Practice, or offer or undertake to practice, dentistry
46 under any firm name or trade name or under any name
47 other than his own true name: *Provided*, That any
48 licensee may practice under a firm name or partnership
49 name containing nothing but the surname of every mem-
50 ber of such firm or partnership.

51 (j) Professional connection or association with, or
52 lending his name to another, for the illegal practice of
53 dentistry, or professional connection or association with
54 any person, firm, or corporation, holding himself, them-
55 selves, or itself out in any manner contrary to this article.

56 (k) Make use of any advertising relating to the use
57 of any drug or medicine of unknown formula.

58 (l) Advertise to practice dentistry or perform any
59 operation thereunder without causing pain.

60 (m) Advertise professional superiority or the per-
61 formance of professional services in a superior manner.

62 (n) Advertise prices charged for professional service.

63 (o) Advertise by means of large display, flickering, or
64 glaring light signs, or contain as a part thereof the repre-
65 sentation of a tooth, teeth, or bridge work, or any portion
66 of the human head.

67 (p) Employ or make use of advertising solicitors or
68 free publicity press agents.

69 (q) Advertise to guarantee any dental service.

70 (r) Advertise in any manner calculated to, or tending
71 to, deceive or mislead the public: *Provided*, That such
72 licensee may announce, by way of a professional card
73 containing not more than his name, title, degree, office
74 location, office hours, business telephone number, and
75 residence address and telephone number, if desired, and
76 if he limits his practice to a specialty he may announce
77 it, but such card shall not be greater in any case than
78 sixteen inches by twenty-two inches in size, and such
79 information may be inserted in public print when not
80 more than eight newspaper columns in width and
81 twenty-five inches in depth; and he may announce his
82 change of place of business, absence from, or return to,

83 business in the same manner, and issue appointment
84 cards to his patients, when the information thereon is
85 limited to matter pertaining to the time and place of
86 appointment and that permitted on the professional card,
87 and he may display his name, title, and degree upon the
88 windows or doors of his office and by a door plate or
89 name plate or office directory when the information is
90 limited to not more than that contained on the profes-
91 sional card, but the name, title and degree of the licensee
92 shall not be displayed on said doors, windows, door plates,
93 and name plates or office directory in lettering greater
94 in height than seven inches.

95 The term advertising, as used in this section, shall be
96 construed to include the use of radio or any loud speaking
97 device or any other similar method or agency.

98 This entire section is passed in the interest of the pub-
99 lic health, safety and welfare, and its provisions shall be
100 liberally construed to carry out its object and purpose.
101 Each and every provision of this section is hereby de-
102 clared to be independent and severable, and should any
103 portion or provision or provisions of this section be held
104 unconstitutional or for any other reason invalid, the re-
105 maining portion or portions, or provision or provisions,
106 shall not be thereby affected.

2 *Sec. 11. Right of Dentist to Prescribe Drugs and Per-*
3 *form Surgical Operations; Sign Death Certificates; Pre-*
4 *scriptions.*—A licensed dentist shall have the same rights
5 to prescribe drugs or medicines, perform such surgical
6 operations, administer general or local anaesthetics and
7 use such appliances as may be necessary to the proper
8 treatment of the special class of diseases mentioned in
9 this article as are enjoyed by registered physicians in
10 this state. A licensed dentist shall have the same right to
11 execute and sign a death certificate when such is required
12 in the course of his practice as is given to licensed physi-
13 cians by the laws of this state. Druggists of this state
14 shall fill prescriptions of licensed dentists in this state
for any drugs necessary for the practice of dentistry.

2 *Sec. 13. Dental Hygienists; Permitted Operations;*
3 *Revocation of License.*—A licensed dentist, or the direc-

tor of any industrial clinic, school clinic or state industrial clinic, having a dental program under the supervision of a licensed dentist, may employ dental hygienists who shall practice under the supervision of a licensed dentist.

Under such supervision, a dental hygienist may (1) remove deposits, accretions and stains from the surfaces of the teeth, (2) make topical application of drugs to the exposed surface of the teeth, (3) take dental x-rays, and (4) instruct patients in the practice of dental hygiene procedures, but shall not perform any other operation on the teeth or other tissues of the oral cavity.

The state board of dental examiners may suspend or revoke the license of any dental hygienist who shall perform any operation other than those permitted under the provisions of this section, who shall violate any provision of this article relating to dental hygienists or who shall be found guilty of any of the acts enumerated in section seven of this article.

Sec. 14. Prerequisites to Practice Dental Hygiene; Examination Fee; Licensing.—No person who has not been licensed as a dental hygienist in this state on or before the first day of September, one thousand nine hundred thirty-seven, shall practice as a dental hygienist until he has first passed an examination given by the West Virginia board of dental examiners and otherwise qualifies under such rules and regulations as the board may establish.

The fee for the examination shall be twenty dollars and shall accompany the application. An applicant failing to pass the first examination shall be entitled to one reexamination at next regular meeting of the board without additional cost. The fee for every reexamination after that shall be ten dollars.

The board of dental examiners shall issue a license to practice dental hygiene in this state to any person who has passed such an examination and who has otherwise qualified to practice dental hygiene under the rules and regulations established by the board: *Provided, however,* That no person shall be entitled to such dental hygiene

22 license unless he be: (a) at least eighteen years of age,
23 (b) of good moral character, (c) a graduate of a first
24 class high school of this state or its equivalent and (d)
25 be a graduate of, and possess an acceptable diploma in
26 dental hygiene from a school having a course in dental
27 hygiene approved by the board of dental examiners.

Sec. 17-a. *Specialties; Qualifications; Application Fee;*
2 *Limitation of Practice.*—No licensee shall announce or
3 otherwise hold himself out to the public as a specialist or
4 as being specially qualified in any particular branch of
5 dentistry, or as giving special attention to any branch of
6 dentistry, or as limiting his practice to any branch of
7 dentistry, unless he has first complied with the require-
8 ments established by the board of dental examiners for
9 such specialty and has been issued a certificate of quali-
10 fication authorizing him so to do.

11 The board of dental examiners may establish higher
12 standards and additional requirements for any licensee
13 who desires to announce or otherwise hold himself out
14 to the public as being specially qualified in a branch or
15 specialty of dentistry recognized by the board. The board
16 may give such examinations and secure such assistance as
17 it may deem necessary in determining the qualifications
18 of applicants.

19 Application to the board for a certificate of qualifica-
20 tion in a specialty of dentistry shall be upon such form
21 and contain such information as the board may require
22 and shall be accompanied by a fee of fifty dollars. A
23 licensee found by the board to be qualified under the
24 standards and other requirements promulgated by the
25 board in the specialty indicated in his application shall
26 be issued a certificate of qualification authorizing the
27 licensee to announce or otherwise hold himself out to the
28 public as specially qualified in the indicated specialty
29 under such terms and in a manner approved by the board.

Sec. 17-b. *Annual Information and Renewal Fee;*
2 *Notice; Reinstatement; Penalty Fee; Waiver of Payment*
3 *of Fee on Retirement or Disability; Change of Address.*—
4 On or before the first day of February of each year, every
5 dentist licensed to practice dentistry in this state, and

6 every dental hygienist licensed to practice dental hygiene
7 in this state, shall transmit to the secretary of the board,
8 upon a form prescribed by the board, his signature, post
9 office address, office address, the serial number of his
10 license certificate, whether he has been engaged during
11 the preceding year in the active and continuous practice
12 of dentistry or dental hygiene, as the case may be,
13 whether within or without this state, and such other in-
14 formation as may be required by the board, together
15 with an information and renewal fee herein provided for.
16 The annual information and renewal fee for a dentist
17 shall be three dollars and for a dental hygienist shall be
18 two dollars.

19 Upon receipt of the required information and the pay-
20 ment of the proper renewal fee, the licensee shall be
21 issued a renewal certificate authorizing him to continue
22 the practice of dentistry or the practice of dental hygiene
23 in this state for a period of one year from the first day of
24 February.

25 A license to practice dentistry or dental hygiene
26 granted under the authority of this article shall be can-
27 celled on the first day of May if the holder thereof fails
28 to secure a current renewal certificate by that date. Any
29 licensee whose license is thus cancelled by reason of the
30 failure, neglect or refusal to secure the proper renewal
31 certificate may be reinstated by the board at any time
32 within six months from the date of the cancellation of
33 said license upon the payment of the proper renewal
34 fee and an additional fee of fifteen dollars. If the licensee
35 shall not apply for renewal of his license as herein re-
36 quired within the said six months, that person shall, at
37 the discretion of said board, be required to file an ap-
38 plication for and take the examination provided in this
39 article should he desire to practice dentistry or dental
40 hygiene in this state.

41 Upon failure of any licensee to submit the required
42 information and pay the annual renewal fee as herein
43 required by the statutory date, the board shall attempt
44 to notify such licensee in writing by mailing to his last
45 registered address a notice of the requirements of this
46 section apprising him of the fact that his license to

47 practice will be cancelled on the statutory date: *Pro-*
48 *vided, however,* That failure to mail or receive such
49 notice shall not affect the cancellation of his license.

50 The board may waive the annual payment of the re-
51 newal fee herein required, and issue a renewal certificate
52 to any West Virginia licensee who has held a West Vir-
53 ginia license for at least twenty-five years and is pres-
54 ently retired from active practice, or to any West Vir-
55 ginia licensee who has retired for reasons of physical
56 disability, so long as such retirement continues: *Provided,*
57 That the licensee provides the board with the informa-
58 tion required by this section.

59 Every licensed dentist within thirty days of changing
60 his place of practice or establishing additional offices
61 shall furnish the secretary of the board with his new pro-
62 fessional address.

63 Every licensed dental hygienist within thirty days of
64 changing his place of employment shall furnish the sec-
65 retary of the board with his new professional address and
66 the name of his employer.

Sec. 18. *Practicing Dentistry or Dental Hygiene with-*
2 *out Complying with Provisions of This Article; Penalty;*
3 *Injunction.*—Any person who shall practice or offer to
4 practice dentistry or dental hygiene in this state with-
5 out first having complied with the provisions of this
6 article, or who shall violate any of its provisions for
7 which no specific penalty has been provided, shall be
8 guilty of a misdemeanor, and upon conviction thereof
9 of a first offense against this article, shall be fined not less
10 than three hundred dollars nor more than one thousand
11 dollars, or confined in jail not less than three months nor
12 more than six months, or both fined and imprisoned at
13 the discretion of the court.

14 A person convicted of a second subsequent offense
15 against this article shall be guilty of a misdemeanor and
16 shall be fined not less than one thousand dollars nor more
17 than twenty-five hundred dollars, or confined in jail for
18 not less than six months nor more than twelve months, or
19 both fined and imprisoned, at the discretion of the court.

20 Each act of dentistry or dental hygiene shall be deemed

21 a separate offense and shall constitute a practice of den-
22 tistry or dental hygiene within the meaning of this sec-
23 tion, and each day that a person may hold himself out as
24 practicing in his own name or any name shall be deemed
25 a separate offense.

26 Notwithstanding the existence of any other remedy,
27 the board may, in the manner provided by law, maintain
28 an action for an injunction against any person, partner-
29 ship or association to restrain or prevent the practice of
30 dentistry and/or dental hygiene when such person, part-
31 nership or association repeatedly refuses to obtain regis-
32 tration or license therefor and continues the practice of
33 dentistry and/or dental hygiene without first obtaining
34 registration or license therefor in the manner hereinbe-
35 fore provided.

CHAPTER 138

(Senate Bill No. 136—By Mr. Amos)

AN ACT to amend and reenact section six, article thirteen,
chapter thirty of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to engineers
and their qualifications for registration.

[Passed February 28, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 13. Engineers.

Section

6. Qualifications to practice professional engineering.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Qualifications to Practice Professional Engi-
neering.*—The following facts, established in the applica-
tion, shall be regarded as minimum evidence satisfactory

4 to the board, that the applicant is qualified to practice as
5 a professional engineer, to-wit:

- 6 (a) A specific record of eight or more years of active
7 practice in engineering work of a character satisfactory to
8 the board and indicating that the applicant is competent
9 to be placed in responsible charge of such work; or,
10 (b) Graduation from a school or college approved by
11 the board as of satisfactory standing, having a course in
12 engineering of not less than four years; and a specific
13 record of an additional four years of active practice in
14 engineering work of a character satisfactory to the board,
15 and indicating that the applicant is competent to be
16 placed in responsible charge of such work: *Provided*,
17 That no person shall be eligible for registration as a
18 professional engineer who is not of good character and
19 repute.

20 In considering the qualifications of applicants, responsi-
21 ble charge of engineering teaching may be construed as
22 responsible charge of work. Graduation in engineering
23 from a school of recognized standing shall be considered
24 as equivalent to four years of active practice and the sat-
25 isfactory completion of each year of work in such school
26 without graduation shall be considered as equivalent to a
27 half year of active practice. Graduation in a course other
28 than engineering from a college or university of recog-
29 nized standing shall be considered as equivalent to two
30 years of active practice: *Provided, however*, That no ap-
31 plicant shall receive credit for more than four years of
32 active practice because of educational qualifications.

33 In cases where the evidence presented in the application
34 does not appear to the board to be conclusive or to war-
35 rant the issuing of a certificate of registration, the appli-
36 cant may be required to present further evidence for the
37 consideration of the board, and may also be required to
38 pass an oral or written examination, or both, as the board
39 may determine.

CHAPTER 139

(House Bill No. 174—By Mr. Fumich and Mr. Goshorn)

AN ACT to amend and reenact section two, article sixteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, pertaining to the application, examination and license to practice chiropractic in this state and the rights incident thereto.

[Passed February 24, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 16. Chiropractors.

Section

2. Application for license; qualifications of applicant.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Application for License; Qualifications of Applicant.*—Any person wishing to practice chiropractic in this state shall apply to the secretary of the medical licensing board for a license so to practice. Each applicant shall establish the fact to the medical licensing board that he has satisfied the following requirements: (a) that he is twenty-one years of age or over; (b) that he is of good moral character; (c) that he is a graduate of an accredited high school giving a four year course or has an education equivalent to the same; (d) that he has attended for at least two academic years an academic college equal in standing to the West Virginia University; (e) that he is a graduate of a chiropractic school or college approved by the West Virginia chiropractor's society, incorporated, which requires for graduation a resident course of not less than four academic years of nine months each, and active attendance at the same for a minimum of four thousand hours of fifty minutes each of classroom and

19 laboratory instruction: *Provided, however,* That this re-
20 quirement shall not be construed to disqualify applicants
21 that graduate from chiropractic schools or colleges be-
22 fore passage of this act which taught a resident course
23 of at least three academic years of eight months each and
24 required active attendance upon the same. Attendance
25 at the academic college as set forth in requirement (d)
26 shall be prior to completion of the chiropractic training
27 as set forth in requirement (e): *Provided, however,* This
28 requirement of sequence of attendance at an academic
29 college and chiropractic school or college shall not apply
30 to those applicants who at the time of passage of this act
31 have completed, or are in the process of fulfilling, the
32 requirements set forth in (e) above; nor shall such re-
33 quirement of sequence of attendance at academic college
34 and chiropractic school or college apply to such appli-
35 cants who have subsequent to the passage of this act
36 commenced the fulfillment of requirement (e) under the
37 educational provisions of the federal servicemen's re-
38 adjustment act now in force or as may hereafter be
39 amended, or such federal act of similar effect, benefit or
40 purpose as may be hereafter enacted by Congress.

CHAPTER 140

(House Bill No. 170—By Mr. Bowles)

AN ACT to amend and reenact section fourteen, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to cooperation by the state board of health with the federal government in survey and construction programs for hospitals and other health facilities.

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1. State Department of Health.

Section

14. Board of health authorized to cooperate with federal government in hospital and other health facility programs; advisory council.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Board of Health Authorized to Cooperate with Federal Government in Hospital and Other Health Facility Programs; Advisory Council.*—The state board of health is hereby designated as the sole state agency to cooperate with the federal government in its programs for construction of public or private hospitals, diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities, nursing homes, and similar or related facilities and institutions; and is hereby designated as the sole state agency authorized to make such inventories of existing public health centers, public and private hospitals, diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities, nursing homes, and similar or related facilities and institutions, and the laboratory and other facilities thereof, to make surveys of the need for construction of such health facilities, and to adopt, develop, and supervise the administration of such state wide plans or programs for the construction of additional public and private hospitals, public health centers, public or private diagnostic or treatment centers, chronic disease hospitals, rehabilitation facilities, nursing homes, and similar or related facilities and institutions, as may be necessary to comply with the requirements and conditions of federal law in respect to the granting of federal aid for such purposes under all acts of Congress now in force and all subsequent acts of Congress amending or supplementing those acts of Congress now in force.

The governor shall have authority to appoint such an advisory council to consult with the state board of health as may be necessary under federal law to effectuate the purposes of this section. The members of any such advisory council shall serve without compensation, but shall be paid the amount of their traveling and other expenses necessarily incurred in the performance of their duties.

CHAPTER 141

(House Bill No. 51—By Mrs. Walker)

AN ACT to amend and reenact section three, article two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, organization, powers and duties of combined local boards of health.

[Passed March 8, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Local Health Officers.

Section

3. Counties, or counties and municipalities, may combine in employment of officers and installation and maintenance of equipment; combined local boards of health.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Counties, or Counties and Municipalities, May Combine in Employment of Officers and Installation and Maintenance of Equipment; Combined Local Boards of Health.*—Any two or more counties, or any county or counties and any one or more municipalities within the said county or counties, may combine to cooperate with the state department of health, by vote of the county court in the case of a county; and by vote of the council or other governing body in the case of a municipality, and may participate in the employment of trained health officers and other agents and employees, or in the installation and maintenance of a common laboratory and other equipment. Whenever any such units shall decide so to cooperate and shall appropriate a sum or sums of money for such joint or cooperative action, a sum equal to two-fifths of the total amount contributed by the cooperating units, shall be added thereto from the appropriation made

18 for the state department of health: *Provided*, That the
19 general plan of cooperation, as well as the principal health
20 officer, executive agent or laboratory director employed
21 by the cooperating units, shall first have been approved
22 by the state board of health.

23 Each county or municipality participating in any such
24 cooperative action shall select and appoint by vote of
25 the county court in the case of a county, and by vote
26 of the council or other governing body in the case of a
27 municipality, not less than one nor more than three per-
28 sons to be members of a combined board of health. No
29 such person shall be selected by, nor represent on any
30 such combined board, more than one such county or
31 municipality. The number of persons to be selected by
32 each participating county or municipality as members of
33 such board, subject to the limitation contained in the two
34 preceding sentences, shall be agreed upon by the several
35 counties or municipalities participating.

36 All members of such combined board of health shall be
37 appointed for terms of five years each, except that the
38 persons first appointed pursuant to the provisions of this
39 section, if more than one such person is appointed at the
40 same time by any one county court or municipal governing
41 body, shall be individually designated to serve for terms of
42 one, two, and three years, respectively, and if only one
43 such person is appointed at such time by each participating
44 county or municipality, the several participating counties
45 or municipalities shall initially appoint such persons to
46 serve for individually designated terms, which shall be
47 agreed upon by the several appointing authorities, of one,
48 two, three, four and five years, respectively. Upon the
49 expiration of the term of such initial appointments the
50 term of each new appointee shall be five years. Any
51 vacancy on such board shall be filled by appointment, by
52 the original appointing authority, for the unexpired term.
53 All members shall serve until their duly qualified suc-
54 cessors have been appointed. The number of members of
55 such board belonging to one political party shall not
56 exceed by more than one the number of members of such
57 board belonging to any other political party.

58 All members of any such board shall be citizens and
59 residents of the county or municipality they are ap-
60 pointed to represent. All members shall be eligible for
61 reappointment.

62 No member of such board may be removed from office
63 during the term for which he is appointed except for
64 official misconduct, incompetence, neglect of duty or gross
65 immorality.

66 No member of such board shall receive any compen-
67 sation for his services but each may be reimbursed for
68 actual and necessary travel and other expenses neces-
69 sarily incurred by him in the performance of his duties
70 as a member of such board.

71 Any such combined board of health shall consist of the
72 several members so selected. Such board shall organize
73 by electing a chairman from among its members. It
74 shall have the power to adopt, and from time to time
75 amend, such rules and regulations as it may deem neces-
76 sary concerning the time and place of its meetings, the
77 procedure and method of conducting its meetings or busi-
78 ness, and any other matters affecting, or necessary to, the
79 orderly and efficient discharge of its duties or exercise of
80 its powers. All powers and duties belonging to or vested
81 in county boards of health or municipal boards of health
82 under any provision of this code are hereby vested in,
83 conferred upon, and declared to be, the powers and duties
84 of any combined board of health created pursuant to the
85 provisions of this section. All powers and duties belonging
86 to or vested in county or municipal health officers, so far
87 as they are applicable and not in conflict with the pro-
88 visions of this section, are hereby vested in, conferred
89 upon, and declared to be, the powers and duties of any
90 health officer appointed and employed by any combined
91 board of health. Any health officer or other employee
92 appointed or employed by any combined board of health
93 shall be employed and serve, and may be discharged, at
94 the will and pleasure of such board. The territorial juris-
95 diction of any such combined board of health shall be
96 coextensive with the boundaries of all of the counties and
97 municipalities which have been combined to cooperate
98 as herein provided.

99 Upon the formation of a combined local board of health
100 as herein provided, and during the period that it continues
101 to exist, there shall be no separate county board of health
102 or municipal board of health in any county or municipi-
103 pality represented on the combined board of health.

CHAPTER 142

(House Bill No. 50—By Mrs. Walker)

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article two-a, relating to an alternative method of organizing local boards of health, levy for local health purposes, and the employment, powers and duties of local health officers and other persons employed by such local health agencies.

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2-a. Alternative Method of Organizing Local Health Agencies.

Section

1. County and municipal boards of health authorized; jurisdiction.
2. Membership and organization of county and municipal boards of health; appointment and qualification.
3. Powers and duties of county and municipal boards of health.
4. County or municipal health officers, health personnel and other employees; appointment or employment, term, qualification and compensation.
5. Powers and duties of county or municipal health officers; reporting contagious or infectious diseases.
6. County and municipal health officers, levy; receipt and disposition of funds by local boards of health.
7. Charges by local boards of health for inspection of milk distribution, production or pasteurization facilities outside of state.
8. State board of health may supplant local health authority; removal of delinquent local officers.
9. Obstructing health officers and others in enforcement of health laws; penalty.
10. Penalties for violating provisions of article; jurisdiction of justices.
11. Severability.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *County and Municipal Boards of Health Authorized; Jurisdiction.*—Any county or municipality may in its discretion, and in lieu and instead of the local board of health provided for in article two of this chapter, create, establish and maintain a county board of health or a municipal board of health organized pursuant to, and with the powers and duties prescribed by, the provisions of this article. Such county board of health may be created and established by the county court, and such municipal board of health may be created and established by the governing body of the municipality. The jurisdiction of such county board of health shall be coextensive with the territorial limits of the county and shall include every city, town, and village therein which does not have a full time health officer of its own employed in the manner, for the purpose, and to perform the duties set forth in this article. The jurisdiction of such municipal board of health shall be coextensive with the territorial limits of the municipality and an area including all points within a distance of one mile from the limits of the municipality. The jurisdiction of any county board of health, or of any combined local board of health established pursuant to the provisions of section three, article two of this chapter, shall not extend to or include any area within the jurisdiction of any municipal board of health which has established and is maintaining a separate full time municipal health department under the supervision of a municipal health officer.

In any county in which there is created and established a county board of health pursuant to the provisions of this article, the county board of health provided for in article two of this chapter shall cease to exist and shall be abolished during such period of time as the county board of health provided for in this article is maintained and continued in existence.

Sec. 2. *Membership and Organization of County and Municipal Boards of Health; Appointment and Qualification.*—A county board of health or municipal board of health created and established under the provisions of this article shall be composed of five members appointed by the county court or the governing body of the municipality. Where any county board of education contributes funds to a county court or a municipality, which creates such board of health, for health purposes, such board of education may nominate one member of such local board of health. Such nominee shall be appointed to such board of health by the appointing authority, if otherwise qualified. In the event such nominee is rejected by the appointing authority, or in the event his position on the board of health is vacated during the term for which he is appointed, such county board of education may nominate another person, who, if otherwise qualified, shall be appointed to the board of health by the appointing authority. In the event such county board of education fails or refuses to nominate some person for such appointment within thirty days of the date of the receipt of a request, in writing, from the appointing authority, for a nomination, the appointing authority shall proceed to make such appointment without any nomination by the county board of education.

All members of any such board of health shall be citizens and residents of the county or municipality they are appointed to represent. No more than three of the members of such board shall belong to the same political party, nor shall more than two of such members be residents of the same magisterial district or municipal ward, nor shall more than two such members be personally and individually licensed in, engaged in, or actively participating in or carrying on, the same business, profession, or occupation. All members shall be eligible for reappointment.

All members of such board shall be appointed for terms of five years each, except that the persons appointed when the board is initially created shall be individually desig-

41 nated to serve for terms of one, two, three, four and five
42 years, respectively. Upon the expiration of such initial
43 appointments the term for each new appointee shall be
44 five years. Each member shall serve until the appointment
45 of his duly qualified successor. Any vacancy on such
46 board shall be filled by appointment for the unexpired
47 term.

48 Such county or municipal board of health shall organize
49 by electing from its members a chairman who shall serve
50 as such for a period of one year. Such chairman shall
51 have the power to sign documents, execute contracts and
52 otherwise act for and in the name of such board in all
53 matters within its lawful powers and duly authorized by
54 a majority of its members.

55 No member of such board may be removed from office
56 during the term for which he is appointed except for
57 official misconduct, incompetence, neglect of duty or gross
58 immorality: *Provided, however,* That the revocation of
59 a professional license issued by this state to any such
60 member shall be sufficient reason and cause for the re-
61 moval of such member from office.

62 No member of such board shall receive any compensa-
63 tion for his services but each may be reimbursed for actual
64 and necessary travel and other expenses incurred by him
65 in the performance of his duties as a member of such
66 board.

2 *Sec. 3. Powers and Duties of County and Municipal*
3 *Boards of Health.*—County or municipal boards of health
4 created and established pursuant to the provisions of this
5 article shall direct, supervise, and control all matters re-
6 lating to the general health and sanitation of their re-
7 spective counties or municipalities, and shall possess and
8 exercise such power in relation thereto as may be exer-
9 cised and is possessed by the state board of health, so far
10 as such powers are applicable to such county or munici-
11 pality. Such local boards of health shall also have the
12 power and authority to adopt and promulgate and from
13 time to time amend such rules and regulations, consistent
14 with the laws of this state and the rules and regulations
of the state board of health, as may be necessary and

15 proper for the protection of the general health of the
16 county or municipality and the prevention of the intro-
17 duction, propagation and spread of disease therein. All
18 such rules and regulations shall be filed, in the case of a
19 county board, with the clerk of the county court, and in
20 the case of a municipal board, with the clerk, recorder, or
21 similar officer of the municipality. Such rules and regu-
22 lations shall be kept by such clerk or recording officer in
23 a separate book and shall be public records.

24 It shall be the duty of such local boards of health to
25 protect the general health and supervise and control the
26 sanitation of their respective counties and municipalities;
27 to enforce the laws of this state pertaining to public health,
28 and the rules and regulations of the state board of health,
29 insofar as they are applicable to such counties or municipi-
30 palities, and to perform such duties in relation to public
31 health as may be prescribed by order of the county courts
32 of such counties or ordinances of such municipalities,
33 consistent with the public health laws of this state and
34 the regulations duly adopted by the state board of health.
35 All such local boards of health receiving state or federal
36 funds for health purposes shall first receive approval by
37 the state board of health of their general plans of opera-
38 tion for health purposes. The state board of health may,
39 if deemed necessary or expedient by it, act through any
40 county or municipal board of health created, established
41 and operated pursuant to the provisions of this article.

Sec. 4. *County or Municipal Health Officers, Health*
2 *Personnel and Other Employees; Appointment or Em-*
3 *ployment, Term, Qualification and Compensation.*—A
4 county or municipal board of health, created and main-
5 tained pursuant to the provisions of this article, shall have
6 the power to appoint a health officer to serve for an indefi-
7 nite term at the pleasure of the appointing county or mu-
8 nicipal board of health. Such health officer shall be a phy-
9 sician licensed or eligible for licensure as a physician in
10 this state. He shall be skilled in the science of preventive
11 medicine and sanitation. He shall receive such compen-
12 sation, to be paid out of the county or municipal treasury,
13 as may be determined by such county or municipal board

14 of health, and approved by the county court or municipal
15 governing body.

16 Any such county or municipal board of health as is
17 mentioned in the preceding paragraph shall have the
18 power to employ such technical, administrative, clerical,
19 and other employees as such board may deem necessary.
20 All such employees shall be employed for such period
21 of time as may be determined by such board, and shall
22 be suitably trained in public health practices. Such em-
23 ployees shall perform such duties in relation to public
24 health as may be prescribed by any order, rule or regu-
25 lation of the county or municipal board of health, the
26 public health laws of this state or the regulations of the
27 state board of health.

28 Any such county or municipal board of health may,
29 with the consent and approval of the county court or
30 municipal governing body creating and maintaining such
31 local board of health, establish and adopt a merit system
32 for any or all employees of the county or municipal health
33 department. Such merit system may be similar to the
34 state merit system and may be established by the local
35 board by its order, subject to the approval of the county
36 court or municipal governing body, adopting and making
37 applicable to the local health department all, or such por-
38 tion, of any order, rule, standard, or compensation rate in
39 effect in the state merit systems as may be desired by the
40 local board of health and as it may consider properly
41 applicable to the local health department.

Sec. 5. *Powers and Duties of County or Municipal
2 Health Officers; Reporting Contagious or Infectious Dis-
3 eases.*—The county or municipal health officer appointed
4 by any local board of health created pursuant to the pro-
5 visions of this article shall be the executive officer of such
6 board of health. Under the supervision of the board he
7 shall administer the provisions of this article, all other
8 laws of this state relating to public health and applicable
9 to his county or municipality, and the rules, regulations
10 and orders of such county or municipal board of health,
11 and of the state board of health, so far as such rules, regu-

12 lations and orders are applicable to his county or mu-
13 nicipality.

14 Such health officer shall attend, but not vote, at all
15 meetings of his county or municipal board of health. He
16 shall act as secretary of such board and shall be in charge
17 of its offices. He shall supervise and direct the activities
18 of county or municipal health services, employees, and
19 facilities: *Provided, however,* That the duties of such
20 health officer shall not include the rendering of medical
21 or surgical services on an individual basis to wards of the
22 county or municipality or to inmates of any public insti-
23 tution operated or maintained by any county court or
24 municipality.

25 It shall be the duty of every practicing physician to re-
26 port to the municipal health officer, where there is such
27 official, immediately on diagnosis, every case of commu-
28 nicable or infectious disease that may arise or come under
29 his treatment within the municipality, and to the county
30 health officer cases occurring outside of the municipality,
31 and also, where there is no municipal health officer, cases
32 occurring within such municipality. Any health officer
33 receiving such reports shall make to the state director
34 of health a weekly report of all such cases, stating the
35 number of each kind of disease reported, the action taken
36 to arrest the infection and spread of the disease, and the
37 result.

Sec. 6. *County and Municipal Health Officers, Levy;*
2 *Receipt and Disposition of Funds by Local Boards of*
3 *Health.*—The county court of any county or the governing
4 body of any municipality in which a county or municipal
5 health officer is appointed pursuant to the provisions of
6 this article, shall have the power and authority to provide
7 funds for the payment of such health officer and the ex-
8 penses of his administration, and for that purpose may
9 levy a county or municipal tax, as the case may be, of not
10 exceeding three cents on each one hundred dollars'
11 assessed valuation of the taxable property in such county
12 or municipality according to the last assessment thereof.
13 Any county or municipality may, whether it has exer-
14 cised the power to lay the special levy hereinbefore pro-

15 vided for or not, appropriate and expend money from the
16 county or municipal general fund for public health pur-
17 poses and to pay the expenses of operation and administra-
18 tion of a county or municipal board of health and the pub-
19 lic health facilities operated thereby or in conjunction
20 therewith.

21 Any county or municipality in which there is a board
22 of health created and maintained pursuant to the pro-
23 visions of this article, may accept, receive and receipt for
24 money or property from any federal, state, or local gov-
25 ernmental agency, or from any public or private source,
26 to be used for public health purposes, or for the estab-
27 lishment or construction of public health facilities. All
28 moneys accepted by any county or municipality pursuant
29 to the provisions of this paragraph shall be deposited in
30 the county or municipal treasury, and unless otherwise
31 prescribed by the authority from which the money is re-
32 ceived, shall be kept in separate funds, designated ac-
33 cording to the purposes for which the money was made
34 available, and held by the county or municipality in trust
35 for such purposes: *Provided, however,* That nothing con-
36 tained in this section shall be construed to conflict with
37 the provisions of section fifteen, article one, chapter six-
38 teen of this code.

2 *Sec. 7. Charges by Local Boards of Health for Inspec-*
3 *tion of Milk Distribution, Production or Pasteurization*
4 *Facilities Outside of State.*—Any local board of health,
5 whether created and maintained pursuant to the pro-
6 visions of this article or article two of this chapter, may
7 cause an inspection to be made of the physical plant and
8 facilities of any distributor, producer, or pasteurizer of
9 milk whose milk distribution, production, or pasteuriza-
10 tion plant or facilities are located outside of this state
11 but who sells or distributes in this state, or transports, or
12 causes or permits to be transported into this state, milk,
13 or milk products, for resale, use or consumption in this
14 state and within the territorial jurisdiction of such local
15 board of health. The local board of health may charge
16 to, and collect from, such distributor, producer, or pas-
teurizer of milk, all of the expense of such inspection.

17 The amount of such charge for expense of inspection
18 shall be based on the number of inspections made, mileage
19 traveled, and time consumed by the inspecting official in
20 traveling to and from the place of the inspection and in
21 actually making the inspection.

22 *Provided, however,* That in any case in which such milk
23 distribution, production, or pasteurization plant or facilities
24 are regularly inspected in the course of a regular inspection
25 schedule or itinerary by any duly authorized representative
26 of any agency of this state or its governmental subdivisions,
27 or any agency of any other state or its governmental subdivisions,
28 which has been certified as an approved inspection agency by the
29 state board of health of this state, no charge for expense of inspection
30 shall be made by any local board of health unless it is the agency
31 making the regular inspection. In any event, not more
32 than one local board of health shall act as, and be deemed,
33 the regular inspection agency for any such milk distribution,
34 production, or pasteurization plant or facility. Where
35 two or more agencies each include any such plant or facility
36 in a regular inspection schedule or itinerary the state board of
37 health shall designate one of such agencies as the regular inspection
38 agency for such plant or facility.

Sec. 8. *State Board of Health May Supplant Local Health Authority; Removal of Delinquent Local Officers.*
2 —When, in the opinion of the state board of health, any
3 local health authority shall fail or refuse to enforce laws
4 and regulations necessary to prevent and control the spread of
5 communicable or infectious disease declared to be dangerous to the
6 public health, or when, in the opinion of the state board, a public
7 health emergency exists, the state board may enforce its rules and
8 regulations within the territorial jurisdiction of such local health
9 authority, and for that purpose shall have and may exercise all the
10 powers given by law to local health authorities. All expenses so
11 incurred shall be a charge against the counties, cities, or towns
12 concerned. And in such cases the failure or refusal of any local
13 health officer or local health body to carry out the lawful orders
14 and regulations of the state board of health shall be sufficient
15 cause for the removal

18 of such local health officer, or local health body or its
19 members, from office, and upon such removal a successor
20 or successors to the person or persons removed shall im-
21 mediately be appointed in the manner, and for the term,
22 provided for in this article.

Sec. 9. *Obstructing Health Officers and Others in En-
2 forcement of Health Laws; Penalty.*—Every person who
3 wilfully opposes or obstructs any health officer, public
4 health nurse, sanitarian, or any other person charged with
5 the enforcement of any health law, in the performance of
6 such officer or person's legal duty in enforcing such law,
7 shall be guilty of a misdemeanor, and upon conviction
8 shall be punished by a fine of not more than two hundred
9 dollars or by imprisonment for not more than thirty days
10 or both.

Sec. 10. *Penalties for Violating Provisions of Article;
2 Jurisdiction of Justices.*—Any person wilfully violating
3 any of the provisions of this article, for which a penalty
4 is not otherwise provided, or any of the rules, regulations
5 or orders adopted or issued pursuant thereto, shall be
6 guilty of a misdemeanor, and upon conviction shall be
7 punishable by a fine of not more than two hundred dollars
8 or by imprisonment for not more than thirty days or both.
9 Justices of the peace shall have concurrent jurisdiction
10 with circuit and criminal courts for the enforcement of
11 the provisions of this article and any rules, regulations, or
12 orders, lawfully adopted, promulgated or issued pursuant
13 thereto.

Sec. 11. *Severability.*—If any provision of this article,
2 or the application thereof to any person or circumstance,
3 shall be held to be invalid or unconstitutional, such in-
4 validity or unconstitutionality shall not affect the other
5 provisions or applications of this article which can be
6 given effect without the invalid or unconstitutional pro-
7 vision or application, and to this end the provisions of this
8 article are declared to be severable.

CHAPTER 143

(House Bill No. 52—By Mrs. Walker)

AN ACT to amend and reenact section three, article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the sanitary disposition of decayed or putrid organic and food materials.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 9. Offenses Generally.

Section

3. Depositing dead animals or offensive substance in or near waters or on or near roads, or on public grounds; penalty; failure to bury or destroy offensive substance after conviction; successive offenses; jurisdiction of justices.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Depositing Dead Animals or Offensive Substance in or Near Waters or on or Near Roads, or on Public Grounds; Penalty; Failure to Bury or Destroy Offensive Substance After Conviction; Successive Offenses; Jurisdiction of Justices.*—Any person who shall place, cast, discharge, or deposit the carcass of any dead animal or the putrescible waste from food processing plants, or garbage, or slop, or spoiled meat, or putrid organic substances, or the contents of privy vaults, or septic tanks, or cesspools, into any river, creek or other stream, or upon the surface of any land adjacent to such river, creek or other stream in such a location that high water or normal drainage conditions will cause such offensive material to be washed, drained or cast into the river, creek or other stream; or any person who shall place, cast, discharge or deposit such offensive material upon the surface of any public road, street, alley, city or town lot, public ground, market space, or common, or

19 upon the surface of any land within one hundred yards
20 of a public street or road; or any person, who, being the
21 owner, lessee or occupant of any such city or town lot,
22 public ground, market space, common, or land within one
23 hundred yards of a public street or road, shall knowingly
24 permit any of the offensive materials hereinbefore named
25 to remain thereon, to the annoyance of any of the citizens
26 of this state, or shall neglect or refuse to remove or abate
27 the nuisance occasioned thereby, within twenty-four hours
28 after such person has knowledge of the existence of such
29 nuisance upon any of the above described premises owned,
30 leased, or occupied by him, or within twenty-four hours
31 of service of notice thereof in writing from the health
32 officer of the county, or the mayor or health officer of the
33 municipal corporation, as the case may be, in which any
34 such nuisance exists, shall be guilty of a misdemeanor,
35 and, upon conviction thereof, shall be fined not less than
36 five nor more than one hundred dollars.

37 Upon a conviction for any such offense, the person con-
38 victed shall, within twenty-four hours after such convic-
39 tion, bury or cause to be buried at least three feet under
40 the ground, or destroy or cause to be destroyed by fire
41 or as otherwise directed by the health officer within whose
42 jurisdiction the offense may have occurred, any of the
43 offensive materials or substances hereinbefore named
44 which the person so convicted has placed or knowingly
45 permitted to remain upon such city or town lot, public
46 ground, market space, common, or land, contrary to the
47 provisions of this section, and his failure to do so shall
48 constitute a misdemeanor and a second offense against
49 the provisions of this section. The continued failure or
50 refusal of such convicted person to bury or destroy such
51 offensive materials and substances as provided herein
52 shall constitute a separate, distinct and additional offense
53 for each successive twenty-four hour period of such fail-
54 ure and refusal. Any person convicted of any offense
55 described in this paragraph shall be fined not less than
56 five nor more than one hundred dollars.

57 A justice of the peace shall have jurisdiction of any
58 offense under the provisions of this section committed
59 within his county.

* CHAPTER 144

(House Bill No. 59—By Mr. Francis)

AN ACT to amend and reenact section seven, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the rank and qualifications of the adjutant general.

[Passed February 3, 1955; in effect from passage. Approved by the Governor.]

Article 1. National Guard.

Section

7. Governor's staff; adjutant general.

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Governor's Staff; Adjutant General.*—The
2 staff of the governor shall consist of one adjutant general
3 with the rank of brigadier general or such higher rank
4 as determined by the governor, an assistant adjutant
5 general with rank not above that of colonel, and, in
6 addition thereto, such other officers as may be currently
7 prescribed by existing tables of organizations as estab-
8 lished by federal authority. The governor may also ap-
9 point and commission an honorary staff to serve during
10 his term of office, of such number as he may deem
11 advisable, with such rank as he may fix, which honorary
12 staff will not be held to be a part of the regularly or-
13 ganized militia.

14 The adjutant general shall be appointed and commis-
15 sioned by the governor, but no person shall be appointed
16 adjutant general unless such person has had at least six
17 years' commissioned service in the national guard of
18 this or some other state.

19 In time of peace he shall perform the duties of chief of

*Reenacted by Chapter 145.

20 the pay, quartermaster and ordnance departments unless
21 otherwise ordered by the governor, and shall give bond
22 in such sum as the governor may require, such bond to
23 be provided in like manner as the bonds of other officers.
24 He shall receive a compensation of seven thousand dollars
25 per annum, which shall be paid to him in equal monthly
26 installments, and his term of office shall be for four years.
27 He shall attest, record, and seal with the seal of the state
28 all commissions issued by the governor, and keep a regis-
29 ter of all commissioned officers, with dates of commission,
30 and all changes occurring in the commissioned force, and
31 shall keep a full and complete record at all times of the
32 organized militia of the state. He shall, as soon as possible
33 after the first day of July in even years, make a biennial
34 report to the governor of the transactions and the ex-
35 penditures of his department and the condition of the
36 national guard. Such report shall show all receipts into
37 the military or militia fund of the state from every source,
38 including fines, appropriations from the state, and all
39 money received from the federal government and from
40 every other source. All such funds and moneys shall be
41 paid into the state treasury as soon as received, and shall
42 be credited to the military fund. Such report shall also
43 show in detail all expenditures made from each fund, and
44 the purpose of the expenditures, and shall state such
45 other details as the governor may order; and the report
46 shall be communicated by the governor to the next session
47 of the Legislature. He shall also make such other reports
48 and returns as may be required by the governor from
49 time to time. He shall cause to be procured, prepared and
50 issued to the different organizations of the national guard
51 all necessary books and blanks for reports, records, returns
52 and general administration, and shall, at the expense of
53 the state, cause the military laws, military code, and
54 rules and regulations in force to be printed, bound in
55 proper form, and distributed, one copy to each commis-
56 sioned officer, and one each to all the circuit, intermediate
57 and criminal court judges, sheriffs, assessors, and justices
58 of the peace in the state requiring them; and shall pro-
59 cure and supply all necessary textbooks of drill and

60 instruction. He shall keep in his office an accurate account
61 of all state and United States property issued to the state.
62 He shall keep on file in his office all official bonds, except
63 the bond of the adjutant general, which shall be filed with
64 the auditor of the state; the reports and returns of troops
65 and heads of military departments; and all other writings
66 and papers which are required to be transmitted to and
67 preserved at the general headquarters of the state militia.
68 He shall employ such clerical force and assistants as may
69 be required in the military department, in addition to
70 the assistant adjutant general herein authorized. He shall
71 keep records of all service personnel from the state of
72 West Virginia, commissioned or enlisted, in any of the
73 wars of the United States, and of individual claims of
74 citizens of West Virginia for service rendered in such
75 wars. He shall assist all persons residing in this state
76 having claims against the United States for pension,
77 bounty or back pay, or such claims as have arisen out of,
78 or by reason of, service in any of said wars. To this end
79 he shall cooperate with the agents or attorneys of such
80 claimants, furnish to claimants only all necessary certifi-
81 cates or certified abstracts from, or copies of, records or
82 documents in his office, and shall in all practicable ways
83 seek to secure speedy and just action in all claims now
84 pending or which may hereafter be filed: *Provided*, That
85 any and all of the above services shall be rendered with-
86 out charge to the claimant. He shall establish and main-
87 tain as a part of his office a bureau of records of the
88 services of the West Virginia troops during such wars,
89 and shall keep arranged in proper and convenient form
90 all records and papers pertaining thereto.



CHAPTER 145

(House Bill No. 433—By Mr. Francis)

AN ACT to amend and reenact section seven, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by House Bill No. 59, an act of the Legislature, regular session, one thousand

nine hundred fifty-five, relating to qualifications of the adjutant general.

[Passed March 7, 1955; in effect from passage. Approved by the Governor.]

Article 1. National Guard.

Section

7. Governor's staff; adjutant general.

Be it enacted by the Legislature of West Virginia:

That section seven, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by House Bill No. 59, an act of the Legislature, regular session, one thousand nine hundred fifty-five, be amended and reenacted to read as follows:

Section 7. *Governor's Staff; Adjutant General.*—The
2 staff of the governor shall consist of one adjutant gen-
3 eral with the rank of brigadier general or such higher
4 rank as determined by the governor, an assistant adju-
5 tant general with rank not above that of colonel, and, in
6 addition thereto, such other officers as may be currently
7 prescribed by existing tables of organizations as estab-
8 lished by federal authority. The governor may also ap-
9 point and commission an honorary staff to serve during
10 his term of office, of such number as he may deem advis-
11 able, with such rank as he may fix, which honorary staff
12 will not be held to be a part of the regularly organized
13 militia.

14 The adjutant general shall be appointed and commis-
15 sioned by the governor, but no person shall be appointed
16 adjutant general unless such person has had at least six
17 years' commissioned service in the national guard of this
18 or some other state, or in the armed forces of the United
19 States, or in all combined.

20 In time of peace he shall perform the duties of chief
21 of the pay, quartermaster and ordnance departments un-
22 less otherwise ordered by the governor, and shall give
23 bond in such sum as the governor may require, such
24 bond to be provided in like manner as the bonds of other

25 officers. He shall receive a compensation of seven thou-
26 sand dollars per annum, which shall be paid to him in
27 equal monthly installments, and his term of office shall
28 be for four years. He shall attest, record, and seal with
29 the seal of the state all commissions issued by the gov-
30 ernor, and keep a register of all commissioned officers,
31 with dates of commission, and all changes occurring in the
32 commissioned force, and shall keep a full and complete
33 record at all times of the organized militia of the state.
34 He shall, as soon as possible after the first day of July
35 in even years, make a biennial report to the governor of
36 the transactions and the expenditures of his department
37 and the condition of the national guard. Such report
38 shall show all receipts into the military or militia fund
39 of the state from every source, including fines, appro-
40 priations from the state, and all money received from
41 the federal government and from every other source.
42 All such funds and moneys shall be paid into the state
43 treasury as soon as received, and shall be credited to
44 the military fund. Such report shall also show in detail
45 all expenditures made from each fund, and the purpose
46 of the expenditures, and shall state such other details as
47 the governor may order; and the report shall be com-
48 municated by the governor to the next session of the
49 Legislature. He shall also make such other reports and
50 returns as may be required by the governor from time
51 to time. He shall cause to be procured, prepared and
52 issued to the different organizations of the national guard
53 all necessary books and blanks for reports, records, re-
54 turns and general administration, and shall, at the ex-
55 pense of the state, cause the military laws, military code,
56 and rules and regulations in force to be printed, bound
57 in proper form, and distributed, one copy to each com-
58 missioned officer, and one each to all the circuit, inter-
59 mediate and criminal court judges, sheriffs, assessors,
60 and justices of the peace in the state requiring them;
61 and shall procure and supply all necessary textbooks of
62 drill and instruction. He shall keep in his office an ac-
63 curate account of all state and United States property
64 issued to the state. He shall keep on file in his office all

65 official bonds, except the bond of the adjutant general,
66 which shall be filed with the auditor of the state; the
67 reports and returns of troops and heads of military de-
68 partments; and all other writings and papers which are
69 required to be transmitted to and preserved at the gen-
70 eral headquarters of the state militia. He shall employ
71 such clerical force and assistants as may be required in
72 the military department, in addition to the assistant ad-
73 jutant general herein authorized. He shall keep records
74 of all service personnel from the state of West Virginia,
75 commissioned or enlisted, in any of the wars of the
76 United States, and of individual claims of citizens of West
77 Virginia for service rendered in such wars. He shall
78 assist all persons residing in this state having claims
79 against the United States for pension, bounty or back pay,
80 or such claims as have arisen out of, or by reason of,
81 service in any of said wars. To this end he shall cooperate
82 with the agents or attorneys of such claimants, furnish
83 to claimants only all necessary certificates or certified
84 abstracts from, or copies of, records or documents in his
85 office, and shall in all practicable ways seek to secure
86 speedy and just action in all claims now pending or which
87 may hereafter be filed: *Provided*, That any and all of the
88 above services shall be rendered without charge to the
89 claimant. He shall establish and maintain as a part of
90 his office a bureau of records of the services of the West
91 Virginia troops during such wars, and shall keep ar-
92 ranged in proper and convenient form all records and
93 papers pertaining thereto.

CHAPTER 146

(House Bill No. 43—By Mr. Francis)

AN ACT to amend and reenact section eleven, article one, chap-
ter fifteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the resigna-
tion and removal of national guard officers.

[Passed February 3, 1955; in effect from passage. Approved by the Governor.]

Article 1. National Guard.**Section****11. Resignation of officers; removal.**

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Resignation of Officers; Removal.*—No resignation shall be accepted unless the officer tendering the same shall furnish to the adjutant general a certificate from each property accounting officer that he has delivered all books and other property of the state in his possession to the officer authorized to receive the same, and that his accounts for money or public property are correct, and that he is not indebted to the state or federal military authorities. No commissioned officer shall be removed from office, unless by the Senate on recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, or an examining board, or as provided in federal laws or regulations pertaining to the national guard or air national guard, or pursuant to law.

CHAPTER 147

(House Bill No. 210—By Mr. Bowles)

AN ACT to amend and reenact section two, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of an inspector, other commissioned officers, non-commissioned officers, troopers and civilian employees.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.**Section**

2. Appointment of inspector, other commissioned officers, non-commissioned officers, troopers and civilian employees.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Appointment of Inspector, other Commissioned Officers, Noncommissioned Officers, Troopers and Civilian Employees.*—The superintendent shall appoint, from the enlisted membership of the department, an inspector with the rank of major who shall be next in authority to the superintendent, and for the purpose of operating and maintaining the executive offices, training school, scientific laboratory, keeping records relating to crimes and criminals, coordinating traffic safety activities and maintaining a system of supplies and accounting and carrying on other necessary services, he shall appoint not more than one captain, four lieutenants, two master sergeants, four sergeants, three corporals and six troopers. In addition the superintendent may appoint, from the enlisted membership of the department, not more than four other lieutenants for duties consisting of technical or scientific examination of evidence in criminal cases, but no member shall be appointed to fill these vacancies in the grade of lieutenant unless (1) he shall have completed four year's study at a recognized college or university and hold a bachelor's degree from such college or university and (2) such member shall have actually conducted numerous examinations of physical evidence in criminal cases and have been qualified in a court of record of this state to testify as an expert witness with respect thereto. Any or all the four vacancies for lieutenants described immediately preceding may be filled by the appointment of a member of lesser grade, but no member above the grade of trooper may be appointed to any of such vacancies unless he shall be qualified as above set forth.

The superintendent shall appoint such civilian employees as may be necessary whose salaries shall be fixed by the board of public works.

The inspector, captains, lieutenants, master sergeants, sergeants, corporals and troopers shall be enrolled and

37 enlisted as members of the department of public safety
38 and shall be entitled to wear the insignia of rank as pro-
39 vided by law or authorized by department regulations.

CHAPTER 148

(House Bill No. 203—By Mr. Bowles)

AN ACT to amend and reenact section three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the department of public safety.

[Passed February 25, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Companies and Platoons and How Constituted; Training of Members and Other Peace Officers; Salaries and Bonds of Members.*—The superintendent shall create, appoint and equip a department of public safety which shall, in addition to the personnel provided for in section two of this article, consist of four companies or platoons. Each company or platoon shall be composed of one captain, one lieutenant, one first sergeant, five sergeants, ten corporals and such number of troopers as the superintendent may decide best, but such number of troopers in any company or platoon shall not at any time be less than twenty-five nor more than sixty-five. The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in service

17 training from time to time for all members of the depart-
18 ment. The superintendent may, in his discretion, hold
19 training classes for other peace officers in the state with-
20 out cost to such officers, except actual expenses for food,
21 lodging and school supplies.

22 Members of the department shall receive salaries, as
23 follows:

24 The inspector shall receive an annual salary of four
25 thousand nine hundred twenty dollars; captains shall
26 receive an annual salary of four thousand one hundred
27 forty dollars; lieutenants shall each receive an annual
28 salary of three thousand eight hundred forty dollars; the
29 master sergeants, master technical sergeants and first
30 sergeants shall each receive an annual salary of three
31 thousand four hundred eighty dollars; technical sergeants
32 shall each receive an annual salary of three thousand
33 four hundred twenty dollars; sergeants and sergeant
34 technicians shall each receive an annual salary of three
35 thousand three hundred dollars; corporals and corporal
36 technicians shall each receive an annual salary of three
37 thousand one hundred eighty dollars; and each newly
38 enlisted trooper shall receive a salary of one hundred
39 seventy-five dollars during the period of his basic train-
40 ing, and upon the satisfactory completion of such training
41 and assignment to active duty each such trooper shall
42 receive, during the remainder of his first year's service,
43 a salary of two hundred twenty-five dollars monthly.
44 During the second year of his service in the department
45 each trooper shall receive an annual salary of two thou-
46 sand eight hundred twenty dollars; during the third year
47 of his service each trooper shall receive an annual salary
48 of two thousand nine hundred forty dollars; and during
49 the fourth and fifth years of his service each trooper shall
50 receive an annual salary of three thousand sixty dollars.
51 Each member of the department entitled thereto by the
52 provisions hereof shall receive an increase in salary over
53 that hereinbefore set forth in this section, for grade and
54 rank, based on length of service, including that heretofore
55 and hereafter served, with the department, as follows: For
56 each five year period of service with the department from

57 the date of first enlistment, each member of the depart-
58 ment shall receive a salary increase of one hundred
59 twenty dollars per year to be effective during his next
60 five years of service, which increases shall be successive
61 and cumulative until a total of five such increases shall
62 be received.

63 In applying the foregoing salary schedule where salary
64 increases are provided for length of service, members of
65 the department in service at the time this article becomes
66 effective shall be given credit for prior service and shall
67 be paid such salaries as the same length of service will
68 entitle them to receive under the provisions hereof.

69 Each member of the department of public safety, except
70 the superintendent and civilian employees, shall, before
71 entering upon the discharge of his duties, execute a bond
72 with security in the sum of three thousand five hundred
73 dollars payable to the state of West Virginia, conditioned
74 for the faithful performance of his duties as such, and
75 such bond shall be approved as to form by the attorney
76 general, and as to sufficiency by the board of public works,
77 and the same shall be filed with the secretary of state
78 and preserved in his office.

CHAPTER 149

(House Bill No. 209—By Mr. Bowles)

AN ACT to amend article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections three-a and three-b, relating to chaplain, turnpike, technical and other personnel of the department of public safety.

[Passed March 11, 1955: in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

3-a. Superintendent may appoint chaplains.

3-b. Superintendent may assign members of the department to perform police duty on any turnpike.

Be it enacted by the Legislature of West Virginia:

That article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, to be designated sections three-a and three-b, to read as follows:

Section 3-a. Superintendent May Appoint Chaplains.—

2 The superintendent may also appoint for each company
3 not more than two chaplains, residing within the state
4 of West Virginia, who shall serve without pay, and may
5 not be required to perform any duties of members of the
6 department, nor shall any bond be required. The super-
7 intendent is authorized to furnish each such chaplain one
8 official uniform, with proper chaplain insignia, to be worn
9 at any ceremonious occasion conducted officially by the
10 department where the presence of a minister is customary.
11 Such chaplains may be reimbursed by the superintendent
12 from the department appropriation for actual expenses
13 incurred while traveling from their homes to such cere-
14 monies and return.

Sec. 3-b. Superintendent May Assign Members of the

2 *Department to Perform Police Duty on Any Turnpike.—*
3 The superintendent may also assign members of the de-
4 partment to perform police duties on any turnpike, or toll
5 road, or any section thereof, operated by the West Vir-
6 ginia turnpike commission, provided that such turnpike
7 commission shall reimburse the department for salaries
8 paid to such members, and shall either pay directly or
9 reimburse the department for all other expenses of such
10 group of members in accordance with actual or estimated
11 costs determined by the superintendent. The superin-
12 tendent may appoint commissioned and noncommissioned
13 officers of such group of members, but no greater number
14 of commissioned or noncommissioned officers of the vari-
15 ous ranks or grades shall be appointed than the number
16 prescribed in each rank or grade for any state police
17 company: *Provided, however,* That the provisions of sec-
18 tion three of this article as relate to the maximum and
19 minimum number of troopers in any state police company
20 or platoon shall not apply to this section.

CHAPTER 150

(House Bill No. 211—By Mr. Bowles)

AN ACT to amend and reenact section twenty-eight-a, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit on service required for retirement to be allowed members for time served in the armed forces.

[Passed February 16, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

28-a. Credit on service required for retirement to be allowed members for time served in armed forces during world war II and Korean conflict.

Be it enacted by the Legislature of West Virginia:

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

Section 28-a. *Credit on Service Required for Retirement to Be Allowed Members for Time Served in Armed Forces During World War II and Korean Conflict.*—Any member of the department of public safety who was commissioned, enlisted or inducted into the armed forces of the United States or, being a member of the reserve officers' corps, was called to active duty in said armed forces between the first day of September, one thousand nine hundred forty and the close of hostilities in World War II, or between the twenty-seventh day of June, one thousand nine hundred fifty and the close of the armed conflict in Korea on the twenty-seventh day of July, one thousand nine hundred fifty-three, shall be entitled to and receive credit on the minimum period of service required by law for retirement pay from the service of the department of public safety for a period equal to the full time he has or shall, pursuant to such commission, enlistment, induc-

tion or call, have served with said armed forces: *Provided*, That such member has been or shall (1) be honorably discharged from said armed forces, and (2) within ninety days after honorable discharge from said armed forces shall present himself to the superintendent and offer to resume service as an active member of the department: *Provided, however*, That no such member shall be entitled to any credit, privilege or benefit under the provisions of this section who shall by any voluntary act on his part, whether by reenlistment, waiver of discharge, acceptance of commission or otherwise, extend or participate in extension of the period of service of such member with such armed forces beyond the period of service therewith for which such member was originally commissioned, enlisted, inducted or called: *Provided further*, That the amount of retirement pay to which any such member shall be entitled shall be calculated and determined as if such member has continued in the active service of the department at the rank or grade to him appertaining at the time of such commission, induction, enlistment or call, during a period coextensive with the time such member shall have served with said armed forces pursuant to such commission, induction, enlistment or call. The superintendent of said department is authorized to transfer and pay each month into said death, disability and retirement fund from moneys that shall be appropriated for said department a sum equal to eighteen per cent of the aggregate of salary which all said members would have been entitled to receive had they continued in the active service of said department during a period coextensive with the time such members shall have served with said armed forces pursuant to said commission, induction, enlistment or call.

CHAPTER 151

(Senate Bill No. 5—By Mr. Vassar)

AN ACT to repeal section nineteen, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, and to amend and reenact section three of said article, relating to civil defense and to the establishment of a state civil defense agency.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 5. State Council of Defense.

Section

3. State civil defense agency.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *State Civil Defense Agency.*—There is hereby created within the adjutant general's department a division of civil defense, hereinafter called the civil defense agency. A director of civil defense, hereinafter called the director, shall be appointed by the adjutant general to serve during the pleasure of the adjutant general.

The director may employ such technical, clerical, stenographic and other personnel and fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available to him for the purpose of civil defense, as may be necessary to carry out the purpose of this article.

The director and other personnel of the civil defense agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for personnel of other state agencies.

The director, subject to the direction and control of the adjutant general, shall be the executive head of the civil defense agency and shall be responsible to the adjutant general for carrying out the program for civil defense of this state. He shall coordinate the activities

24 of all organizations for civil defense within the state,
25 and shall maintain liaison with and cooperate with civil
26 defense agencies and organizations of other states and
27 of the federal government, and shall have such additional
28 authority, duties, and responsibilities authorized by this
29 article as may be prescribed by the adjutant general.

30 The director shall have the power to acquire in the
31 name of the state by purchase, lease or gift, real property
32 and rights or easements necessary or convenient to con-
33 struct thereon the necessary building or buildings for
34 housing a civil defense control center.

CHAPTER 152

(Senate Bill No. 129—By Mr. Jackson, of Logan)

AN ACT to amend and reenact section two, article two, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to trade-marks in general, and to filing and recording fees in particular.

[Passed February 14, 1955; in effect from passage. Approved by the Governor.]

Article 2. Trade-Marks in General.

Section

2. Registration; certificates of recordation.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Registration; Certificates of Recordation.*—

2 Every such person, firm, corporation, association or union
3 that has heretofore adopted or used, or shall hereafter
4 adopt or use, a label, trade-mark, term, design, device or
5 form of advertisement as provided in the preceding sec-
6 tion may register the same by filing the same for record
7 in the office of the secretary of state by leaving two
8 copies, counterparts or facsimiles thereof, with said sec-

9 retary and by filing therewith a sworn application speci-
10 fying the name or names of the person, association or
11 union on whose behalf such label, trade-mark, term, de-
12 sign, device or form of advertisement shall be filed, the
13 class of merchandise and a description of the goods to
14 which it has been or is intended to be appropriated, stat-
15 ing that the party so filing, or on whose behalf such label,
16 trade-mark, term, design, device or form of advertise-
17 ment shall be filed, has the right to the use of the same,
18 that no other person, firm, association, union or corpora-
19 tion has the right to such use, either in the identical form
20 or in any such near resemblance thereto as may be calcu-
21 lated to deceive, and that the facsimiles or counterparts
22 filed therewith are true and correct. There shall be paid
23 for such filing and recording a fee of five dollars. The
24 secretary of state shall deliver to such person, firm, cor-
25 poration, association, or union, so filing or causing to be
26 filed any such label, trade-mark, term, design, device or
27 form of advertisement, so many duly attested certificates
28 of the recording of the same as such person, firm, corpora-
29 tion, association or union may apply for, for each of which
30 certificates said secretary shall receive a fee of five
31 dollars. Any such certificates of record shall in all suits
32 and prosecutions under this article be sufficient proof of
33 the adoption and registry of such label, trade-mark, term,
34 design, device or form of advertisement. The secretary
35 of state shall not record for any person, firm, corporation,
36 union or association, any label, trade-mark, term, design,
37 device or form of advertisement, that would probably
38 be mistaken for any label, trade-mark, term, design, de-
39 vice or form of advertisement theretofore filed by or on
40 behalf of any other person, firm, corporation, union or
41 association.

CHAPTER 153

(House Bill No. 419—By Mr. Sapp)

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

fourteen, relating to the sale of personal property or services under prearranged funeral agreements, contracts or plans, requiring the proceeds thereof to be held by banks, trust companies or savings and loan association insured by an agency of the federal government for the purposes intended therein and providing penalties for the violation thereof.

[Passed March 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 14. Pre-need Burial Contracts.

Section

1. Pre-need contracts against public policy.
2. All money paid on pre-need contracts to be deposited within ten days.
3. Funds shall remain on deposit unless withdrawn by purchaser.
4. Payment of funds by bank, trust company or savings and loan association.
5. Provisions of this article cannot be waived by contract.
6. Article not applicable to sale of lots or graves.
7. Penalties.
8. Additional remedies.
9. Constitutionality.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Pre-need Contracts Against Public Policy.—

- 2 Any agreement, contract or plan requiring the payment
- 3 of money in a lump sum or installments which is made
- 4 or entered into with any person, association, partnership,
- 5 firm or corporation for the final disposition of a dead hu-
- 6 man body, or for funeral or burial services, or for the
- 7 furnishing of personal property or funeral or burial mer-
- 8 chandise, wherein the delivery of the personal property
- 9 or the funeral or burial merchandise or the furnishing of
- 10 professional services by a funeral director or embalmer
- 11 is not immediately required, is hereby declared to be
- 12 against public policy and void, unless all money paid
- 13 thereunder shall be paid to and held by a bank, trust

14 company, or savings and loan association, insured by an
15 agency of the federal government, and which is author-
16 ized to do business in this state, and subject to the terms
17 of an agreement for the benefit of the purchaser of said
18 agreement, contract or plan.

Sec. 2. *All Money Paid on Pre-need Contracts to be
2 Deposited within Ten Days.*—All such money shall be
3 deposited with such bank, trust company or savings and
4 loan association, within ten days of payment, and shall
5 be held by such bank, trust company or savings and loan
6 association in a separate account in the name of the fu-
7 neral director, embalmer or supplier of said merchandise
8 and services under said agreement, contract or plan, as
9 trustees for the purchaser until said fund is released as
10 herein provided.

Sec. 3. *Funds Shall Remain on Deposit unless With-
2 drawn by Purchaser.*—All payments made under said
3 agreement, contract or plan and any earnings or interest
4 thereon shall remain with such bank, trust company, or
5 savings and loan association until the death of the person
6 for whose service the funds were paid: *Provided, how-
7 ever,* That said funds shall be released to the purchaser
8 of the merchandise or services under said agreement,
9 contract or plan, who shall be entitled to receive the same,
10 at any time, upon demand upon said bank, trust com-
11 pany, or savings and loan association, and upon three
12 days notice to the other party to the agreement. The funds
13 deposited shall not be partially withdrawn at any time
14 by the purchaser, but shall be entirely withdrawn, if
15 withdrawn at any time before the completion of the
16 agreement or contract.

Sec. 4. *Payment of Funds by Bank, Trust Company or
2 Savings and Loan Association.*—If any balance remains
3 in said account upon the death of the purchaser, the same
4 shall not be paid by such bank, trust company or savings
5 and loan association, to the trustee until the expiration
6 of at least five days after the death of the purchaser for
7 whom such funds were deposited. Such funds shall not be
8 paid by said bank, trust company or savings and loan

9 association until a certified copy of the death certificate
10 of such person shall have been furnished to said bank,
11 trust company or savings and loan association. The pay-
12 ment of such funds and accumulated interest pursuant to
13 sections three or four of this article shall relieve the bank,
14 trust company or savings and loan association of any
15 further liability for such funds or interest. Any balance
16 remaining in said fund after payment for the merchandise
17 and services as set forth in said agreement, contract or
18 plan shall inure to the benefit of the estate of the
19 purchaser or undersaid agreement, contract or plan, and
20 shall be paid over to the estate by the trustee, aforesaid.

Sec. 5. *Provisions of this Article Cannot be Waived by*
2 *Contract.*—Any provision of any such agreement or con-
3 tract whereby a person who pays money under or in con-
4 nection therewith waives any provision of this article
5 shall be void.

Sec. 6. *Article not Applicable to Sale of Lots or Graves.*
2 —This article shall not apply to the sale of lots or graves
3 by a cemetery.

Sec. 7. *Penalties.*—Every person who shall violate any
2 provision of this article shall be deemed guilty of a misde-
3 meanor, and, upon conviction, shall be fined not less than
4 one hundred dollars, nor more than five hundred dollars,
5 or shall be imprisoned for not less than ten days nor
6 more than ninety days, or both. There shall be a separate
7 fine and/or imprisonment for each violation of this article.

Sec. 8. *Additional Remedies.*—In addition to other rem-
2 edies, an action of injunction may be brought and main-
3 tained by the state of West Virginia to enjoin the viola-
4 tion of this article.

Sec. 9. *Constitutionality.*—The provisions of this act
2 shall be separable, and in case any provision or part
3 thereof shall be held to be unconstitutional or invalid
4 for any reason, the same shall not be held to affect any
5 other paragraph, provision or part of this act.

CHAPTER 154

(House Bill No. 415—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section fifteen, chapter one hundred thirty-nine, acts of the Legislature, one thousand nine hundred forty-seven, relating to the administration, policing and general supervision and control of turnpike projects, and providing penalties for violations of the provisions hereof.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

West Virginia Turnpike Commission

Section

15. Miscellaneous; damage to property; other public agencies and political subdivisions; policing turnpike projects by department of public safety; avoidance of tolls and trespassing a misdemeanor.

Be it enacted by the Legislature of West Virginia:

That section fifteen, chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

- Section 15. *Miscellaneous; Damage to Property; Other Public Agencies and Political Subdivisions; Policing Turnpike Projects by Department of Public Safety; Avoidance of Tolls and Trespassing a Misdemeanor.*—All private property damaged or destroyed in carrying out the powers granted by this act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this act.
- All counties, cities, villages, townships and other political subdivisions and all public agencies and commissions of the state of West Virginia, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, villages, townships, other political subdivisions or public agencies and

18 commissions of the state may deem reasonable and fair
19 and without the necessity for any advertisement, order
20 of court or other action or formality, other than the
21 regular and formal action of the authorities concerned,
22 any real property which may be necessary or convenient
23 to the effectuation of the authorized purposes of the com-
24 mission, including public roads and other real property
25 already devoted to public use.

26 Each turnpike project when constructed and opened to
27 traffic shall be maintained and kept in good condition and
28 repair by the commission. The turnpike commission and
29 the superintendent of the department of public safety
30 may by agreement provide that such project or projects
31 shall be policed by members of the department under
32 such terms and conditions as they may determine, ex-
33 cepting that all costs thereof, either direct or indirect,
34 including overhead costs attributable thereto, shall be
35 paid unto the department by the commission at regular
36 intervals not to exceed one year.

37 Whoever shall knowingly or intentionally defraud or
38 attempt to defraud the commission, any of its tolltakers
39 or employees in regard to the payment of toll established
40 by the commission for the use of any such project or
41 evade or attempt to evade or whoever shall aid another
42 to evade or attempt to evade the payment of such toll or
43 whoever shall intentionally and knowingly trespass upon
44 such a turnpike project shall be guilty of a misdemeanor;
45 and for every such offense shall upon conviction thereof
46 be fined not in excess of fifty dollars. Justices of the peace
47 shall have jurisdiction of misdemeanors created by this
48 paragraph concurrently with circuit courts.

CHAPTER 155

(House Bill No. 416—By Mr. Bowles)

AN ACT to amend and reenact section sixteen, chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-seven, and to add a new section to said chapter, to be designated section seven-

teen-a, relating to turnpike project finances, including cessation or continuation of tolls when turnpikes are transferred to state road commission, and authorizing state road commission to pledge annual payments from state road fund to cover bond payment deficits on turnpike projects hereafter constructed as a part of the state road system.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

West Virginia Turnpike Commission

Section

16. Cessation of tolls.
17-a. Turnpike part of state road system; pledge of limited funds by state road commission in case of deficit.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred thirty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, be amended by amending and reenacting section sixteen thereof and by adding thereto a new section, designated section seventeen-a, all to read as follows:

Section 16. *Cessation of Tolls.*—When all bonds issued
2 under the provisions of this article in connection with
3 any turnpike project or projects and the interest there-
4 on shall have been paid or a sufficient amount for
5 the payment of all such bonds and the interest thereon to
6 the maturity thereof shall have been set aside in trust
7 for the benefit of the bondholders, such project or projects,
8 if then in good condition and repair to the satisfaction of
9 the state road commission, shall be transferred to the
10 state road commission and shall thereafter be maintained
11 by the state road commission free of tolls: *Provided, how-*
12 *ever,* That the commission may thereafter charge tolls
13 for the use of any such project and pledge such tolls to
14 the payment of bonds issued under the provisions of this
15 article in connection with another turnpike project or
16 projects, but any such pledge of tolls of a turnpike project
17 to the payment of bonds issued in connection with another
18 project or projects shall not be effectual until the prin-

19 cipal of and the interest on the bonds issued in connection
20 with the first mentioned project shall have been paid or
21 provision made for their payment.

Sec. 17-a. *Turnpike Part of State Road System; Pledge of Limited Funds by State Road Commission in Case of Deficit.*—It is hereby declared that any turnpike or turnpike project constructed under the provisions of this article shall be a part of the state road system, although subject to the provisions of this article and of any bonds or trust agreements entered into pursuant thereto, and that the construction of such turnpikes or turnpike projects shall be considered as developments of the state road system. Any other provisions of this article to the contrary notwithstanding, in order to encourage the development of the state road system, the state road commission is authorized in its discretion to pledge by resolution and agreement annually to pay from the state road fund, subject to all prior commitments of such fund which shall be stated in the resolution and agreement, the amount of any yearly deficit between the principal and interest requirements of any turnpike project or portion thereof hereafter constructed and the amount available in the hands of the turnpike commission to pay such requirements, up to three fourths of one per cent of the estimated or actual construction cost of the turnpike project or portion thereof for which such pledge is made, until any bonds issued and interest due upon the basis of such a pledge have been fully paid and satisfied: *Provided, however,* That the state road commission shall enter into no agreement with underwriters on any bond issue for the purpose of constructing or aiding in the construction of any toll road unless and until there is filed with the commission a report and finding of reputable traffic engineers of national standing, showing that the earnings from the proposed toll road will be sufficient to provide annual income in an amount at least large enough to cover the annual cost of retiring the indebtedness, including interest, sinking fund and operating costs of such toll highway.

CHAPTER 156

(House Bill No. 468—By Mr. Stalnaker)

AN ACT to amend and reenact section two, chapter one hundred seventy, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to the West Virginia section of the proposed Crozet superhighway.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

West Virginia Turnpike Commission

Section

2. West Virginia turnpike commission authorized to secure preliminary work on and construct the West Virginia section of proposed Crozet superhighway.

Be it enacted by the Legislature of West Virginia:

That section two, chapter one hundred seventy, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 2. *West Virginia Turnpike Commission Authorized to Secure Preliminary Work on and Construct the West Virginia Section of Proposed Crozet Superhighway.*
—The West Virginia turnpike commission is hereby authorized in its discretion to expend such of its funds and any funds made available to the state of West Virginia under the federal highway act or any other law of the United States which makes funds available to the state for highway purposes, and which may be properly so used under the laws of the United States, as may be advisable to obtain the preliminary surveys and advance engineering which shall determine the practicality of constructing, and if deemed practical, the construction of, as part of the proposed transcontinental Crozet superhighway, a four lane divided highway along the West Virginia sections of the route and according to the general specifications described in the recitals hereinabove, either as a toll road or as a freeway, as may in the course of events seem advisable, and which shall determine the exact suitable

20 location of said highway if it be deemed practical to
21 construct.

22 The state road commissioner may make available funds
23 for the necessary practicality surveys for the West Vir-
24 ginia section of said superhighway from Harpers Ferry
25 to the Kentucky state line near Huntington, West Vir-
26 ginia. Such funds as are made available as above provided
27 shall be refunded to the state road commission from the
28 sale of revenue bonds or, at the discretion of the West
29 Virginia turnpike commission, from toll funds. The con-
30 struction of the West Virginia section of the Crozet super-
31 highway shall not commence until after the practicality
32 of such superhighway has been determined, beginning
33 first that section from Harpers Ferry to the vicinity of
34 Heaters, then beginning, within a reasonable time, the
35 second section of said superhighway, which shall ex-
36 tend from Heaters to the vicinity of Charleston. The sec-
37 tion from Charleston to the Kentucky state line near
38 Huntington, West Virginia, may be completed after the
39 first and second sections of said superhighway have been
40 completed.

41 The provisions of chapter one hundred thirty-nine, acts
42 of the Legislature, regular session, one thousand nine hun-
43 dred forty-seven, relating to the survey and construction
44 of the West Virginia section of the Crozet superhighway,
45 shall apply to this section insofar as they do not conflict
46 with this act.

— 3 —

CHAPTER 157

(House Bill No. 408—By Mr. Speaker, Mr. Flannery)

AN ACT to repeal chapter one hundred ten, acts of the Legis-
lature, regular session, one thousand nine hundred thirty-
nine, relating to freeways, which said act purported to
amend article four, chapter seventeen of the code of West
Virginia, one thousand nine hundred thirty-one, as
amended, by adding four new sections to said article four,
to be designated sections twenty-one, twenty-two, twenty-
three and twenty-four, and which said designation was er-

roneous, since in fact there already existed in said article four other sections twenty-one, twenty-two, twenty-three and twenty-four, and which said erroneously designated sections have for many years been listed in Michie's code of West Virginia as sections thirty-nine, forty, forty-one and forty-two of said article; and to amend said article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto seven new sections, to be designated sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four and forty-five, relating to the planning, construction, designation, establishment, use, regulation, alteration, improvement, maintenance and vacation of controlled-access highway facilities as part of the state road system, the acquisition of lands and property rights required therefor, the restriction of intersections and control of approaches and the establishment of local service roads in connection therewith.

[Passed March 10, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. State Road System; Primary and Secondary Roads.

Section

39. Definition of a controlled-access facility.
40. Authority to establish controlled-access facilities.
41. Design of controlled-access facilities.
42. Acquisition of property and property rights.
43. New and existing facilities; grade crossing eliminations.
44. Authority to contract with other governmental agencies.
45. Local service roads.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred ten, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed; and that article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto seven new sections, to be designated sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four and forty-five, to read as follows:

Section 39. *Definition of a Controlled-Access Facility.*—

- 2** For the purpose of this chapter, a controlled-access facility

3 is defined as a highway or portion of a highway especially
4 designed for through traffic, and over, from, or to which
5 owners or occupants of abutting land or other persons
6 have no right or only a controlled right or easement of
7 access, light, air, or view by reason of the fact that their
8 property abuts upon such controlled-access facility or for
9 any other reason. Such highways may be freeways open
10 to use by all customary forms of highway traffic; or they
11 may be parkways from which trucks, buses, and other
12 commercial vehicles shall be excluded.

Sec. 40. *Authority to Establish Controlled-Access Facilities.*—The state road commissioner is hereby authorized
2 to plan, construct, designate, establish, regulate, vacate,
3 to plan, construct, designate, establish, regulate, vacate,
4 alter, improve, maintain, and provide controlled-access
5 facilities for public use as a part of the state road system
6 wherever present or reasonably anticipated future traffic
7 conditions render such special facilities necessary. The
8 commissioner, in addition to specific powers granted in
9 connection with controlled-access facilities, shall also
10 have and may exercise, relative to such controlled-access
11 facilities, any and all additional authority now or here-
12 after vested in him relative to highways or the state road
13 system. He may also regulate, restrict, or prohibit the
14 use of such controlled-access facilities by the various
15 classes of vehicles or traffic in a manner consistent with
16 section thirty-nine of this article.

Sec. 41. *Design of Controlled-Access Facilities.*—The
2 state road commissioner is authorized to so design any
3 controlled-access facility and to so regulate, restrict or
4 prohibit access as to best serve the traffic for which such
5 facility is intended. In this connection the commissioner
6 is authorized to divide and separate any controlled-access
7 facility into separate roadways by the construction of
8 raised curbs, central dividing sections, or other physi-
9 cal separations, or by designating such separate roadways
10 by signs, markers, or stripes, and the proper lane for such
11 traffic by appropriate curbs, barriers, signs, markers,
12 stripes or other devices. No person shall have any right
13 of ingress or egress to, from, or across controlled-access

14 facilities to or from abutting lands, except at such desig-
15 nated points at which access may be permitted, upon such
16 terms and conditions as may be specified by the commis-
17 sioner.

Sec. 42. *Acquisition of Property and Property Rights.*—

2 The state road commissioner may acquire private or
3 public property rights or any interests in lands for con-
4 trolled-access facilities and service roads, including exist-
5 ing and vested rights of access, air, view and light, by
6 grant, gift, devise, purchase or condemnation in the same
7 manner as the commissioner is now or may hereafter be
8 authorized by law to acquire such property or property
9 rights in connection with the highways of the state road
10 system. In connection with the acquisition of such proper-
11 ty or property rights for any controlled-access facility or
12 portion thereof, or service road in connection therewith,
13 the commissioner may, in his discretion, acquire an entire
14 lot, block, or tract of land, if by so doing, the interests of
15 the public will best be served even though said entire
16 lot, block, or tract is not immediately needed for the
17 right of way proper.

Sec. 43. *New and Existing Facilities; Grade Crossing*

2 *Eliminations.*—The state road commissioner may desig-
3 nate and establish controlled-access highways as new and
4 additional facilities, or he may designate and establish
5 an existing street or highway as a controlled-access facility
6 or as a part of a controlled-access facility, and in the
7 event such existing street or highway be so designated,
8 the commissioner may acquire, by grant, gift, purchase or
9 if the exercise of the right of eminent domain be neces-
10 sary for acquisition purposes, shall condemn existing
11 and vested access rights of abutting landowners to such
12 existing street or highway if such access rights are taken
13 or destroyed. The commissioner is authorized to pro-
14 vide for the elimination of intersections at grade of
15 controlled-access facilities with existing state roads, city
16 streets or other public or private roads or ways by grade
17 separation or service road, or by closing off such roads
18 and streets at the right of way boundary line of such.

19 controlled-access facility. No city street, state road or
20 other public or private road or way shall be opened into
21 or connected with any such controlled-access facility with-
22 out the written consent and previous approval of the
23 state road commissioner, which consent and approval
24 shall be given only if the public interest shall be served
25 thereby.

Sec. 44. *Authority to Contract with other Governmental
2 Agencies.*—The state road commissioner is authorized to
3 enter into agreements with municipalities, counties or
4 other political subdivisions of the state, or with the
5 federal government or any agency thereof, respecting the
6 financing, planning, establishment, improvement, main-
7 tenance, use, regulation or vacation of controlled-access
8 facilities or other public ways to facilitate the establish-
9 ment of such controlled-access facilities.

Sec. 45. *Local Service Roads.*—In connection with the
2 development of any controlled-access facility the state
3 road commissioner is authorized to plan, designate, estab-
4 lish, use, regulate, alter, improve, maintain and vacate
5 local service roads and streets or to designate as local
6 service roads and streets any existing road or street, and
7 to exercise jurisdiction over said local service roads as a
8 part of the state road system, in the same manner as is
9 authorized over controlled-access facilities under the
10 terms of this article, if, in his opinion, such local service
11 roads and streets are necessary or desirable. Such local
12 service roads or streets shall be of appropriate design,
13 and shall be separated from the controlled-access facility
14 proper by all devices designated as necessary or desirable
15 by the commissioner.

CHAPTER 158

(House Bill No. 133—By Mr. Adams and Mr. Beneke)

AN ACT to amend and reenact section thirty, article seventeen,
chapter seventeen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the

construction, reconstruction, maintenance and operation of toll bridges and tunnels by cities and counties.

[Passed February 4, 1955; in effect from passage. Approved by the Governor.]

Article 17. Toll Bridges.

Section

30. Construction, reconstruction and operation of toll bridges or tunnels by counties and cities; borrowing money for this purpose; consent of federal government and state road commission.

Be it enacted by the Legislature of West Virginia:

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

Section 30. *Construction, Reconstruction and Operation of Toll Bridges or Tunnels by Counties and Cities; Borrowing Money for This Purpose; Consent of Federal Government and State Road Commission.*—Any incorporated city, in which or adjoining which there is a portion of a navigable or non-navigable river or stream, either wholly within the state of West Virginia, or partly within the said state, and another state or states, or between the state of West Virginia and any other state, including the Ohio river in this state, from its intersection with the Pennsylvania state line, to the mouth of the Big Sandy river, is hereby authorized and empowered, in its corporate capacity, or through and by means of a bridge commission or other agency to be created or appointed by it, to construct, reconstruct, maintain and operate a highway toll bridge or tunnel, or combination thereof, over or under and across such river or stream, from such a point within the corporate limits of such city, to such point on the opposite side of such river or stream, either within or without said city, as the said city, through its proper authorities, shall designate and select, for public use in travel, passage and transportation, over or under and across such river or stream, and any such city may also construct, reconstruct, maintain and operate a highway toll tunnel under or through any mountain, hill or em-

26 bankment, together with any bridges, causeways, fills or
27 other approaches thereto, from a point within the corpor-
28 ate limits of such city to any other point either within or
29 without the corporate limits of such city: *Provided, how-*
30 *ever,* That no bridge or tunnel shall be constructed, recon-
31 structed, established or operated, over or under and across
32 any navigable river, or under any mountain, hill or other
33 embankment, without compliance with the requirements,
34 conditions and provisions provided by the Congress of
35 the United States and the laws of the United States, nor
36 without approval of the state road commission of this
37 state; and such city is authorized and empowered to bor-
38 row money by means of bonds payable from revenues, or
39 otherwise, and/or to accept grants in part payment there-
40 for from any state or federal governmental agency au-
41 thorized to make loans, a sum of money sufficient and nec-
42 essary to pay all costs of construction or reconstruction of
43 such bridge or tunnel, or combination thereof, including
44 approaches thereto, the acquisition of all necessary rights-
45 of-way and all engineering, legal and other expenses
46 necessary thereto or connected therewith, including in-
47 terest during construction, or reconstruction, as a self-
48 liquidating enterprise or project, within the meaning of
49 the state or federal laws authorizing loans by any such
50 governmental agency. And the county court of any county,
51 in which there is a portion of such river or stream, or on
52 which its county abuts or borders, is likewise authorized
53 and empowered to construct, reconstruct, maintain and
54 operate a highway toll bridge or bridges, or tunnel or tun-
55 nels, over or under and across such river or stream, and to
56 construct, reconstruct, maintain and operate a highway
57 toll tunnel under any mountain, hill or other embankment,
58 and to borrow money, as aforesaid, for the construction or
59 reconstruction thereof, in like manner and to the same
60 extent as such city, and to construct, reconstruct, main-
61 tain and operate such bridge or tunnel subject to the same
62 limitations as are hereby imposed in the case of such
63 cities.

64 Wherever the words "bridge", "toll bridge" or "highway
65 toll bridge" are used in sections thirty-one, thirty-two,

66 thirty-three or thirty-four of this article, or any of the
67 other provisions of this article, the same shall be deemed
68 to include bridges or tunnels, or any combinations thereof,
69 together with any causeways, fills, or approaches neces-
70 sary therefor.

CHAPTER 159

(House Bill No. 94—By Mr. Andrews)

AN ACT to amend article two, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section numbered three, relating to the filing in the office of the secretary of state and the taking effect of rules lawfully adopted by each agency of the government of the state of West Virginia authorized by law to make rules, except the state Legislature and the state courts.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Secretary of State.

Section

3. Filing of rules of state agencies in the office of the secretary of state.

Be it enacted by the Legislature of West Virginia:

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

- Section 3. *Filing of Rules of State Agencies in the Office of the Secretary of State.*—Each state agency shall compile and index all of its lawfully adopted rules which are in force on the effective date of this section and shall file in the office of the secretary of state two certified copies of such compilation and index. If any agency shall fail to file such certified copies on or before July one, one thousand nine hundred fifty-five, then the rules of such

9 agency which are not so filed shall become void and
10 unenforceable and shall be of no legal force and effect.
11 Each rule, amendment, modification or repeal of a rule
12 lawfully adopted by any agency after the effective date
13 of this section, shall neither be enforced nor enforceable
14 unless and until two certified copies of such rule, amend-
15 ment, modification or repeal of a rule have been on file
16 in the office of the secretary of state for thirty consecutive
17 days. It shall be the duty of the secretary of state to keep
18 such rules filed in his office in a manner which shall be
19 available and convenient for public inspection.

20 For the purpose of this section "agency" means any
21 authority, department, commission, board, or officer of
22 the government of the state of West Virginia authorized
23 by law to make rules, but this section shall not apply to
24 the Legislature or to the courts of the state of West
25 Virginia. The word "rule" includes every regulation,
26 standard, or statement of policy or interpretation of
27 general application and future effect, including the amend-
28 ment or repeal thereof adopted by any agency, as herein
29 defined, to implement or make specific the law enforced
30 by or administered by it, or to govern its organization
31 or procedure, but does not include regulations concerning
32 only the internal management of the agency and not
33 directly affecting the rights of or procedures available
34 to the public.

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CHAPTER 160

(Senate Bill No. 52—By Mr. Stemple and Mr. Martin)

AN ACT to amend and reenact section two, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of certain state officers.

[Passed February 16, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

2. Salaries of certain state officers.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Salaries of Certain State Officers.*—Effective
2 from and after the first Monday after the second Wednes-
3 day in January, one thousand nine hundred fifty-seven,
4 the salary of the governor shall be seventeen thousand
5 five hundred dollars per year.

6 Effective from and after the first Monday after the sec-
7 ond Wednesday in January, one thousand nine hundred
8 fifty-three, the salary of the attorney general shall be
9 seven thousand five hundred dollars per year; the salary
10 of the auditor, the secretary of state, the treasurer, the
11 commissioner of agriculture, and the superintendent of
12 free schools, shall be each seven thousand two hundred
13 fifty dollars per year.

14 The salary of each of the judges of the supreme court
15 of appeals shall be seventeen thousand five hundred
16 dollars per year.



CHAPTER 161

(Senate Bill No. 210—By Mr. Martin)

AN ACT to amend and reenact sections one, two and six, article one-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to trustees of security trusts and the residence thereof and the procedures incident thereto.

[Passed March 11, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 1-a. Trustees of Security Trusts.

Section

1. Security trust defined.
2. Nonresident of state not to be named trustee; corporations.
6. Residence address of trustee required; sufficiency thereof.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Security Trust Defined.*—For the purposes
2 of this article, the term “security trust” shall include a
3 deed of trust, mortgage, bond or other instrument,
4 entered into after the effective date of this article under
5 which the title to real and personal property, or either
6 of them, wholly situate in and including no property
7 situate outside of the state of West Virginia, is conveyed,
8 transferred, encumbered or pledged to secure the pay-
9 ment of money or the performance of an obligation:
10 *Provided, however,* That the provisions of this article
11 shall not apply to supplements to existing security trust
12 instruments now of record executed pursuant to the
13 provisions of said existing security trust instruments.

Sec. 2. *Nonresident of State Not to Be Named Trustee;*
2 *Corporations.*—No person not a resident of this state may
3 be named or act, in person or by agent or attorney, as
4 the trustee of a security trust, either individually or as
5 one of several trustees, the other or others of which are
6 residents of this state. No corporation may be named or
7 act as the trustee or as one of the trustees of a security
8 trust unless it is chartered under the laws of this state
9 or of the United States of America, and unless its prin-
10 cipal office is within this state.

Sec. 6. *Residence Address of Trustee Required; Suffi-*
2 *ciency Thereof.*—No county clerk shall hereafter admit
3 any security trust for recordation or filing which does
4 not state the residence address of the trustee or trustees
5 named therein: *Provided, however,* That the county in
6 this state in which the said trustee resides shall be suf-
7 ficient statement of the residence address thereof.

CHAPTER 162

(Senate Bill No. 6—By Mr. Taylor, of Mingo, and Mr. Stemple)

AN ACT to amend and reenact section twelve, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appeals from the assessment by the board of public works of public service corporations.

[Passed February 28, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 6. Assessment of Public Service Corporations.

Section

12. Appeal from valuation by board.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Appeal from Valuation by Board.*—Any
2 owner or operator claiming to be aggrieved by any such
3 decision may, within the time aforesaid, apply by peti-
4 tion in writing, duly verified, to the circuit court of the
5 county in which the property so assessed is situated, or,
6 if such property be situated in more than one county,
7 then in the county in which the largest assessment of
8 such owner or operator was made in the next preceding
9 year, for an appeal from the assessment and valuation
10 so made of all such property, and jurisdiction is hereby
11 conferred upon and declared to exist in the court, to
12 which such application is made, to grant, docket and hear
13 such appeal; and such appeal, as to all of the property so
14 assessed, as well as that situated in the county of the
15 court so applied to, as that situated in the several other
16 counties, shall forthwith be allowed by such court so
17 applied to, and be heard by such court as to all of such
18 property as soon as possible after the appeal is docketed;

19 but notice in writing of such petition shall be given to
20 the secretary of state, as secretary of the board of public
21 works, by mailing a copy of the petition for an appeal
22 filed as aforesaid, which said petition shall recite the
23 fact that copies of such petition have been sent by reg-
24 istered mail. Notice in writing of the hearing upon such
25 petition shall be given to the state tax commissioner at
26 least fifteen days beforehand. Likewise, the state tax
27 commissioner may, by giving notice in writing at least
28 fifteen days beforehand to the petitioner, bring on such
29 appeal for hearing. Upon such hearing the court shall
30 hear all such legal evidence as shall be offered on be-
31 half of the state or any county, district or municipal
32 corporation interested, or on behalf of the appealing
33 owner or operator. If the court be satisfied that the
34 value so fixed by the board of public works is correct,
35 it shall confirm the same, but if it be satisfied that the
36 value so fixed by said board is either too high or too
37 low, the court shall correct the valuation so made and
38 shall ascertain and fix the true and actual value of such
39 property according to the facts proved, and shall certify
40 such value to the auditor and to the secretary of the
41 board of public works. The state or the owner or opera-
42 tor may appeal to the supreme court of appeals if the
43 assessed value of the property be fifty thousand dollars
44 or more.

45 If the court to which an application for appeal would
46 properly be made as aforesaid shall not be in session,
47 the judge thereof in vacation shall forthwith allow the
48 appeal, and if the judge thereof be disqualified or for
49 any reason not be available, the filing of the aforesaid
50 petition in the office of the clerk of the circuit court of
51 the county in which the largest assessment of such owner
52 or operator was made in the preceding year, within the
53 time aforesaid, shall constitute sufficient compliance with
54 this section, and the appeal shall thereafter be proceeded
55 with as otherwise provided in this section.

CHAPTER 163

(Senate Bill No. 209—By Mr. Chenoweth)

AN ACT to repeal section twenty-nine, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to non-resident fur dealers.

[Passed March 5, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 12. License Taxes.

Section

1. Annual license fee on nonresident fur dealers repealed.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Annual License Fee on Nonresident Fur Dealers Repealed.*—That section twenty-nine, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be, and the same is, hereby repealed.

CHAPTER 164

(Senate Bill No. 260—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section five-b, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the reduction allowed in the total net balance of privilege taxes due from carrier corporations.

[Passed March 10, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 12-a. Privilege Tax on Certain Carrier Corporations.

Section

- 5-b. Definitions; reduction allowed in tax due; how computed.

Be it enacted by the Legislature of West Virginia:

That section five-b, article twelve-a, chapter eleven of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 5-b. *Definitions; Reduction Allowed in Tax*

2 *Due; How Computed.*—When used in this section the
3 phrase “normal tax” shall mean the tax computed by the
4 application of rates against intrastate gross income, pro-
5 rated gross income, assessed value of all property in West
6 Virginia and by pro-rated net income as set forth in
7 sections two, three, four or five, inclusive, of this article.

8 When used in this section the term “surtax” shall mean
9 the tax computed by the application of the tax rate as set
10 forth in section five-a of this article.

11 When used in this section the phrase “total net balance
12 of taxes due” shall mean the total of the normal tax and
13 surtax less exemption at the rate of fifty dollars annually
14 or at the rate of four dollars and sixteen cents per month
15 for the period actually engaged in business.

16 For the period commencing July one, one thousand nine
17 hundred fifty-five, and thereafter a reduction of five per
18 cent of the total net balance of taxes due is allowed. The
19 normal tax shall be computed by the application of rates
20 against intrastate gross income, pro-rated gross income,
21 assessed value of all property in West Virginia, and by
22 prorated net income as set forth in sections two, three,
23 four or five, inclusive, of this article. The surtax shall be
24 computed by the application of the tax rate as set forth
25 in section five-a of this article. The total net balance
26 of taxes due shall be reduced by the five per cent credit
27 allowed herein. The total net balance of taxes due re-
28 duced by the five per cent credit is the amount of tax
29 payable.

CHAPTER 165

(Com. Sub. for House Bill No. 128—Originating in the House Committee on the Judiciary)

AN ACT to amend article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections two-j and twenty-three;

by amending and reenacting sections one, two, two-a, two-b, two-c, two-d, two-i, three, four, five, six, seven, eight, eleven, twelve, thirteen, fourteen, sixteen, seventeen, twenty and twenty-two; and by enacting four new sections to be designated sections two-j, seven-a, seven-b and eight-a, all relating to the administration and enforcement of the business and occupation tax.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 13. Business and Occupation Tax.

Section

1. Definitions.
2. Imposition of privilege tax.
- 2-a. Production of coal and other natural resource products.
- 2-b. Manufactured or compounded products; processing of poultry and turkeys not considered as manufacturing or compounding.
- 2-c. Business of selling tangible property; sales exempt.
- 2-d. Public service or utility business.
- 2-i. Business of furnishing property for hire.
- 2-j. Small loan business.
3. Exemptions.
4. Computation of tax; payment.
5. Return and remittance by taxpayer.
6. Erroneous computation.
7. Assessment of tax when insufficiently returned.
- 7-a. Jeopardy assessments.
- 7-b. Notice of assessment; petition for reassessment; hearing.
8. Appeal.
- 8-a. Service of notice.
11. Payment; penalty for nonpayment.
12. Tax a debt; lien of unpaid tax; recordation of lien.
13. Collection by action or suit; injunction.
14. Payment when person sells out or quits business; lien; liability of successor.
16. Prerequisite to final settlement with state or political subdivision contractor; penalty.
17. Priority in distribution in receivership, etc.; personal liability of administrator.
20. Collection by distraint; report of collection.
22. Administration of article by tax commissioner.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections two-j and twenty-three; by amending and reenacting sections one, two, two-a, two-b, two-c, two-d, two-i, three, four, five, six, seven, eight, eleven, twelve,

thirteen, fourteen, sixteen, seventeen, twenty and twenty-two; and by enacting four new sections to be designated sections two-j, seven-a, seven-b and eight-a, all to read as follows:

Section 1. *Definitions*.—When used in this article, the term “person” or the term “company”, herein used interchangeably, includes any individual, firm, copartnership, joint adventure, association, corporation, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

“Tax year” or “taxable year” means either the calendar year, or the taxpayer’s fiscal year when permission is obtained from the tax commissioner to use same as the tax period in lieu of the calendar year.

“Sale”, “sales” or “selling” includes any transfer of the ownership of, or title to, property, whether for money or in exchange for other property.

“Taxpayer” means any person liable for any tax hereunder.

“Gross income” means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest or discount paid or any other expense whatsoever.

“Gross proceeds of sales” means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind.

The terms “gross income” and “gross proceeds of sales” shall not be construed to include (1) cash discounts allowed and taken on sales; (2) the proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit; or

38 (3) the amount allowed as "trade-in value" for any article
39 accepted as part payment for any article sold.

40 "Business" shall include all activities engaged in or
41 caused to be engaged in with the object of gain or
42 economic benefit, either direct or indirect. "Business"
43 shall not include a casual sale by a person who is not
44 engaged in the business of selling the type of property
45 involved in such casual sale. "Business" shall include the
46 production of natural resources or manufactured products
47 which are used or consumed by the producer or manu-
48 facturer.

49 "Service business or calling" shall include all non-
50 professional activities engaged in for other persons for a
51 consideration, which involve the rendering of a service
52 as distinguished from the sale of tangible property, but
53 shall not include the services rendered by an employee
54 to his employer. This term shall include persons engaged
55 in manufacturing, compounding or preparing for sale,
56 profit, or commercial use, articles, substances, or commodi-
57 ties which are owned by another or others, as well as
58 persons engaged as independent contractors in producing
59 natural resource products for persons required to pay
60 the tax imposed by section two-a of this article.

61 "Selling at wholesale" or "wholesale sales" shall mean
62 and include: (1) sales of any tangible personal property
63 for the purpose of resale in the form of tangible personal
64 property; (2) sales of machinery, supplies or materials
65 which are to be directly consumed or used by the pur-
66 chaser in the conduct of any business or activity which
67 is subject to the tax imposed by this article or by article
68 twelve-a of this chapter; (3) sales of any tangible per-
69 sonal property to the United States of America, its
70 agencies and instrumentalities or to the state of West
71 Virginia, its institutions or political subdivisions.

72 "Contracting" shall include the furnishing of work, or
73 both materials and work, in the fulfillment of a contract
74 for the construction, alteration, repair, decoration or
75 improvement of a new or existing building or structure,
76 or any part thereof, or for the alteration, improvement or
77 development of real property.

Sec. 2. *Imposition of Privilege Tax.*—There is hereby
2 levied and shall be collected annual privilege taxes against
3 the persons, on account of the business and other activi-
4 ties, and in the amounts to be determined by the appli-
5 cation of rates against values or gross income as set forth
6 in sections two-a to two-j inclusive, of this article.

7 If any person liable for any tax under sections two-a
8 or two-b shall ship or transport his products or any part
9 thereof out of the state without making sale of such
10 products, the value of the products in the condition or
11 form in which they exist immediately before transpor-
12 tation out of the state shall be the basis for the assessment
13 of the tax imposed in said sections, except in those
14 instances in which another measure of the tax is ex-
15 pressly provided. The tax commissioner shall prescribe
16 equitable and uniform rules for ascertaining such value.

17 In determining value, however, as regards sales from
18 one to another of affiliated companies or persons, or under
19 other circumstances where the relation between the
20 buyer and seller is such that the gross proceeds from
21 the sale are not indicative of the true value of the subject
22 matter of the sale, the tax commissioner shall prescribe
23 uniform and equitable rules for determining the value
24 upon which such privilege tax shall be levied, corres-
25 ponding as nearly as possible to the gross proceeds from
26 the sale of similar products of like quality or character
27 where no common interest exists between the buyer and
28 seller but the circumstances and conditions are otherwise
29 similar.

30 Gross income included in the measure of the tax under
31 sections two-a and two-b of this article, except in
32 the case of production of natural gas, shall neither be
33 added nor deducted in computing the tax levied under
34 the other sections of this article.

35 A person exercising any privilege taxable under sec-
36 tions two-a or two-b of this article and engaging in
37 the business of selling his natural resources or manu-
38 factured products at retail in this state shall be required
39 to make returns of the gross proceeds of such retail sales
40 and pay the tax imposed in section two-c of this article

41 for the privilege of engaging in the business of selling
42 such natural resources or manufactured products at retail
43 in this state. But any person exercising any privilege
44 taxable under section two-a or two-b of this article
45 and engaging in the business of selling his natural re-
46 sources or manufactured products to producers of natural
47 resources, manufacturers, wholesalers, jobbers, retailers
48 or commercial consumers for use or consumption in the
49 purchaser's business shall not be required to pay the tax
50 imposed in section two-c of this article.

51 Manufacturers exercising any privilege taxable under
52 section two-b of this article shall not be required to pay
53 the tax imposed in section two-c of this article for the
54 privilege of selling their manufactured products for
55 delivery outside of this state, but the gross income derived
56 from the sale of such manufactured products outside of
57 this state shall be included in determining the measure
58 of the tax imposed on such manufacturer in section
59 two-b.

60 A person exercising privileges taxable under the other
61 sections of this article, producing coal, oil, natural gas,
62 minerals, timber or other natural resource products the
63 production of which is taxable under section two-a,
64 and using or consuming the same in his business, shall
65 be deemed to be engaged in the business of mining and
66 producing coal, oil, natural gas, minerals, timber or other
67 natural resource products for sale, profit or commercial
68 use, and shall be required to make returns on account of
69 the production of the business showing the gross proceeds
70 or equivalent in accordance with uniform and equitable
71 rules for determining the value upon which such privilege
72 tax shall be levied, corresponding as nearly as possible to
73 the gross proceeds from the sale of similar products of like
74 quality or character by other taxpayers, which rules the
75 tax commissioner shall prescribe.

2 *Sec. 2-a. Production of Coal and Other Natural Re-*
3 *source Products.*—Upon every person engaging or con-
4 tinuing within this state in the business of producing for
5 sale, profit or commercial use any natural resource prod-
ucts, the amount of such tax to be equal to the value of

6 the articles produced as shown by the gross proceeds
7 derived from the sale thereof by the producer, except as
8 otherwise provided, multiplied by the respective rates as
9 follows: Coal, one per cent; limestone or sandstone,
10 quarried or mined, one and one-half per cent; oil, three
11 per cent; natural gas, in excess of the value of five thou-
12 sand dollars, six per cent; blast furnace slag, three per
13 cent; sand, gravel or other mineral product, not quarried
14 or mined, three per cent; timber, one and one-half per
15 cent; other natural resource products, two per cent. The
16 measure of this tax is the value of the entire production in
17 this state, regardless of the place of sale or the fact that
18 the delivery may be made to points outside the state.

2 *Sec. 2-b. Manufactured or Compounded Products; Pro-*
3 *cessing of Poultry and Turkeys Not Considered as Manu-*
4 *facturing or Compounding.*—Upon every person engaging
5 or continuing within this state in the business of manu-
6 facturing, compounding or preparing for sale, profit or
7 commercial use, either directly or through the activity of
8 others in whole or part, any article or articles, substance
9 or substances, commodity or commodities, or electric pow-
10 er not produced by public utilities taxable under other pro-
11 visions of this article, the amount of the tax to be equal to
12 the value of the article, substance, commodity or electric
13 power manufactured, compounded or prepared for sale,
14 as shown by the gross proceeds derived from the sale
15 thereof by the manufacturer or person compounding or
16 preparing the same, except as otherwise provided, multi-
17 plied by a rate of three-tenths of one per cent. The
18 measure of this tax is the value of the entire product
19 manufactured, compounded or prepared in this state for
20 sale, profit or commercial use, regardless of the place of
21 sale or the fact that deliveries may be made to points
22 outside the state. However, the dressing and processing
23 of poultry and turkeys by a person, firm or corporation,
24 which poultry and turkeys are to be sold on a wholesale
25 basis by such person, firm or corporation shall not be
26 considered as manufacturing or compounding, but the
27 sale of these products, on a wholesale basis shall be sub-
ject to the same tax as is imposed on the business of selling

28 at wholesale as provided in section two-c of this article.
29 It is further provided, however, that in those instances
30 in which the same person partially manufactures products
31 within this state and partially manufactures such products
32 outside this state the measure of his tax under this section
33 shall be that proportion of the sale price of the manu-
34 factured product that the payroll cost of manufacturing
35 within this state bears to the entire payroll cost of manu-
36 facturing the product; or, at the option of the taxpayer,
37 the measure of his tax under this section shall be the
38 proportion of the sales value of the articles that the cost
39 of operations in West Virginia bears to the full cost of
40 manufacture of the articles.

Sec. 2-c. *Business of Selling Tangible Property; Sales*
2 *Exempt.*—Upon every person engaging or continuing
3 within this state in the business of selling any tangible
4 property whatsoever, real or personal, including the sale
5 of food, and the services incident to the sale of food in
6 hotels, restaurants, cafeterias, confectioneries, and other
7 public eating houses, except sales by any person engaging
8 or continuing in the business of horticulture, agriculture
9 or grazing, or of selling stocks, bonds or other evidences
10 of indebtedness, there is likewise hereby levied, and shall
11 be collected, a tax equivalent to one-half of one per cent
12 of the gross income of the business, except that in the
13 business of selling at wholesale the tax shall be equal to
14 fifteen one-hundredths of one per cent of the gross income
15 of the business.

Sec. 2-d. *Public Service or Utility Business.*—Upon any
2 person engaging or continuing within this state in any
3 public service or utility business, except railroad, railroad
4 car, express, pipe line, telephone and telegraph companies,
5 water carriers by steamboat or steamship and motor car-
6 riers, there is likewise hereby levied and shall be collected
7 taxes on account of the business engaged in equal to the
8 gross income of the business multiplied by the respective
9 rates as follows: Street and interurban and electric rail-
10 ways, one per cent; water companies, four per cent, except
11 as to income received by municipally owned water plants;
12 electric light and power companies, four per cent on sales

13 and demand charges for domestic purposes and com-
14 mercial lighting and three per cent on sales and demand
15 charges for all other purposes, except as to income re-
16 ceived by municipally owned plants producing or pur-
17 chasing electricity and distributing same; natural gas
18 companies, three per cent on the gross income, said gross
19 income for this purpose to be determined by deducting
20 from gross income from all sales of gas to consumers the
21 amount of the tax paid by the taxpayer under section
22 two-a of this article on the production of the same gas;
23 toll bridge companies, three per cent; and upon all other
24 public service or utility business, two per cent. The
25 measure of this tax shall not include gross income derived
26 from commerce between this state and other states of the
27 United States or between this state and foreign countries.
28 The measure of the tax under this section shall include
29 only gross income received from the supplying of public
30 services. The gross income of the taxpayer from any
31 other activity shall be included in the measure of the tax
32 imposed under the appropriate section or sections of this
33 article.

Sec. 2-i. *Business of Furnishing Property for Hire.*—

2 Upon every person engaging or continuing within this
3 state in the business of furnishing any real or tangible
4 personal property, which has a tax situs in this state, or
5 any interest therein, for hire, loan, lease or otherwise,
6 whether the return be in the form of rentals, royalties,
7 fees or otherwise, the tax shall be one per cent of the gross
8 income of any such activity.

9 The term "tangible personal property", as used herein,
10 shall not include money or public securities.

Sec. 2-j. *Small Loan Business.*—Upon every person en-

2 gaging or continuing within this state in the business of
3 making loans of money, credit goods, or things in action,
4 who because of such activity is required under the pro-
5 visions of article seven-a, chapter forty-seven, of the code
6 of West Virginia, one thousand nine hundred thirty-one,
7 as amended, to obtain a license from the commissioner of
8 banking of the state of West Virginia, the tax shall be
9 one per cent of the gross income of any such activity.

Sec. 3. *Exemptions.*—There shall be an exemption in every case of fifty dollars in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion to fifty dollars that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercises one or more privileges taxable hereunder.

The provisions of the article shall not apply to: (a) Insurance companies which pay the state of West Virginia a tax upon premiums: *Provided, however,* That said exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in this state, whether such income be in the form of rentals or royalties; (b) persons engaged in the business of banking: *Provided, however,* That said exemption shall not extend to that part of the gross income of such persons which is received for the use of real property owned, other than the banking house or building in which the business of the bank is transacted, whether such income be in the form of rentals or royalties; (c) non-profit cemetery companies organized and operated for the exclusive benefit of their members; (d) fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; (e) corporations, associations and societies organized and operated exclusively for religious or charitable purposes; (f) production credit association, organized under the provisions of the federal "Farm Credit Act of one thousand nine hundred thirty-three": *Provided, however,* That the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; (g) building and loan associations and federal savings and loan associations; (h) persons engaged in conducting the business of industrial loans under authority granted them

42 by article seven, chapter thirty-one of the code of West
43 Virginia, one thousand nine hundred thirty-one: *Pro-*
44 *vided, however,* That said exemption shall not extend to
45 that part of the gross income of such persons which is
46 received from the use of real property owned, other than
47 the business house or building in which the business of
48 the industrial loan company is transacted, whether such
49 income be in the form of rentals or royalties.

Sec. 4. *Computation of Tax; Payment.*—The taxes
2 levied hereunder shall be due and payable in quarterly
3 installments on or before the expiration of one month
4 from the end of the quarter in which they accrue. The
5 taxpayer shall, within one month from the expiration
6 of each quarter, make out an estimate of the tax for which
7 he is liable for such quarter, sign the same, and mail the
8 same together with a remittance, in the form required
9 by section eleven of this article, of the amount of the
10 tax to the office of the tax commissioner. In estimating
11 the amount of the tax due for each quarter the taxpayer
12 may deduct one-fourth of the total exemption allowed for
13 the year. When the total tax for which any person is liable
14 under this article does not exceed the sum of one hun-
15 dred dollars in any year, the taxpayer may pay the same
16 quarterly as aforesaid or, with the consent in writing of
17 the tax commissioner, at the end of the month next fol-
18 lowing the close of the tax year.

19 Any other provision of this section notwithstanding,
20 the tax commissioner, if he deems it necessary to insure
21 payment of the tax, may require the return and payment
22 under this section for periods of shorter duration than
23 quarter-year periods.

Sec. 5. *Return and Remittance by Taxpayer.*—On or
2 before the expiration of one month after the end of the
3 tax year each taxpayer shall make a return for the entire
4 tax year showing the gross proceeds of sales or gross
5 income of business, trade or calling, and compute the
6 amount of tax chargeable against him in accordance with
7 the provisions of this article and deduct the amount of
8 quarterly payments (as hereinbefore provided), if any,
9 and transmit with his report a remittance in the form

10 required by section eleven of this article covering the
11 residue of the tax chargeable against him to the office
12 of the tax commissioner; such return shall be signed by
13 the taxpayer, if made by an individual, or by the presi-
14 dent, vice president, secretary or treasurer of a corpora-
15 tion, if made on behalf of a corporation. If made on be-
16 half of a partnership, joint adventure, association, trust,
17 or any other group or combination acting as a unit, any
18 individual delegated by such firm, copartnership, joint
19 adventure, association, trust or any other group or com-
20 bination acting as a unit shall sign the return on behalf
21 of the taxpayer. The tax commissioner, for good cause
22 shown, may extend the time for making the annual re-
23 turn on the application of any taxpayer and grant such
24 reasonable additional time within which to make the same
25 as may, by him, be deemed advisable.

Sec. 6. *Erroneous Computation.*—If the taxpayer shall
2 make any clerical error which shall be apparent on the
3 face of the return in computing the tax assessable against
4 him, the tax commissioner shall correct such error or
5 reassess the proper amount of taxes, and notify the tax-
6 payer of his action by mailing to him promptly a copy
7 of the corrected assessment, and any additional tax for
8 which such taxpayer may be liable shall be paid within
9 fifteen days after the receipt of such statement.

10 If the amount already paid exceeds that which should
11 have been paid on the basis of the tax so recomputed, the
12 excess so paid shall be immediately refunded to the tax-
13 payer upon the requisition of the tax commissioner to
14 the state auditor, who shall issue his warrant on the
15 treasurer, which shall be payable out of any funds avail-
16 able for the purpose. The taxpayer may, at his election,
17 apply an overpayment credit to taxes subsequently accru-
18 ing hereunder.

Sec. 7. *Assessment of Tax When Insufficiently Re-*
2 *turned.*—If the tax commissioner believes that the tax
3 imposed by this article is insufficiently returned by a
4 taxpayer, either because the taxpayer has failed to prop-
5 erly remit the tax or has failed to make a return, or has
6 made a return which is incomplete, deficient or otherwise

7 erroneous, he may proceed to investigate and determine
8 or estimate the tax liability of the taxpayer and make
9 an assessment therefor.

Sec. 7-a. *Jeopardy Assessments.*—If the tax commis-
2 sioner believes that the collection of any tax which he is
3 required to administer will be jeopardized by delay, he
4 shall thereupon make an assessment of the tax, noting
5 that fact upon the assessment. The amount assessed shall
6 be immediately due and payable. Unless the taxpayer
7 against whom a jeopardy assessment is made petitions
8 for reassessment within twenty days after service of no-
9 tice of the jeopardy assessment, such an assessment be-
10 comes final.

11 A petition for reassessment by a person against whom a
12 jeopardy assessment has been made must be accompanied
13 by such security as the tax commissioner may deem neces-
14 sary to insure compliance with this article.

Sec. 7-b. *Notice of Assessment; Petition for Reassess-
2 ment; Hearing.*—The tax commissioner shall give to the
3 taxpayer written notice of any assessment made pursuant
4 to this article. Unless the taxpayer to whom a notice of
5 assessment is directed shall, within thirty days after serv-
6 ice thereof (except in the case of jeopardy assessments),
7 either personally or by registered mail, file with the tax
8 commissioner a petition in writing, verified under oath
9 by said taxpayer or his duly authorized agent, having
10 knowledge of the facts, setting forth with definiteness
11 and particularity the items of the assessment objected to,
12 together with the reason for such objections, said assess-
13 ments shall become and be deemed conclusive and the
14 amount thereof shall be payable at the end of the thirty
15 day period. In every case where a petition for reassess-
16 ment as above described is filed, the tax commissioner
17 shall assign a time and place for the hearing of same and
18 shall notify the petitioner of such hearing by written
19 notice at least twenty days in advance thereof and such
20 hearing shall be held within sixty days from the filing
21 of the petition for reassessment unless continued by agree-
22 ment or by the tax commissioner for good cause. The
23 hearing shall be informal and may be conducted by an

24 examiner designated by the tax commissioner. At such
25 hearing evidence may be offered to support the assess-
26 ment or to prove that it is incorrect. After such hearing
27 the tax commissioner shall, within a reasonable time, give
28 notice in writing of the decision. Unless an appeal is
29 taken within thirty days from service of this notice, the
30 tax commissioner's decision shall be final.

Sec. 8. *Appeal.*—An appeal may be taken by the tax-
2 payer to the circuit court of the county in which the ac-
3 tivity taxed was engaged, or in which the taxpayer re-
4 sides, or in the circuit court of Kanawha county, within
5 thirty days after he shall have received notice from the
6 tax commissioner of his determination as provided in sec-
7 tion seven-b.

8 The appeal shall be taken by written notice to the tax
9 commissioner and served as an original notice. When said
10 notice is so served it shall, with the return thereon, be
11 filed in the office of the clerk of the circuit court and
12 docketed as other cases with the taxpayer as plaintiff and
13 the tax commissioner as defendant. The plaintiff shall
14 file with such clerk a bond for the use of the defendant,
15 with sureties approved by such clerk, in penalty double
16 the amount of tax appealed from, and in no case shall the
17 bond be less than fifty dollars, conditioned that the plain-
18 tiff shall perform the orders of the court.

19 The court shall hear the appeal in equity and determine
20 anew all questions submitted to it on appeal from the
21 determination of the tax commissioner. In such appeal a
22 certified copy of the tax commissioner's assessment shall
23 be admissible and shall constitute prima facie evidence
24 of the tax due under the provisions of this article. The
25 court shall render its decree thereon and a certified copy
26 of said decree shall be filed by the clerk of said court with
27 the tax commissioner who shall then correct the assess-
28 ment in accordance with said decree. An appeal may be
29 taken by the taxpayer or the tax commissioner to the
30 supreme court of appeals of this state in the same man-
31 ner that appeals are taken in equity.

Sec. 8-a. *Service of Notice.*—Any written notice re-
2 quired by this article shall, unless otherwise specifically

3 provided, be served upon the taxpayer personally or by
4 registered mail.

Sec. 11. *Payment; Penalty for Non-Payment.*—Every
2 remittance of taxes imposed by this article shall be made
3 by bank draft, certified check, money order, or certificate
4 of deposit, to the tax commissioner who shall issue his
5 receipt therefor to the taxpayer and pay the moneys into
6 the state treasury to be kept and accounted for as pro-
7 vided by law.

8 If any taxpayer fails to make the return required by this
9 article, or makes his return but fails to remit in whole or in
10 part the proper amount of tax, there shall be added to the
11 amount of the tax unpaid, from the date such tax should
12 have been paid, a penalty in the amount of five per cent of
13 the tax for the first month, or fraction thereof, of delinquency and one per cent of the tax for each succeeding
14 month, or fraction thereof, of delinquency: *Provided,*
15 *however,* That if such failure is due to reasonable cause,
16 the tax commissioner may waive or remit in whole or in
17 part these penalties.

18 If the failure to pay is due to fraud or intent to evade
19 this article and the rules and regulations promulgated
20 thereunder, there shall be added an additional penalty
21 of twenty-five per cent of the amount of the tax, exclu-
22 sive of penalties.

23 The penalties so added shall be collected at the same
24 time and in the same manner and as a part of the tax.

Sec. 12. *Tax a Debt; Lien of Unpaid Tax; Recordation of Lien.*—A tax due and unpaid under this article shall
2 be a debt due the state. It shall be a personal obligation
3 of the taxpayer and shall be a lien upon the property of
4 the taxpayer: *Provided,* That such lien shall be subject
5 to the restrictions and conditions embodied in article
6 ten-c, chapter thirty-eight of the code of West Virginia,
7 one thousand nine hundred thirty-one, and any amend-
8 ment made or which may hereafter be made thereto.

Sec. 13. *Collection by Action or Suit; Injunction.*—The
2 tax commissioner may collect any tax, interest and pen-
3 alty due and unpaid under the provisions of this article

4 by action in debt, assumpsit, motion for judgment or other
5 appropriate proceeding in the county in which (a) the
6 activity taxed was engaged in or (b) the taxpayer resides;
7 or by a suit to enforce the lien therefor in any county in
8 which property of the taxpayer may be found; or, if the
9 tax due and unpaid under this article is three hundred
10 dollars or less, by suit in the court of any justice having
11 jurisdiction of the taxpayer or of his property. If the
12 failure of any taxpayer to comply with the provisions
13 of this article shall have continued sixty days, the tax
14 commissioner may proceed to obtain an injunction re-
15 straining the taxpayer from doing business in this state
16 until he fully complies with the provisions of this article.
17 In any proceeding under this section upon judgment or
18 decree for the plaintiff he shall be awarded his costs.

19 In the event a business subject to the tax imposed by
20 this article shall be operated in connection with a receiv-
21 ership or insolvency proceeding, the court under whose
22 direction such business is operated shall, by the entry of
23 a proper order in the cause, make provision for the regu-
24 lar payment of such taxes as the same become due.

Sec. 14. *Payment When Person Sells Out or Quits*
2 *Business; Lien; Liability of Successor.*—Any person ex-
3 ercising any privilege taxable under this article who shall
4 sell out his business or stock of goods, or shall cease doing
5 such business, shall file the return prescribed by section
6 five of this article and remit the entire tax that may be
7 chargeable against him because of all business done,
8 within thirty days after selling out his business or stock
9 of goods, or ceasing to do such business. The tax im-
10 posed by this article shall be a lien upon the property of
11 such person.

12 The successor in business of any such person shall with-
13 hold so much of the purchase money as will satisfy the
14 taxes and penalty which may be due until the former
15 owner shall produce a receipt from the tax commissioner
16 evidencing the payment of such taxes and penalty. If
17 the purchaser of a business or stock of goods shall fail
18 to withhold purchase money as above provided, and the
19 taxes and penalty shall remain unpaid after expiration

20 of the thirty day period allowed for payment thereof,
21 he shall be personally liable for the payment of all such
22 taxes and penalty, and the same shall be recoverable
23 by the tax commissioner by action or suit as provided
24 by section thirteen of this article.

Sec. 16. *Prerequisite to Final Settlement with State
2 or Political Subdivision Contractor; Penalty.*—All state,
3 county, district and municipal officers and agents making
4 contracts on behalf of the state of West Virginia or any
5 political subdivision thereof shall withhold payment in
6 the final settlement of such contracts until the receipt of
7 a certificate from the tax commissioner to the effect that
8 all taxes levied or accrued under this article against the
9 contractor have been paid. Any official violating this
10 section shall be guilty of a misdemeanor and, on conviction
11 thereof, shall be fined not more than one thousand
12 dollars or imprisoned not exceeding one year in the
13 county jail, or shall be subject to both said fine and imprisonment,
14 in the discretion of the court.

Sec. 17. *Priority in Distribution in Receivership, etc.;
2 Personal Liability of Administrator.*—In the distribution,
3 voluntary or compulsory, in receivership, bankruptcy or
4 otherwise, of the estate of any person, firm or corporation,
5 all taxes due and unpaid under this article shall be
6 paid from the first money available for distribution in
7 priority to all claims, except taxes and debts due the
8 United States which under federal law are given priority
9 over the debts and liens created by this article. Any
10 person charged with the administration of an estate who
11 shall violate the provisions of this section shall be personally
12 liable for any taxes accrued and unpaid under
13 this article, which are chargeable against the person,
14 firm or corporation whose estate is in administration.

Sec. 20. *Collection by Distraint; Report of Collection.*—
2 The tax commissioner may distraint upon any goods,
3 chattels or intangibles represented by negotiable evidences
4 of indebtedness, of any taxpayer delinquent under
5 this article for the amount of all taxes and penalties accrued
6 and unpaid hereunder. The commissioner may re-

7 quire the assistance of the sheriff of any county of the
8 state in levying such distress in the county of which such
9 sheriff is an officer. A sheriff so collecting taxes due
10 hereunder shall be entitled to compensation in the amount
11 of all penalties collected over and above the principal
12 amount of the tax due, but in no case shall such compen-
13 sation exceed twenty-five dollars. All taxes and pen-
14 alties so collected shall be reported within ten days after
15 collection to the tax commissioner, who shall prescribe
16 by general regulation the manner of remittance of such
17 funds and of allowing the collecting officer the compensa-
18 tion due him under this section.

Sec. 22. *Administration of Article by Tax Commis-*
2 *sioner.*—The administration of this article is vested in and
3 shall be exercised by the tax commissioner who shall
4 prescribe forms and reasonable rules in conformity with
5 this article for the making of returns and for the ascer-
6 tainment, assessment and collection of the taxes imposed
7 hereunder; and the enforcement of any of the provisions
8 of this article in any of the courts of the state shall be
9 under the exclusive jurisdiction of the tax commissioner,
10 who shall require the assistance of and act through the
11 prosecuting attorney of any county where suit is brought;
12 but the prosecuting attorney of any county shall receive
13 no fees or compensation for services rendered in enforc-
14 ing this article in addition to the salary paid by the county
15 to such officer.

CHAPTER 166

(Senate Bill No. 261—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section three-b, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the reductions allowed in the total net balance of business and occupation taxes due the state.

[Passed March 10, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 13. Business and Occupation Tax.**Section**

3-b. Definitions; reduction allowed in tax due; how computed.

Be it enacted by the Legislature of West Virginia:

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

Section 3-b. Definitions; Reduction Allowed in Tax

2 **Due; How Computed.**—When used in this section the
3 phrase “normal tax” shall mean the tax computed by the
4 application of rates against values or gross income as set
5 forth in sections two-a to two-j, inclusive, of this article.

6 When used in this section the term “surtax” shall mean
7 the tax computed by the application of the tax rate as
8 set forth in section three-a of this article.

9 When used in this section the phrase “total net balance
10 of taxes due” shall mean the total of the normal tax in
11 those classifications under which only a normal tax is
12 imposed, and the total of the normal tax and the surtax
13 in those classifications under which both a normal tax and
14 surtax is imposed, and the combined total of all taxes
15 when the tax return shows taxes due under more than
16 one classification as set forth in sections two-a to two-j,
17 inclusive, of this article, and section three-a of this article,
18 less exemption at the rate of fifty dollars annually or at
19 the rate of four dollars and sixteen cents per month for
20 the period actually engaged in business.

21 For the period commencing July one, one thousand nine
22 hundred fifty-five, and thereafter, a reduction of five per
23 cent of the total net balance of taxes due is allowed. The
24 normal tax shall be computed by the application of rates
25 against values or gross income as set forth in sections
26 two-a to two-j, inclusive, of this article. The surtax shall
27 be computed by the application of the tax rate as set
28 forth in section three-a of this article. The total net
29 balance of taxes due shall be reduced by the five per cent
30 credit allowed herein. The total net balance of taxes due
31 reduced by the five per cent credit is the amount of the
32 tax payable.

CHAPTER 167

(House Bill No. 158—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the tax on gasoline.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 14. Gasoline Tax.

Section

3. Amount, measure and lien of tax; notice of discontinuance of business.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Amount, Measure and Lien of Tax; Notice of Discontinuance of Business.*—There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline produced, purchased, sold or used in this state, which tax shall be equivalent to six cents per gallon on all gasoline. The tax shall be paid as hereinafter provided.

A distributor shall use as the measure of the tax the gallonage produced, purchased, sold or used in this state, as provided in section four of this article. Gallonage shall be included in the measure of the tax by refiners and producers when such gallonage has been placed into any tank from which withdrawals are made for sales or transfer to any other person.

An importer shall use as the measure of the tax the gallonage purchased and received for whatever use, as provided in section six of this article.

20 A retail dealer shall use as the measure of the tax the
21 gallonage purchased or obtained by him, as provided in
22 section five of this article.

23 The excise tax imposed by this article shall be paid by
24 the person first producing, or receiving in this state, the
25 gallonage of gasoline which under this article shall form
26 the measure of such tax; but in no case shall any such
27 gallonage be used more than once in determining taxes
28 due hereunder.

29 The taxes imposed by this article are in addition to all
30 other taxes now imposed by law.

31 The excise tax imposed by this article shall accrue from
32 the date of production, purchase, sale or use of the gaso-
33 line. The penalties imposed by section thirteen of this
34 article shall accrue from the date they become due and
35 payable. A tax due and unpaid under this article shall be
36 a debt due the state of West Virginia. It shall be a per-
37 sonal obligation of the taxpayer and shall be a lien in
38 favor of the state of West Virginia upon all property and
39 rights to property, whether real or personal, belonging
40 to such taxpayer. The lien shall arise when a taxpayer
41 fails to file his return and remit the tax at the time re-
42 quired by this article. Such lien shall not be valid or
43 enforceable against a purchaser, including lien creditor,
44 of real estate or personal property for a valuable consider-
45 ation, without notice, unless docketed in the office of the
46 clerk of the county court as provided in sections one and
47 two, article ten-c, chapter thirty-eight of the code of West
48 Virginia, one thousand nine hundred thirty-one, as last
49 amended and reenacted by chapter ninety-nine, acts of
50 the Legislature, regular session, one thousand nine hun-
51 dred forty-three.

52 Whenever a distributor, importer or retail dealer ceases
53 to engage in business within this state by reason of the
54 discontinuance, sale or transfer of the business of such
55 distributor, importer or retail dealer, it shall be his duty
56 to notify the tax commissioner in writing at the time of
57 the discontinuance, sale or transfer. Such notice shall
58 give the date of discontinuance and in the event of a sale
59 or transfer of the business, the date thereof and the name

60 and address of the purchaser or transferee thereof; all
61 taxes accruing under this article, but not yet due and
62 payable under the provisions of this article shall, not-
63 withstanding such provisions, become due and payable
64 concurrently with such discontinuance, sale or transfer,
65 and it shall be the duty of such distributor, importer or
66 retail dealer to make a report and pay all such taxes, and
67 to surrender to the tax commissioner the license certificate
68 theretofore issued, under the provisions of this article.

69 Unless the notice shall have been given to the tax com-
70 missioner as above provided such purchaser or transferee
71 shall be liable to the state of West Virginia for the amount
72 of all taxes and penalties, under this article accrued
73 against such distributor, importer or retail dealer so sell-
74 ing or transferring his business, on the date of such sale
75 or transfer, but only to the extent of the value of the
76 property and business thereby acquired from such dis-
77 tributor, importer or retail dealer.

3

CHAPTER 168

(House Bill No. 370—By Mr. Francis)

AN ACT to amend and reenact section twenty-two, article four-
teen, chapter eleven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to tax on gasoline.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the
Governor.]

Article 14. Gasoline Tax.

Section

22. Taxes to be used for road purposes.

Be it enacted by the Legislature of West Virginia:

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

Section 22. *Taxes to be Used for Road Purposes.*—All taxes collected under the provisions of this article shall be paid into the state treasury and shall be used only for the purpose of the construction, reconstruction, maintenance and repair of roads and highways, payment of the interest and sinking fund on state bonds issued for road purposes and the cost of administration and enforcement of this article by the tax commissioner, which cost of administration and enforcement shall not exceed one-half of one per cent of the total net gasoline excise tax collections during the fiscal year commencing July one, one thousand nine hundred fifty-five, and each fiscal year thereafter.

Unless necessary for such bond requirements, one-fifth of the taxes collected under the provisions of this article shall be used for secondary road purposes.

CHAPTER 169

(Com. Sub. for House Bill No. 127—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections two, three, four, six, seven, eight, nine, thirteen, fourteen, sixteen, seventeen, eighteen, eighteen-a, nineteen, twenty-two, twenty-three and twenty-four, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section eleven of said article, and to enact nine new sections, to be designated sections four-a, four-b, eighteen-b, twenty-four-a, twenty-four-b, twenty-four-c, twenty-four-d, twenty-four-e and twenty-four-f, all relating to the consumers' sales and service tax.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section

2. Definitions.
3. Amount of tax.
4. Purchaser to pay; vendor not to represent he will absorb tax; accounting by vendor; penalty.

- 4-a. Failure to collect tax; liability of vendor.
- 4-b. Liability of purchaser; assessment and collection.
- 6. Vendor must show sale or service exempt; presumption.
- 7. Tax on gross proceeds of sales of manufactured, etc., product.
- 8. Furnishing of services included; exceptions.
- 9. Exemptions.
- 13. Collection of tax when sale on credit.
- 14. When separate records of sales required.
- 16. Tax return and payment; penalty for nonpayment.
- 17. Tax a debt; lien of unpaid tax; recordation of lien.
- 18. Enforcement of lien.
- 18-a. Receivership; bankruptcy; priority of tax.
- 18-b. Persons selling or quitting business; successor to withhold purchase money.
- 19. Other times of filing returns.
- 22. Consolidated returns.
- 23. Keeping and preservation of records; inspection thereof.
- 24. Assessment and collection of the tax when insufficiently returned.
- 24-a. Jeopardy assessments.
- 24-b. Notice of assessment; petition for reassessment; hearing.
- 24-c. Appeal.
- 24-d. Collection by action or suit; injunction.
- 24-e. Collection by distraint.
- 24-f. Service of notice.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, six, seven, eight, nine, thirteen, fourteen, sixteen, seventeen, eighteen, eighteen-a, nineteen, twenty-two, twenty-three and twenty-four, article fifteen, chapter eleven, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section eleven of said article be repealed; and that nine new sections, designated sections four-a, four-b, eighteen-b, twenty-four-a, twenty-four-b, twenty-four-c, twenty-four-d, twenty-four-e and twenty-four-f be enacted, all to read as follows:

Section 2. Definitions.—For the purpose of this article:

- 2 (1) "Persons" shall mean any individual, partnership,
- 3 association, corporation, municipal corporation, guardian,
- 4 trustee, committee, executor or administrator;
- 5 (2) "Tax commissioner" shall mean the state tax
- 6 commissioner;
- 7 (3) "Gross proceeds" shall mean the amount received
- 8 in money, credits, property or other consideration from
- 9 sales and services within this state, without deduction on
- 10 account of the cost of property sold, amounts paid for
- 11 interest or discounts or other expenses whatsoever. Losses

12 shall not be deducted, but any credit or refund made for
13 goods returned may be deducted;

14 (4) "Sale", "sales" or "selling" shall include any trans-
15 fer of the possession or ownership of tangible personal
16 property for a consideration when the transfer or de-
17 livery is made in the ordinary course of the transferor's
18 business and is made to the transferee or his agent for
19 consumption or use or any other purpose;

20 (5) "Vendor" shall mean any person engaged in this
21 state in furnishing services taxed by this article or mak-
22 ing sales of tangible personal property;

23 (6) "Ultimate consumer" or "consumer" shall mean
24 a person who uses or consumes services or personal
25 property;

26 (7) "Business" shall include all activities engaged in
27 or caused to be engaged in with the object of gain or
28 economic benefit, direct or indirect, and all activities of
29 the state and its political subdivisions which involve sales
30 of tangible personal property or the rendering of services
31 when those service activities compete with or may com-
32 pete with the activities of other persons;

33 (8) "Tax" shall include all taxes, interest and penalties
34 levied hereunder;

35 (9) "Service" or "selected service" shall include all
36 non-professional activities engaged in for other persons
37 for a consideration, which involve the rendering of a
38 service as distinguished from the sale of tangible personal
39 property, but shall not include personal services or the
40 services rendered by an employee to his employer or any
41 service rendered for resale;

42 (10) "Purchaser" shall mean a person who purchases
43 tangible personal property or a service taxed by this
44 article;

45 (11) "Personal service" shall include those:

46 (a) Compensated by the payment of wages in the
47 ordinary course of employment;

48 (b) Rendered to the person of an individual without,
49 at the same time, selling tangible personal property, such
50 as nursing, barbering, shoe shining, manicuring and
51 similar services;

52 (12) "Taxpayer" shall mean any person liable for the
53 tax imposed by this article.

Sec. 3. *Amount of Tax.*—For the privilege of selling tangible personal property and of dispensing certain selected services defined in section eight of this article, the vendor shall collect from the purchaser the tax as provided under this article, and shall pay the amount of tax to the tax commissioner in accordance with the provisions of this article.

There shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from six cents to fifty cents, both inclusive, one cent.

(2) On each sale, where the monetary consideration is from fifty-one cents to one dollar, both inclusive, two cents.

(3) On each fifty cents of monetary consideration or fraction thereof in excess of one dollar, one cent.

Sec. 4. *Purchaser to Pay; Vendor Not to Represent He Will Absorb Tax; Accounting by Vendor; Penalty.*—

The purchaser shall pay to the vendor the amount of tax levied by this article which shall be added to and constitute a part of the sales price, and shall be collectable as such by the vendor who shall account to the state for all tax paid by the purchaser. The vendor shall keep the amount of tax paid separate from the proceeds of sale exclusive of the tax unless authorized in writing by the tax commissioner to keep such amount of tax in a different manner. Where such authorization is given, the state's claim shall be enforceable against and shall take precedence over, all other claims against the moneys commingled.

A vendor shall not represent to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that the tax is not to be considered an element in the price to the purchaser. Any person who violates the provisions of this paragraph shall be guilty of a misdemeanor and upon conviction shall be punishable

21 by a fine of not less than fifty nor more than one thou-
22 sand dollars, or imprisonment in the county jail for not
23 exceeding one year, or both, in the discretion of the court.

Sec. 4-a. *Failure to Collect Tax; Liability of Vendor.*—

2 If any vendor fails to collect the tax imposed by section
3 three of this article, he shall be personally liable for such
4 amount as he failed to collect.

Sec. 4-b. *Liability of Purchaser; Assessment and Collec-*
2 *tion.*—If any purchaser refuses to pay to the vendor the
3 tax imposed by section three of this article, or in the case
4 of a sale exempt from the application of the tax, a pur-
5 chaser refuses to sign and present to the vendor a proper
6 certificate indicating the sale is not subject to this tax,
7 or signs or presents to the vendor a false certificate, or
8 after signing and presenting a proper certificate uses the
9 items purchased in such manner that the sale would be
10 subject to the tax, he shall be personally liable for the
11 amount of tax applicable to the transaction or transac-
12 tions.

13 In such cases the tax commissioner shall have authority
14 to make an assessment against such purchaser, based
15 upon any information within his possession or that may
16 come into his possession. This assessment, the notice,
17 hearing and appeal shall be made and conducted in ac-
18 cordance with sections twenty-four, twenty-four-b and
19 twenty-four-c of this article.

20 This section shall not be construed as relieving the
21 vendor from liability for the tax.

Sec. 6. *Vendor Must Show Sale or Service Exempt;*
2 *Presumption.*—The burden of proving that a sale or service
3 was exempt from the tax shall be upon the vendor, un-
4 less he takes from the purchaser an exemption certifi-
5 cate signed by and bearing the address of the purchaser
6 and setting forth the reason for the exemption. To pre-
7 vent evasion, it shall be presumed that all sales and
8 services are subject to the tax until the contrary is
9 clearly established.

Sec. 7. *Tax on Gross Proceeds of Sales of Manufactured,*
2 *etc., Product.*—A person exercising the privilege of pro-

3 ducing for sale, profit or commercial use, any natural re-
4 sources, product or manufactured product, and engaged
5 in the business of selling such product not otherwise
6 exempted herein shall make returns of the gross proceeds
7 of such sales and pay the tax imposed by this article.

Sec. 8. *Furnishing of Services Included; Exceptions.*—
2 The provisions of this article shall apply not only to sell-
3 ing tangible personal property, but also to the furnishing
4 of all services, except professional and personal services,
5 and except those services furnished by corporations sub-
6 ject to the control of the public service commission.

Sec. 9. *Exemptions.*—The following sales and services
2 shall be exempt:

3 (1) Sales of gasoline, taxable under article fourteen,
4 chapter eleven of the code, one thousand nine hundred
5 thirty-one;

6 (2) Sales of gas, steam and water delivered to con-
7 sumers through mains or pipes, and sales of electricity;

8 (3) Sales of text books required to be used in any of
9 the public schools of this state;

10 (4) Sales of property or services to the state, its in-
11 stitutions or subdivisions, and to the United States, in-
12 cluding agencies of federal, state or local governments
13 for distribution in public welfare or relief work;

14 (5) Sales of motor vehicles which are titled by the
15 department of motor vehicles and which are subject to
16 the tax imposed by section one, article seven, chapter
17 seventeen of the code;

18 (6) Sales of property or services to churches and bona
19 fide charitable organizations who make no charge what-
20 ever for the services they render or to persons engaged in
21 this state in the business of contracting, manufacturing,
22 transportation, transmission, communication, or in the
23 production of natural resources: *Provided, however,*
24 That the exemption herein granted shall apply only to
25 services, machinery, supplies and materials directly used
26 or consumed in the businesses or organizations named
27 above;

28 (7) An isolated transaction in which any tangible

29 personal property is sold, transferred, offered for sale,
30 or delivered by the owner thereof or by his representa-
31 tive for the owner's account, such sale, transfer, offer
32 for sale or delivery not being made in the ordinary course
33 of repeated and successive transactions of like character
34 by such owner or on his account by such representative;

35 (8) Sales of tangible personal property and services
36 rendered for use or consumption in connection with the
37 conduct of the business of selling tangible personal prop-
38 erty to consumers or dispensing a service subject to tax
39 under this article and sales of tangible personal property
40 and services rendered for use or consumption in connec-
41 tion with the commercial production of an agricultural
42 product the ultimate sale of which will be subject to the
43 tax imposed by this article: *Provided, however,* That
44 sales of tangible personal property and services to be
45 used or consumed in the construction of or permanent
46 improvement of real property shall not be exempt;

47 (9) Sales of tangible personal property for the pur-
48 pose of resale in the form of tangible personal property;

49 (10) Sales of property or services to nationally char-
50 tered fraternal or social organizations for the sole purpose
51 of free distribution in public welfare or relief work.

Sec. 13. *Collection of Tax When Sale on Credit.*—A
2 vendor doing business wholly or partially on a credit
3 basis shall require the purchaser to pay the full amount
4 of tax due upon a credit sale at the time such sale is made
5 or within thirty days thereafter.

Sec. 14. *When Separate Records of Sales Required.*—
2 Any vendor engaged in a business subject to this tax,
3 who is at the same time engaged in some other kind of
4 business, occupation or profession, not taxable under this
5 article, shall keep records to show separately the trans-
6 actions used in determining the tax base herein taxed.
7 In the event such person fails to keep such separate rec-
8 ords there shall be levied upon him a tax based upon the
9 entire gross proceeds of both or all of his businesses.

Sec. 16. *Tax Return and Payment; Penalty for Non-*
2 *payment.*—The taxes levied by this article shall be due

3 and payable in monthly installments, on or before the
4 fifteenth day of the month next succeeding the month in
5 which the tax accrued. The taxpayer shall, on or before
6 the fifteenth day of each month, make out and mail to
7 the tax commissioner a return for the preceding month,
8 in the form prescribed by the tax commissioner, showing:
9 (a) the total gross proceeds of his business for that month;
10 (b) the gross proceeds of his business upon which the
11 tax is based; (c) the amount of the tax for which he is
12 liable; and (d) any further information necessary in the
13 computation and collection of the tax which the tax com-
14 missioner may require. A remittance for the amount of
15 the tax shall accompany the return. A monthly return
16 shall be signed by the taxpayer or his duly authorized
17 agent.

18 Any taxpayer who fails to pay the tax imposed by this
19 article within the time provided by law shall be con-
20 sidered delinquent and shall be required to pay a penalty
21 of six per cent of the tax for the first month, or fraction
22 thereof, during which he is delinquent and one per cent
23 of the tax for each succeeding month, or fraction thereof,
24 during which he is delinquent: *Provided, however,* That
25 if the failure to pay is due to reasonable cause, the tax
26 commissioner may waive or remit this penalty in whole
27 or in part. For purposes of the imposition of this penalty,
28 a payment postmarked after the fifteenth day of the
29 month shall be considered delinquent.

30 If the failure is due to fraud or intent to evade this
31 article or the rules and regulations promulgated there-
32 under, there shall be added an additional penalty of
33 twenty-five per cent of the amount of the tax, exclusive
34 of penalties.

35 The penalties so added shall be collected at the same
36 time and in the same manner and as a part of the tax.

Sec. 17. *Tax a Debt; Lien of Unpaid Tax; Recordation*
2 of *Lien*.—A tax due and unpaid under this article shall
3 be a debt due the state. It shall be a personal obligation
4 of the taxpayer and shall be a lien upon all the property
5 of the taxpayer: *Provided, That* such lien shall be sub-
6 ject to the restrictions and conditions embodied in article

7 ten-c, chapter thirty-eight of the code, one thousand nine
8 hundred thirty-one, and any amendment made or which
9 may hereafter be made thereto.

10 If the taxpayer is an association or corporation, the
11 officers thereof shall be personally liable, jointly and sev-
12 erally, for any default on the part of the association or
13 corporation, and payment of the tax may be enforced
14 against them as against the association or corporation
15 which they represent.

Sec. 18. *Enforcement of Lien.*—A lien for taxes under
2 this article shall attach when the obligation to pay the
3 tax to the tax commissioner accrues. The lien shall be
4 enforceable by the tax commissioner by suit in equity.

Sec. 18-a. *Receivership; Bankruptcy; Priority of Tax.*—
2 In the distribution, voluntary or compulsory, in receiver-
3 ship, bankruptcy or otherwise, of the property or estate
4 of any person, all taxes due and unpaid under this article
5 shall be paid from the first money available for distri-
6 bution in priority to all claims and liens except taxes and
7 debts due the United States which under federal law are
8 given priority over the debts and liens created by this
9 article. Any person charged with the administration or
10 distribution of any such property or estate who shall
11 violate the provisions of this section shall be personally
12 liable for any taxes accrued and unpaid under this article
13 which are chargeable against the person whose property
14 or estate is in administration or distribution.

Sec. 18-b. *Persons Selling or Quitting Business; Suc-
cessor to Withhold Purchase Money.*—If any person liable
3 for the tax imposed by this article shall sell his business
4 or stock of merchandise or quit his business, the taxes
5 and penalties imposed by this article shall become due
6 and payable immediately and such persons shall make a
7 final return within fifteen days after the date of selling
8 or quitting business. The taxes and penalties shall be
9 a lien upon the property of such person. His successor, if
10 any, shall withhold sufficient of the purchase money to
11 cover the amount of such taxes and penalties due and
12 unpaid until such time as the former owner shall produce

13 a receipt from the tax commissioner showing that the
14 taxes and penalties have been paid or a certificate indi-
15 cating no taxes are due. If the purchaser of the business
16 or stock of goods fails to withhold purchase money, as
17 above provided, he shall be personally liable for the pay-
18 ment of the taxes and penalties accrued and unpaid on
19 account of the operation of the business by the former
20 owner.

Sec. 19. *Other Times of Filing Returns.*—The tax com-
2 missioner may, upon written request, authorize a tax-
3 payer whose books and records are not kept on a monthly
4 basis to file returns at times other than those specified in
5 section sixteen, but in no event shall a taxpayer make less
6 than one return a calendar month, except as provided
7 by section twenty or as may be authorized in writing
8 by the tax commissioner.

Sec. 22. *Consolidated Returns.*—A person operating two
2 or more places of business of like character from which
3 are made or dispensed sales or services which are taxable
4 hereunder shall file consolidated returns covering all such
5 sales or services to which a schedule must be attached
6 showing total sales and charges made for rendering such
7 services and total tax collections for each place of busi-
8 ness.

Sec. 23. *Keeping and Preservation of Records; Inspec-*
2 *tion Thereof.*—Each taxpayer shall keep complete and
3 accurate records of taxable sales and of charges, together
4 with a record of the tax collected thereon, and shall keep
5 all invoices, bills of lading and such other pertinent docu-
6 ments in such form as the tax commissioner may by
7 regulation require. Such records and other documents
8 shall be open at any time, during business hours, to the
9 inspection of the tax commissioner and his agents and
10 shall be preserved for a period of five years, unless the
11 tax commissioner shall consent in writing to their destruc-
12 tion within that period or by order require that they be
13 kept longer.

Sec. 24. *Assessment and Collection of the Tax When*
2 *Insufficiently Returned.*—If the tax commissioner believes

3 that the tax imposed by this article is insufficiently re-
4 turned by a taxpayer, either because the taxpayer has
5 failed to properly remit the tax or has failed to make
6 a return, or has made a return which is incomplete, de-
7 ficient or otherwise erroneous, he may proceed to investi-
8 gate and determine or estimate the tax liability of the
9 taxpayer and make an assessment thereon.

10 *Provided, however,* That if the tax commissioner be-
11 lieves that the tax yield as compared to the taxpayer's
12 gross proceeds is deficient, he shall make test checks of
13 the tax yield as compared to gross proceeds. Such test
14 checks shall be conducted in the following manner: The
15 tax commissioner shall notify the taxpayer by mail that
16 he intends to make test checks upon not less than five
17 business days over a period of at least one month. The
18 taxpayer may designate in writing two of the days to be
19 checked or two-fifths of the days to be checked and the
20 tax commissioner shall designate the remainder. Dur-
21 ing the days designated for test checks the taxpayer shall
22 keep a record of individual sales and the amount of tax
23 collected on such sales. The totals of the sales and the
24 tax for each day checked shall, at the close of the business
25 day, be certified by representatives of the taxpayer and
26 the tax commissioner. When the checks are completed,
27 the sales for all days checked shall be totaled and the
28 tax collected thereon shall be totaled and from such totals
29 the percentage of tax yield determined. If the percentage
30 of tax previously returned by the taxpayer for any taxable
31 period is in excess of one-tenth of one per cent less than
32 the percentage resulting from the checks, the tax imposed
33 by this article shall be deemed to have been insufficiently
34 returned for said period and the tax commissioner shall
35 make an assessment based upon the percentage resulting
36 from the checks and applied to the taxpayer's gross pro-
37 ceeds for each period thus shown to be deficient, with
38 credit for the tax previously paid.

2 **Sec. 24-a. Jeopardy Assessments.**—If the tax commis-
3 sioner believes that the collection of the tax imposed by
4 this article will be jeopardized by delay, he shall there-
upon make an assessment of the tax, noting that fact

5 upon the assessment. The amount assessed shall be im-
6 mediately due and payable. Unless the taxpayer against
7 whom a jeopardy assessment is made petitions for re-
8 assessment within twenty days after service of notice of
9 the jeopardy assessment, such an assessment becomes
10 final.

11 A petition for reassessment by a person against whom
12 a jeopardy assessment has been made must be accom-
13 panied by such security as the tax commissioner may
14 deem necessary to insure compliance with this article.

Sec. 24-b. *Notice of Assessment; Petition for Reassess-
2 ment; Hearing.*—The tax commissioner shall give to the
3 taxpayer written notice of any assessment made pursuant
4 to this article. Unless the taxpayer to whom a notice of
5 assessment is directed shall, within thirty days after serv-
6 ice thereof, (except in the case of jeopardy assessments)
7 either personally or by registered mail, file with the tax
8 commissioner a petition in writing, verified under oath
9 by said taxpayer or his duly authorized agent, having
10 knowledge of the facts, setting forth with definiteness
11 and particularity the items of the assessment objected to,
12 together with the reason for such objections, said assess-
13 ments shall become and be deemed conclusive and the
14 amount thereof shall be payable at the end of the thirty-
15 day period. In every case where a petition for reassess-
16 ment as above described is filed, the tax commissioner
17 shall assign a time and place for the hearing of same and
18 shall notify the petitioner of such hearing by written
19 notice at least twenty days in advance thereof and such
20 hearing shall be held within sixty days from the filing
21 of the petition for reassessment unless continued by agree-
22 ment or by the tax commissioner for good cause. The hear-
23 ing shall be informal and may be conducted by an ex-
24 aminer designated by the tax commissioner. At such
25 hearing evidence may be offered to support the assess-
26 ment or to prove that it is incorrect. After such hearing
27 the tax commissioner shall, within a reasonable time,
28 give notice in writing of the decision. Unless an appeal
29 is taken within thirty days from service of this notice,
30 the tax commissioner's decision shall be final.

2 Sec. 24-c. *Appeal*.—An appeal may be taken by the tax-
3 payer to the circuit court of the county in which the
4 activity taxed was engaged in, or in which the taxpayer
5 resides, or in the circuit court of Kanawha county, within
6 thirty days after he shall have received notice from the
7 tax commissioner of his determination as provided in
8 section twenty-four-b.

9 The appeal shall be taken by written notice to the tax
10 commissioner and served as an original notice. When
11 said notice is so served it shall, with the return thereon,
12 be filed in the office of the clerk of the circuit court and
13 docketed as other cases with the taxpayer as plaintiff and
14 the tax commissioner as defendant. The plaintiff shall
15 file with such clerk a bond for the use of the defendant,
16 with sureties approved by such clerk, in penalty double
17 the amount of tax appealed from, and in no case shall
18 the bond be less than fifty dollars, conditioned that the
19 plaintiff shall perform the orders of the court.

20 The court shall hear the appeal in equity and determine
21 anew all questions submitted to it on appeal from the
22 determination of the tax commissioner. In such appeal a
23 certified copy of the tax commissioner's assessment shall
24 be admissible and shall constitute prima facie evidence
25 of the tax due under the provisions of this article. The
26 court shall render its decree thereon and a certified copy
27 of said decree shall be filed by the clerk of said court
28 with the tax commissioner who shall then correct the
29 assessment in accordance with said decree. An appeal
30 may be taken by the taxpayer or the tax commissioner
31 to the supreme court of appeals of the state in the same
manner that appeals are taken in equity.

2 Sec. 24-d. *Collection by Action or Suit; Injunction*.—
3 The tax commissioner may collect any tax, interest and
4 penalty due and unpaid under the provisions of this
5 article by action in debt, assumpsit, motion for judgment
6 or other appropriate proceeding in the county in which
7 (a) the activity taxed was engaged in or (b) the taxpayer
8 resides; or by a suit to enforce the lien therefor in any
9 county in which property of the taxpayer may be found;
or, if the tax due and unpaid under this article is three

10 hundred dollars or less, by suit in the court of any justice
11 having jurisdiction of the taxpayer or of his property.
12 If the failure of any taxpayer to comply with the pro-
13 visions of this article shall have continued sixty days,
14 the tax commissioner may proceed to obtain an injunc-
15 tion restraining the taxpayer from doing business in this
16 state until he fully complies with the provisions of this
17 article. In any proceeding under this section upon judg-
18 ment or decree for the plaintiff he shall be awarded his
19 costs.

Sec. 24-e. *Collection by Distraint.*—The tax commis-
2 sioner may distraint upon any goods, chattels or intangibles
3 represented by negotiable evidence of indebtedness of
4 any taxpayer delinquent under this article for the tax,
5 interest and penalty accrued and unpaid hereunder. The
6 tax commissioner may require the assistance of the sheriff
7 of any county of the state in levying such distress in the
8 county of which such sheriff is an officer. A sheriff so
9 collecting taxes due hereunder shall be entitled to com-
10 pensation in the amount of all penalties collected over
11 and above the principal amount of the tax due, but in no
12 case shall such compensation exceed twenty-five dollars.
13 All moneys so collected shall be returned to the tax com-
14 missioner within ten days after collections.

Sec. 24-f. *Service of Notice.*—Any written notice re-
2 quired by this article shall, unless otherwise specifically
3 provided, be served upon the taxpayer personally or by
4 registered mail.

CHAPTER 170

(House Bill No. 124—By Mr. Bowles)

AN ACT to amend chapter eleven of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, to be numbered article
twenty, relating to the right of other states and their
political subdivisions to sue in the courts of West Virginia
to recover taxes.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 20. Reciprocal Enforcement.

Section

1. Authority of other states and their political subdivisions to sue.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Authority of Other States and Their Political Subdivisions to Sue.*—Any state of the United States, or any political subdivision thereof, shall have the right to sue in the courts of West Virginia to recover any tax which may be owing to it when the like right is accorded to the state of West Virginia and its political subdivisions by such state, whether such right is granted by statute or as a matter of comity.

CHAPTER 171

(House Bill No. 57—By Mr. Booth)

AN ACT to amend and reenact section seventeen, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of sheriff's commission for collection of taxes.

[Passed March 12, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 1. Accrual and Collection of Taxes.

Section

17. Sheriff's commission for collection.

Be it enacted by the Legislature of West Virginia:

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

Section 17. *Sheriff's Commission for Collection.*—After
2 the sheriff has collected eighty-five per cent of the com-
3 bined total of all taxes assessed on real and personal
4 property, he shall, in addition to the salary and compen-
5 sation now authorized by law, be allowed a commission of
6 two and one-half per cent on the remainder of the taxes
7 actually collected, exclusive of interest and charges there-
8 on, if the collection be made before the delinquent list
9 has been approved by the county court: *Provided, how-*
10 *ever,* That the total amount of commissions paid to any
11 sheriff shall not exceed the sum of fifteen thousand dollars
12 in any one year. The commission so allowed shall be
13 determined by the county court and charged against the
14 various funds for which the taxes are collected.

CHAPTER 172

(House Bill No. 172—By Mr. Watson)

AN ACT to amend and reenact section nine, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certificate of redemption issued by the auditor and fees to be charged by the auditor therefor and duty of the county clerk.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 3. Sale of Land for Taxes.

Section

9. Certificate of redemption issued by auditor; recordation.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Certificate of Redemption Issued by Auditor;*
2 *Recordation.*—Upon payment of the sum necessary to
3 redeem, the auditor shall execute a certificate of redemp-
4 tion in triplicate, which certificate shall specify the real

5 estate redeemed, or the part thereof or the interest
6 therein, as the case may be, together with any changes
7 in respect thereto which were made in the land book and
8 in the record of delinquent lands, shall specify the year
9 or years for which payment was made, and shall state
10 that it is a receipt for the money paid and a release of
11 the state's title to the real estate redeemed. The original
12 certificate shall be retained in the files in the auditor's
13 office, one copy shall be delivered to the person redeeming
14 and the second copy shall be mailed by the auditor to the
15 clerk of the county court of the county in which the real
16 estate is situated, who, after making any necessary
17 changes in his record of delinquent lands, shall note the
18 fact of redemption on such record, and shall record the
19 certificate in a separate volume provided for the purpose.

20 The fee for issuing the certificate of redemption shall
21 be one dollar if the total of taxes, interest and charges
22 due is five dollars or less; two dollars if such total is more
23 than five dollars and less than ten dollars; and three
24 dollars if such total is ten dollars or more and less than
25 thirty dollars. A fee of ten per centum shall be added
26 when the total of such tax, interest, and charges is thirty
27 dollars or more, but such fee shall not exceed the sum
28 of ten dollars in any case.

29 All certificates of redemption issued by the auditor in
30 each year shall be numbered consecutively and shall be
31 filed by the clerk of the county court in numerical order.
32 Reference to the year and number of the certificate shall
33 be included in the notation of redemption required of the
34 clerk of the county court. No fee shall be charged by the
35 clerk for any recordation, filing or notation required by
36 this section.

CHAPTER 173

(Com. Sub. for House Bill No. 17—Originating in the House Committee on
the Judiciary)

AN ACT to amend article four, chapter eleven-a of the code of
West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section to be numbered section thirty-nine-b, relating to release by the state of title and taxes on lands on which all taxes have been paid for ten years.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 4. Sale of Lands for School Fund.

Section

39-b. Release of title and taxes.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section numbered thirty-nine-b, to read as follows:

Section 39-b. *Release of Title and Taxes.*—In view of
2 the desirability of stable land titles and to encourage land
3 owners to cause their lands to be assessed and pay the
4 taxes thereon, it is the purpose and intent of the Legis-
5 lature to release all the state's title and claim to any real
6 estate on which all taxes have been paid for ten consecu-
7 tive years, and release all taxes prior to such ten year
8 period. If, heretofore or hereafter, all taxes due on any
9 parcel of land for ten consecutive years have been fully
10 paid, all title to any such land acquired by the state prior
11 to said ten year period shall be and is hereby released
12 to the person who would be the owner thereof but for the
13 title of the state so released, and all unpaid taxes prior
14 to said ten year period are declared to be fully paid.

15 Nothing contained in this section shall affect or be held
16 or construed to affect in any way the right or title of a
17 person claiming title to any land by transfer as provided
18 in section three, article thirteen of the constitution of the
19 state of West Virginia.

20 It is the intention of the Legislature that this act shall
21 be both retroactive and prospective.

CHAPTER 174

(House Com. Sub. for Senate Bill No. 132—Originating in the House Committee on Finance)

AN ACT to amend and reenact section three, chapter seventy-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as amended by chapter one hundred fifty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-seven, relating to horse racing and to the disposition of revenues collected and accruing therefrom; and providing that said chapter seventy-one and all amendments thereof and additions thereto be designated article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 4, 1955; in effect from passage. Approved by the Governor.]

Article 23. Horse Racing.

Section

3. Horse racing revenues paid into general fund.

Be it enacted by the Legislature of West Virginia:

That chapter seventy-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and all amendments thereof and additions thereto be designated article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one; and that section three of said chapter seventy-one, as amended, and of article twenty-three, chapter nineteen of said code, be amended and reenacted to read as follows:

- Section 3. *Horse Racing Revenues Paid Into General*
- 2 *Fund.*—All revenues collected pursuant to the provisions
 - 3 of this article, as license taxes, pari-mutuel pool operation
 - 4 taxes or otherwise, including all moneys accruing to the
 - 5 state from unredeemed pari-mutuel tickets, shall be paid
 - 6 directly to the treasurer of the state of West Virginia

7 and be deposited by him to the credit of the general fund
8 of the state. Remittance of all such collected and accrued
9 revenues shall be made by the commission to the state
10 treasurer at least one time during each thirty-day period
11 of the racing season, and a final remittance as to any
12 particular race meeting shall be made within thirty days
13 from and after the close of each such race meeting.

CHAPTER 175

(Senate Bill No. 262—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact sections six and seven, chapter seventy-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as amended by chapter one hundred fifty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the regulation, licensing and control of horse racing and the taxes to be paid by and the financial responsibility of licensees conducting horse racing within the state; and providing that said chapter seventy-one and all amendments thereof and additions thereto be designated article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed February 28, 1955; in effect July 1, 1955. Approved by the Governor.]

Article 23. Horse Racing.

Section

6. Per diem tax on tracks; tax on pool contribution; how taxes paid; financial responsibility of licensees.
 7. Only pari-mutuel system of wagering permitted; minors; supervisor.
-

Be it enacted by the Legislature of West Virginia:

That chapter seventy-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and all amendments thereof and additions thereto be designated article twenty-three, chapter nineteen of the code

of West Virginia, one thousand nine hundred thirty-one; and that sections six and seven of said chapter seventy-one, as amended, and of article twenty-three, chapter nineteen of said code, be amended and reenacted to read as follows:

Section 6. *Per Diem Tax on Tracks; Tax on Pool Contribution; How Taxes Paid; Financial Responsibility of Licensees.*—A person operating any horse race track one mile or more in length shall pay each day upon which horse races are run a license tax of five hundred dollars; any race track less than one mile in length shall pay for each day upon which horse races are run a license tax of two hundred fifty dollars: *Provided, however,* That the per diem tax shall not apply to horse shows or county fairs at which racing is conducted for not more than five days. Any person licensed by the commission to conduct racing and to permit and conduct pari-mutuel wagering under this article shall, in addition to the aforementioned tax, pay to the racing commission of the state of West Virginia a tax of four per cent of the total contribution to all pari-mutuel pools conducted or made at any and every racing meeting licensed under this article. Such payments shall be made to the commission or its agent after the last race on each day and every day of each and every race meeting, and shall be made from all contributions to all pari-mutuel pools to each and every race of the day, which payment shall be deposited with the treasurer of the state of West Virginia.

Any person making application for a license for a meeting to be held on any track in the state of West Virginia, shall, when required, furnish satisfactory evidence to the commission of his or their ability to pay license fees, purses, salaries of officials and other expenses incident to the meeting. In the event the applicant is not able to furnish such satisfactory evidence of his or their ability to pay such expenses and fees, then the commission may require bond or other adequate security for not more than four successive days before such license is issued.

Sec. 7. *Only Pari-Mutuel System of Wagering Permitted; Minors; Supervisor.*—A person licensed by the

3 commission shall permit only the pari-mutuel system of
4 wagering within the enclosure at which horse racing is
5 held, and the commission deducted by the licensee from
6 the said pari-mutuel pools shall not exceed thirteen per
7 cent of the total pari-mutuel pools for the day, including
8 the license fee of the gross amount handled hereinbefore
9 provided for, and the breakage, which shall be made and
10 calculated to the dime: *Provided, however,* That no
11 holder of such license shall permit or allow any person
12 under the age of twenty-one years to wager thereat,
13 knowing or having reason to believe that such person is
14 under the age of twenty-one years. Any violation of this
15 proviso shall be punishable by revocation of license.

16 A supervisor of pari-mutuel pools shall be appointed
17 by the commission and shall be compensated by said
18 commission. Said supervisor shall have free access to
19 the space or enclosure where the pari-mutuel pool sys-
20 tem of wagering is conducted or calculated at any race
21 meeting to which he shall be assigned for the purpose of
22 ascertaining whether or not said licensee is retaining
23 only the commission provided for in said section, and
24 shall have general supervisory powers over the opera-
25 tion of the pari-mutuel pools. He shall also, for the same
26 purposes only, have full and free access to all records and
27 papers pertaining to such pari-mutuel pool system of
28 wagering, and shall report to the commission in writing,
29 under oath, whether or not the licensee has retained any
30 commissions in excess of those permitted under this
31 article.

CHAPTER 176

(Senate Bill No. 44—By Mr. Allen and Mr. Vassar)

AN ACT to amend chapter nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two, relating to federal aid to state institutions providing care for veterans.

[Passed February 18, 1955; in effect ninety days from passage. Approved by the Governor.]

Article 2. Federal Aid for State Institutions Providing Care for Veterans.

Section

1. State homes for veterans.
2. Funds collected from the United States.
3. How plan to operate.
4. Use of funds collected from the United States government agency.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *State Homes for Veterans.*—The West Virginia board of control is hereby authorized and directed to establish a soldiers' home at the Weston state hospital, Weston, West Virginia, for use of disabled veterans. The board is further authorized and directed to establish a soldiers' home at the Pinecrest sanitarium, Beckley, West Virginia, for the use of disabled veterans. The word "veterans" is used in this article as defined in article one of this chapter. These veterans must be citizens of the state of West Virginia whose separation from the United States military service has been other than dishonorable, to be cared for in these homes.

Sec. 2. *Funds Collected from the United States.*—The board of control, in conjunction with the director of West Virginia department of veterans affairs, is hereby authorized and directed to receive from the United States veterans administration or other agency of the United States government authorized to pay federal aid to states for soldiers' homes under the provisions of the act of August twenty-seven, one thousand eight hundred eighty-eight, as amended, the maximum amount allowed and that can be paid for such eligible veterans cared for in these state homes.

Sec. 3. *How Plan to Operate.*—The director of the West

2 Virginia department of veterans affairs shall certify to
3 the West Virginia board of control the number and names
4 of veterans eligible to be cared for under this article, and
5 the board of control will certify to the director of the
6 West Virginia department of veterans affairs the number
7 and names of such ex-service persons actually receiving
8 care, the date of admission to soldiers' homes and the
9 date of their discharge therefrom. Based upon this in-
10 formation, the director of the West Virginia department
11 of veterans affairs will be required, in accordance with
12 the regulations of the veterans administration, or other
13 agency of the United States government, to promptly
14 notify the United States veterans administration or other
15 agency of the United States government authorized to
16 pay federal aid for the care of such persons, so that
17 proper maximum payment may be made to the director
18 of West Virginia department of veterans affairs for the
19 care of such veterans.

Sec. 4. *Use of Funds Collected from the United States*
2 *Government Agency.*—The money so collected from the
3 governmental agency as federal aid shall be placed in a
4 special fund to be known as the "Veterans' Fund". This
5 fund shall be jointly administered by the board of con-
6 trol and the director of the West Virginia department of
7 veterans affairs. The fund shall be deposited in the state
8 treasury and paid out only on such vouchers as may be
9 authorized and approved by the board of control and the
10 director of the West Virginia department of veterans
11 affairs, in the same manner and under the same restric-
12 tions as are now provided by law for the disbursement
13 of funds by those departments. At the discretion of the
14 West Virginia department of veterans affairs, these funds
15 may be used as follows: (1) for the erection of suitable
16 buildings for the care of disabled veterans, particularly
17 those suffering from mental or tuberculous conditions; or
18 (2) in any manner deemed expedient by the West Vir-
19 ginia board of control and the director of the West Vir-
20 ginia department of veterans affairs for the benefit of
21 disabled veterans, particularly those suffering from men-
22 tal or tuberculous conditions.

CHAPTER 177

(House Bill No. 139—By Mr. Kidd and Mr. Scanes)

AN ACT to amend and reenact chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to the disposition of the principal and interest of the remainder of the fund appropriated by the United States government on June twenty-fifth, one thousand nine hundred eight, to pay the West Virginia national guard from the time of the call until the date of muster into the service of the United States for the Spanish American war, by the payment of the said remaining fund to the quartermaster of the United Spanish war veterans department of West Virginia.

[Passed March 1, 1955; in effect from passage. Approved by the Governor.]

Section

1. Quartermaster trustee of Spanish American war fund; investment of funds; payment of claims; unexpended balance; bond of quartermaster; use of funds.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 1. *Quartermaster Trustee of Spanish American War Fund; Investment of Funds; Payment of Claims; Unexpended Balance; Bond of Quartermaster; Use of Funds.*—That the quartermaster of the department of West Virginia, United Spanish war veterans, is hereby appointed trustee of the said remaining Spanish American war fund, and that from and after the passage of this act, the said quartermaster shall cause such fund to be invested in some security of the state of West Virginia, or the United States government, bearing interest; and out of said fund and interest there be paid any just and properly audited and verified claim of any of the veterans entitled thereto who may hereafter apply for same; and

14 after paying any such claims received, the unexpended
15 balance of the said interest and funds shall be paid out
16 by the said quartermaster for the benefit of the United
17 Spanish war veterans, as may be directed at the annual
18 encampments of the department of West Virginia, United
19 Spanish war veterans: *Provided*, That said quartermaster
20 is required by the association to execute a bond for the
21 proper application of and accounting for the funds so
22 received: *Provided further*, That the funds so paid shall
23 be used for the legitimate expenses of the department
24 encampments.

CHAPTER 178

(House Bill No. 383—By Mr. Kessel and Mr. Crislip)

AN ACT to amend and reenact section five, chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, as amended, providing for an extension of the limitation of time for filing applications for the World War I and World War II veterans bonus.

[Passed March 10, 1955; in effect from passage. Approved by the Governor.]

Section

5. Limitation on time for filing application.

Be it enacted by the Legislature of West Virginia:

That section five, chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-one, as amended, be amended and reenacted to read as follows:

Section 5. *Limitation on Time for Filing Application.*—

2 No bonus shall be paid to any person otherwise entitled
3 thereto unless application therefor shall be filed with the
4 department on or before the thirty-first day of December,
5 one thousand nine hundred fifty-five.

CHAPTER 179

(Senate Bill No. 271—By Mr. Martin)

AN ACT to authorize the county court of Berkeley county to use unexpended funds, or surpluses in any fund of said county, now or hereafter created, for the purpose of purchasing, operating and maintaining fire apparatus and equipment of all kinds, and to place such apparatus and equipment and of providing and financing fire protection facilities under the jurisdiction and control of the city council of the city of Martinsburg.

[Passed February 25, 1955; in effect from passage. Approved by the Governor.]

Section

1. Berkeley county court authorized to use surplus funds for purchase, operation and maintenance of fire protection equipment and facilities.

Be it enacted by the Legislature of West Virginia:

Section 1. *Berkeley County Court Authorized to Use Surplus Funds for Purchase, Operation and Maintenance of Fire Protection Equipment and Facilities.*—The county court of Berkeley county is hereby authorized and empowered to use any unexpended funds of said county and any surplus in any county fund, now or hereafter created, for the purpose of purchasing, operating and maintaining fire apparatus and equipment of all kinds used in furnishing fire protection, and is hereby further authorized and empowered to place or station such equipment and apparatus under the jurisdiction and control of the city council of the city of Martinsburg for the operation thereof. The county court of Berkeley county is also hereby authorized and empowered to use any such unexpended funds and surplus in an amount necessary for the rental of fire hydrants erected and maintained by any municipal corporation and/or sanitary district in said county. The authority hereby granted is in addition to the authority granted by chapter one hundred thirty-seven, acts of the

20 Legislature, regular session, one thousand nine hundred
21 forty-nine.

CHAPTER 180

(Senate Bill No. 233—By Mr. Jasper)

AN ACT to authorize the county court of Greenbrier county, West Virginia, to use unexpended funds of said county and any surpluses in the funds of said county, and funds derived from capital assets for the purpose of the repair of, and construction of additions to, the county courthouse of said county, and to expend for such purpose the fund created.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Greenbrier county court authorized to create special fund for the repair of, and construction of additions to, the county courthouse.

Be it enacted by the Legislature of West Virginia:

Section 1. *Greenbrier County Court Authorized to Create Special Fund for the Repair of, and Construction of Additions to, the County Courthouse.*—The county court of Greenbrier county, West Virginia, is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surpluses in county funds, and any existing surpluses or funds derived from capital assets, for the purpose of creating a special fund for the repair of, and construction of additions to, the county courthouse of said county, and expend for such purpose the fund so created, and when so created such fund shall not be used for any other purpose.

CHAPTER 181

(Senate Bill No. 396—By Mr. Traubert)

AN ACT to amend and reenact section three, chapter one hundred eighty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-three, extending the time within which the county court of Hancock county and the Hancock county department of public assistance may transfer surplus funds to the Hancock county children's shelter fund.

[Passed March 11, 1955; in effect July 1, 1955. Approved by the Governor.]

Section

3. Transfer of funds.

Be it enacted by the Legislature of West Virginia:

That section three, chapter one hundred eighty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 3. *Transfer of Funds.*—The surplus funds now
2 in the Hancock county department of public assistance
3 and any and all additional surplus funds of said county
4 department of public assistance and of the county court
5 of Hancock county existing between the date of this
6 enactment and the end of the fiscal year, June thirtieth,
7 one thousand nine hundred fifty-seven, are hereby au-
8 thorized to be transferred to the shelter fund in said
9 county for the purpose of establishing and maintaining
10 said children's shelter in said county.

CHAPTER 182

(Senate Bill No. 226—By Mr. Bean, Mr. President)

AN ACT authorizing the board of education of Hardy county to reimburse Evelyn Williams for personal injuries, and for medical, hospital and other necessary expenses in-

curred as a result of the negligence of said board of education of Hardy county, and to declare a moral obligation to exist on the part of said board of education in favor of said Evelyn Williams.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Authorization for reimbursement.
 2. Finding of moral obligation.
-

WHEREAS, On the twenty-fifth day of September, one thousand nine hundred fifty-three, Evelyn Williams attended a meeting of the Parent-Teachers Association at the Toll Gate school, near Moorefield, in Hardy county, West Virginia; and

WHEREAS, While attending said meeting the said Evelyn Williams started to take one of her children to a rest room in said school building, the door to which rest room was located near a door leading to the basement in said school building, there being no markings or signs to indicate it was the proper door; and

WHEREAS, Said Evelyn Williams opened the door leading to the basement of said building, stepped through and immediately fell some eight feet to the basement floor, there being no steps leading into the basement other than a crude temporary ladder, and said area being unlighted; and

WHEREAS, As a result being hurled violently to said basement floor, the said Evelyn Williams suffered severe injuries, including three fractured vertebrae in her back and neck, in addition to severe strain and contusion of the muscles of her neck and back, and also severe lacerations, abrasions, contusions and shock; and

WHEREAS, The said Evelyn Williams suffered great physical pain and mental anguish, and was hospitalized for a long period of time, and necessarily incurred certain medical, hospital and other expenses; and

WHEREAS, Said Evelyn Williams was in no sense at fault in the premises; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorization for Reimbursement.*—The
 2 board of education of Hardy county, West Virginia, is
 3 hereby authorized, as in its discretion it may see fit, to
 4 reimburse Evelyn Williams for her personal injuries
 5 and for medical, hospital, and other necessary expenses
 6 suffered by her as a result of her fall on a stairway at
 7 the Toll Gate school near Moorefield, Hardy county,
 8 West Virginia, on September twenty-five, one thousand
 9 nine hundred fifty-three, which fall was caused by the
 10 negligence of said county board of education: *Provided,*
 11 *however,* That the authorization hereby granted to said
 12 county board of education shall not exceed the sum of
 13 three thousand dollars.

Sec. 2. *Finding of Moral Obligation.*—It is hereby
 2 declared to be the finding of the Legislature that a moral
 3 obligation on the part of the board of education of
 4 Hardy county exists in favor of said Evelyn Williams.

CHAPTER 183

(House Bill No. 517—By Mr. McCoy, of Jackson)

AN ACT to authorize and empower the board of education of
 Jackson county to use funds levied and collected under
 authority of a special levy election.

[Passed March 12, 1955; in effect from passage. Approved by the Governor.]

Section

1. Board of education of Jackson county authorized to expend funds collected under authority of a special levy election.

WHEREAS, Under authority of a special levy election held in the year one thousand nine hundred fifty, the board of education of Jackson county laid and collected a special levy for one year; and

WHEREAS, After the sum of fifty-eight thousand seven hundred thirty-eight dollars and eighty-five cents had been col-

lected under authority of said special levy, the special levy election was invalidated by the supreme court of appeals; and

WHEREAS, The board of education now has the sum of fifty-eight thousand seven hundred thirty-eight dollars and eighty-five cents collected under authority of said special levy; therefore,

Be it enacted by the Legislature of West Virginia:

- Section 1. *Board of Education of Jackson County Authorized to Expend Funds Collected Under Authority of a Special Levy Election.*—The board of education of Jackson county is hereby authorized and empowered to use and expend the sum of fifty-eight thousand seven hundred thirty-eight dollars and eighty-five cents, levied and collected under authority of special levy election held in the year one thousand nine hundred fifty, for the purpose of constructing two school bus garages and purchasing additional school buses.

CHAPTER 184

(Senate Bill No. 344—By Mr. Carey)

AN ACT to authorize the county court of Kanawha county to use unexpended funds and surplus in the general fund of said county, and surpluses in any funds of said county, for the purpose of creating a special building fund for the purchase of land, vacant or occupied, for the location of county buildings, to provide for parking facilities, and to expend for such purposes the funds so created.

[Passed March 4, 1955; in effect from passage. Approved by the Governor.]

Section

1. Kanawha county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Kanawha County Court Authorized to Create a Special Building Fund.*—The county court of Kanawha

3 county is hereby authorized and empowered from year
4 to year to use any unexpended funds of said county and
5 any surplus in any funds for the purpose of creating a
6 special building fund to purchase land, vacant or occu-
7 pied, for the location of county buildings, to construct
8 new county buildings, and to enlarge, remodel, and im-
9 prove county buildings, and provide parking facilities for
10 vehicles in the vicinity of county-owned buildings, and
11 the said county court is authorized to expend for such
12 purposes the fund so created.

CHAPTER 185

(House Bill No. 141—By Mr. Loop)

AN ACT to authorize and empower the county court of Kan-
awha county to create a board of supervisors for the pur-
pose of establishing, improving, equipping, developing,
operating, maintaining, administering and managing a
county home for the detention of juvenile delinquents or
children charged with delinquency.

[Passed February 14, 1955; in effect from passage. Approved by the Governor.]

Section

1. County court of Kanawha county authorized and empowered to create board of supervisors.
2. Name of home.
3. Board of supervisors; powers.
4. Members of board; qualification; appointment; term; compensation; disqualification.
5. Time and place of meetings; payment of expenses; powers to manage and control properties and operation of the Kanawha home for children; preparation of budget.
6. Appointment of personnel; compensation.
7. Home not to be a penal institution.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Court of Kanawha County Author-
2 ized and Empowered to Create Board of Supervisors.—*
3 The county court of Kanawha county is hereby authorized
4 and empowered, by order entered of record, to create a

5 board of supervisors for the purpose of establishing, im-
6 proving, equipping, developing, operating, maintaining,
7 administering and managing a county home for the deten-
8 tion of juvenile delinquents or children charged with de-
9 linquency.

2 Sec. 2. *Name of Home.*—The home created hereby shall
be designated the Kanawha Home for Children.

2 Sec. 3. *Board of Supervisors; Powers.*—The board of su-
pervisors, created by the county court authorized by this
3 act, shall be known as the board of supervisors of the
4 Kanawha home for children of said county. The board of
5 supervisors shall provide, maintain, administer and man-
6 age at the expense of Kanawha county, a suitable home or
7 place for the detention of the persons coming under the
8 jurisdiction and control of such court. The board of super-
9 visors may consult with the judge of the domestic rela-
10 tions court or the judge of such court that has jurisdiction
11 over juveniles.

2 Sec. 4. *Members of Board; Qualification; Appointment;*
Term; Compensation; Disqualification.—The board of su-
3 pervisors shall consist of five members, a majority of
4 whom shall constitute a quorum for the transaction of
5 business: *Provided, however,* That not more than three
6 members of the board shall be of any one political party:
7 *And provided further,* That each member of said board
8 shall be a bona fide resident of Kanawha county. The
9 term of board members shall be for five years and until
10 their successors have been appointed and qualified: *Pro-*
11 *vided, however,* That the county court, in appointing the
12 members of the first board, shall appoint one member for
13 a term of one year, one member for a term of two years,
14 one member for a term of three years, one member for a
15 term of four years, and one member for a term of five
16 years. Upon the expiration of such initial appointments,
17 the term of each new appointee shall be five years, except
18 that any person appointed to fill a vacancy occurring prior
19 to the expiration of the term for which his predecessor
20 was appointed shall be appointed only for the remainder
21 of such term. No board member shall be eligible for re-

22 appointment upon the expiration of one full term of five
23 years: *Provided, however,* That any former member may
24 be reappointed to another term after an expiration of
25 one year. The order of the county court shall fix the date
26 on which the term of such board member shall begin.
27 After appointment, the members of the board of super-
28 visors shall qualify by taking and filing with the clerk
29 of the county court of Kanawha county the oath pre-
30 scribed by law of public officials. At the first meeting
31 of the board of supervisors, and annually thereafter, it
32 shall organize by designating one of its members president
33 and one vice president and by appointing a secretary, who
34 may, but need not, be a member of the board. The board
35 of supervisors, except the secretary, shall serve without
36 compensation for their services, but shall be reimbursed
37 for any expenses incurred in the performance of their
38 duties. The board shall have the authority to fix the
39 salary of the secretary. Any member of the board who
40 shall cease to be a bona fide citizen of the county shall
41 thereby be disqualified as a member of the board and his
42 office shall become vacant. The board of supervisors shall
43 be responsible to the county court of Kanawha county
44 for the performance of its duties. Any member of the
45 board may be removed by the county court for incom-
46 petency, neglect of duty or malfeasance in office and after
47 an opportunity to be heard at a public hearing before the
48 county court. When a vacancy occurs on said board by
49 reason of death, change of residence, expiration of term
50 or for cause, the county court shall appoint a successor
51 or successors who shall fill out the unexpired term of such
52 member as hereinbefore provided.

Sec. 5. *Time and Place of Meetings; Payment of Ex-*
2 *penses; Powers to Manage and Control Properties and*
3 *Operation of the Kanawha Home for Children; Prepara-*
4 *tion of Budget.*—The board of supervisors shall have the
5 authority to fix the time and place of its meetings: *Pro-*
6 *vided, however,* That the board shall hold at least one
7 meeting every month. Such board of supervisors shall
8 provide for the employment and shall have the power to
9 remove and fix the compensation of such persons as in

10 its opinion may be necessary for the operation, maintenance,
11 nance, administration and management of the property
12 under its control, subject, however, to the appropriation
13 of money for such purpose by the county court. The
14 power and authority to manage and control shall include
15 the power to make rules and regulations and to enforce
16 such rules and regulations as may be necessary for the
17 management of said home. The board shall prepare and
18 submit to the county court an annual budget for the
19 operation of the home. No expenditure in excess of said
20 budget shall be made by the board of supervisors without
21 prior approval by the county court.

Sec. 6. *Appointment of Personnel; Compensation.*—It
2 shall be the duty of the board of supervisors to appoint a
3 superintendent to take charge of the home and children,
4 together with other adequate personnel, and generally to
5 maintain order and discipline among the children so com-
6 mitted into their keeping. The salary or compensation
7 to be paid to said superintendent and the personnel of said
8 home shall be fixed by the board of supervisors and cer-
9 tified to the county court as one of the expenses of main-
10 taining said home.

Sec. 7. *Home Not to Be a Penal Institution.*—The Ka-
2 nawha home for children shall not be in or connected with
3 any jail or prison and shall not be deemed to be or treated
4 as a penal institution. It shall be conducted or respected
5 as near like a home as possible: *Provided, however,* That
6 proper methods shall be taken to secure the custody of the
7 children pending their disposition by the judge of the
8 domestic relations court or the judge of such court that
9 has jurisdiction over juveniles.

CHAPTER 186

(Com. Sub. for House Bill No. 430—Originating in the House Committee on
Counties, Districts and Municipalities)

AN ACT to alter and reestablish that part of the division line
between Putnam and Kanawha counties from a point on
the east bank of the Kanawha River through the Town of

Nitro to State Route No. 35, so as to run with property lines and streets to avoid splitting property; to provide for the transfer of assessment of property adjacent to such changed line; to waive the fees for re-recording of legal instruments made necessary by such change; and to require the recording of a surveyor's plat of the reestablished line in the office of the county clerk of each county.

[Passed March 8, 1955; in effect from passage. Approved by the Governor.]

Section

1. Kanawha-Putnam county boundary line.

Be it enacted by the Legislature of West Virginia:

Section 1. *Kanawha-Putnam County Boundary Line.*—

- 2 The following described boundary line is and shall be the
- 3 boundary line between Kanawha County and Putnam
- 4 County from the Kanawha River through the Town of
- 5 Nitro to State Route No. 35, which said boundary line is
- 6 more particularly described as follows:
- 7 Beginning at a monument on the easterly bank of Ka-
- 8 anawha River, said monument being located 268 feet
- 9 down the river from the original Kanawha-Putnam
- 10 County original line and having a coordinate value of
- 11 North 3752.26, East 1613.83 in the original layout system
- 12 of Nitro Explosives Plant "C" by the United States Gov-
- 13 ernment, and also being the southwesterly corner of a
- 14 parcel of land owned by the West Virginia Water Service
- 15 Company; thence with the line of the said West Virginia
- 16 Water Service Company N 87-04 E 855 feet to a monument
- 17 on the easterly side of a 50 foot roadway, coordinate being
- 18 North 4136.25, East 2377.77; thence with the easterly line
- 19 of said roadway N 13-38 E 593.55 feet to a monument;
- 20 thence S 76-11 E 363.57 feet to a monument; thence N
- 21 74-12 E 313.71 feet to a monument; thence N 13-50 E
- 22 281.03 feet to a monument, a corner of the J. R. Wald 1.45
- 23 acre tract; thence with the line of Wald S 76-10 E 320.75
- 24 feet to a monument, another corner of Wald; having a
- 25 coordinate value of North 5315.11, East 3141.08; thence
- 26 N 87-21 E crossing the New York Central Railroad, and

27 First Avenue in Nitro 706.72 feet to a monument in the
28 easterly line of First Avenue at the center of the block
29 between 27th and 28th streets and having a coordinate
30 value of North 5629.36, East 3774.10; thence through the
31 said block S 66-15 E, crossing the center of Second Avenue
32 at 425.83 feet, and in all a total distance of 838.83 feet to
33 the northwesterly side of Third Avenue (formerly known
34 as the County Road or River Road); thence with the said
35 northwesterly line of Third Avenue a distance of 1741
36 feet to the line of lots 3629 and 3723, a common corner;
37 thence crossing Third Avenue S 21-00 E 43 feet to an
38 iron pipe set as the southwesterly corner of the R. G.
39 Saunders Addition, and in the line of the Pinegrove Land
40 Company; thence with the line of the R. G. Saunders
41 Addition and the Pinegrove Land Company S 78-54 E
42 1193.50 feet, N 86-42 E 694.25 feet to an iron pipe set as
43 the corner of Pinegrove Land Company, R. G. Saunders
44 Addition and the W. A. Cochran tract of land; thence
45 with the R. G. Saunders-Cochran line N 3-47 E 459.70 feet
46 to the southerly line of 40th street or Armour Creek Road,
47 which in Putnam County is West Virginia Secondary 25/2,
48 and in Kanawha County is West Virginia Secondary 35/1,
49 in all a total distance of 500 feet to the northerly line
50 of the said road; thence with the northerly line of the said
51 40th Street road a distance of 1800 feet more or less to the
52 line of the W. H. Putney tract which was conveyed to the
53 Pinegrove Land Company in a deed of conveyance as re-
54 corded in the Office of the Clerk of the County Court of
55 Kanawha County in Deed Book No. 555 at page 341, and
56 recorded also in Putnam County; thence with the Putney-
57 Cochran line N 25-00 E 1097.50 feet to a monument near
58 the original or present Kanawha-Putnam line, and also
59 being a corner to J. E. F. Williams and the Hulbert Heights
60 subdivision; thence with said Williams, Hulbert Heights
61 and Nitro Park, a subdivision N 27-30 E 1241 feet more or
62 less to an iron pipe set as a corner to Hulbert Heights,
63 Nitro Park, and a tract owned by Nicholas, Mary and
64 Matilda Casey; thence with the division line of said Casey
65 and Nitro Park S 55-30 E 1635 feet, N 47-15 E 650 feet
66 more or less to the westerly line of U. S. Route No. 35 and
67 with the said westerly line of U. S. Route No. 35 on the

68 arc of a curve having a radius of 1467.39 feet, a distance
 69 of 400 feet more or less to the original and present
 70 Kanawha-Putnam County line at the said Road.

71 Any part of the area of what is now Putnam County that
 72 is on the side of said Boundary Line now shown by the
 73 established line as Kanawha County is hereby transferred
 74 to Kanawha County and any part of Kanawha County
 75 now shown by the established line as in Putnam County
 76 is hereby transferred to Putnam County.

77 The assessors of each county shall cause a joint survey
 78 of the property adjoining such line and an assessment to
 79 be levied in the proper county beginning with the one
 80 thousand nine hundred fifty-six taxable year. Fees for
 81 the re-recording of legal instruments made necessary by
 82 reason of the change in boundary line herein made shall
 83 be waived by the county clerk of each county until Janu-
 84 ary one, one thousand nine hundred fifty-six. A surveyor's
 85 plat of the change in the line as specified and made by
 86 the provisions of this act shall be recorded in the office
 87 of the county clerk of each of said counties.

88 All acts or parts of acts inconsistent with the provisions
 89 of this act are hereby repealed.

CHAPTER 187

(House Bill No. 176—By Mr. Goshorn and Mr. Brotherton)

AN ACT to amend and reenact section nine, chapter one hundred nine, acts of the Legislature, regular session, one thousand nine hundred fifteen, as last amended by chapter one hundred sixty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to the salary of the judge of the court of common pleas of Kanawha county.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

9. Salary of judge of the court of common pleas of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred nine, acts of the Legislature, regular session, one thousand nine hundred fifteen, as last amended by chapter one hundred sixty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

- Section 9. *Salary of Judge of the Court of Common Pleas of Kanawha County.*—The said judge shall for his services receive eleven thousand dollars per annum, to be paid out of the county treasury of said county of Kanawha, from January first, one thousand nine hundred fifty-seven.

CHAPTER 188

(House Bill No. 56—By Mr. Goshorn)

AN ACT to amend and reenact section four, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, relating to the salary of the judge of the domestic relations court of Kanawha county.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred seventy-two, acts of the Legislature, regular session, one thousand nine hundred forty-seven, be amended and reenacted to read as follows:

- Section 4. *Salary.*—The judge of the domestic relations court of Kanawha county, West Virginia, shall from and after the first day of January, one thousand nine hundred fifty-seven, receive for his services a salary in the amount of eleven thousand dollars per annum, to be paid in

6 monthly installments out of the county treasury of Ka-
7 nawha county, out of funds of said treasury, in the man-
8 ner provided by statute. The salary of said judge shall
9 continue as provided in section four, chapter one hun-
10 dred seventy-two, acts of the Legislature, regular session,
11 one thousand nine hundred forty-seven, until the first day
12 of January, one thousand nine hundred fifty-seven.

CHAPTER 189

(Senate Bill No. 137—By Mr. Amos)

AN ACT to amend and reenact chapter one hundred forty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the authorization of the judge of the thirteenth judicial circuit of West Virginia to appoint a law assistant, fixing his qualifications and salary, and requiring the county court of Kanawha county to provide the manner of payment of such salary.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Law assistant for thirteenth judicial circuit; qualifications; salary.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred forty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

- Section 1. *Law Assistant for Thirteenth Judicial Circuit; Qualifications; Salary.*—On or after the effective date of this act, the judge of the circuit court of Kanawha county, West Virginia, (thirteenth judicial circuit), may appoint a law assistant, who shall be a person duly licensed to practice law in this state, and who shall discharge such secretarial duties as may be assigned to him by the judge; said law assistant, while acting as such, shall not engage in the practice of law but shall devote

10 his time to the duties of his office, and may be removed
11 and his successor appointed at any time by the judge.
12 Said law assistant shall receive a salary of seven thou-
13 sand dollars per year payable monthly, and the county
14 court of Kanawha county shall annually, at its levy
15 session, provide for the payment out of general county
16 funds the amount of said salary.

CHAPTER 190

(Senate Bill No. 167—By Mr. Jackson, of Lincoln)

AN ACT to amend and reenact section one, chapter fifty-six, acts of the Legislature of West Virginia, regular session, one thousand eight hundred sixty-nine, relating to the county of Lincoln and defining the territorial boundaries thereof.

[Passed February 17, 1955; in effect from passage. Approved by the Governor.]

Section

1. Boundaries and territory of Lincoln county defined and established.

WHEREAS, There has been some misunderstanding and errors concerning the boundary lines of the county of Lincoln due to oversights in former acts of the Legislature of West Virginia with reference to said boundary lines, and the Legislature now desiring to clarify the territory and boundaries of the county of Lincoln and to establish the true boundary lines thereof as have heretofore been and are now accepted by the citizens of said county and the counties adjacent thereto; therefore

Be it enacted by the Legislature of West Virginia:

That section one, chapter fifty-six, acts of the Legislature of West Virginia, regular session, one thousand eight hundred sixty-nine, be amended and reenacted to read as follows:

- Section 1. *Boundaries and Territory of Lincoln County*
2 *Defined and Established.*—All of that former territory of

3 Cabell, Boone, Kanawha and Logan counties within the
4 boundary of a line beginning on the Cabell county line
5 where it crosses Mud river below the mouth of the Trace
6 Fork of said river; thence with the dividing ridge be-
7 tween Bear creek, Trace creek and Tyler creek to the
8 mouth of Bear creek on Guyandotte river; thence down
9 Guyandotte river to the mouth of Madison creek; thence
10 crossing said creek and up the ridge between Madison
11 creek and the waters of Long Branch, to the Wayne
12 county line at the head of Racoon creek, a branch of the
13 Beech Fork of Twelve Pole creek; thence along said line
14 to where it crosses the West Fork of Twelve Pole, the
15 corner of Mingo county; thence eastward along the Mingo
16 county line to the northwest corner of Logan county;
17 thence with the Logan county line to the Boone county
18 line, at the head of Big Ugly creek; thence with said line
19 to the Kanawha county line, at the mouth of Dick's creek
20 on Little Coal river; thence down Little Coal river to
21 Big Coal river, but to run so as to leave the land known
22 as the Allen M. Smith farm in Kanawha county; thence
23 down Big Coal river to the mouth of Island creek; thence
24 due west with the Kanawha county line to the main di-
25 viding ridge between Falls creek of Big Coal river, and
26 the Trace Fork of Mud; thence northward with said ridge
27 to the line of Putnam county and with said line to the
28 Cabell county line, at the head of Coon creek of the Trace
29 Fork of Mud; thence westward with the Cabell county
30 line to the place of beginning, shall be and remain the
31 county of Lincoln.

32 All acts and parts of acts which conflict with this act
33 are hereby repealed to the extent of such conflict.

CHAPTER 191

(House Bill No. 100—By Mr. Watson)

AN ACT to amend and reenact section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as amended by chapter twenty, acts of the Legislature, extraordinary session, one thousand nine

hundred thirty-two, and as amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and as last amended and reenacted by section four, chapter one hundred fifty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, all relative to the salary of the judge of the criminal court of Marion county.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of Marion county criminal court judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended and reenacted by section four, chapter one hundred fifty, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

Section 4. *Salary of Marion County Criminal Court*

2 *Judge.*—The judge of said criminal court shall receive
3 for his services a salary of eight thousand four hundred
4 dollars per year, said amount to be fixed and paid from
5 year to year, in equal monthly installments, by the county
6 court of said county, out of the funds of said county, as
7 provided by statute.

CHAPTER 192

(Com. Sub. for House Bill No. 21—Originating in the House Committee on Claims)

AN ACT to compensate Janice Heston, infant, by Charles Heston, her next friend, for personal injuries and to reimburse her for medical and hospital expenses incurred as a result of the collapse of the Mudlick schoolhouse floor, Winfield district, Marion county, West Virginia.

[Passed March 7, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Marion county board of education authorized to pay claim of Janice Heston, infant.
2. Finding of moral obligation.

WHEREAS, On September twenty-fifth, one thousand nine hundred fifty-one, Janice Heston, infant, of Hammond, Marion county, West Virginia, who was a pupil at the Mudlick school, Winfield district, Marion county, West Virginia, attended school on said date; and

WHEREAS, Said school was under the jurisdiction, control and supervision of the board of education of Marion county, West Virginia, for the convenience of said Janice Heston and other school children; and

WHEREAS, While walking in the schoolhouse during school hours the floor of said schoolhouse collapsed by reason of the negligence of said board of education, its agents and employees, in improperly repairing and maintaining said floors and the said Janice Heston fell through said floor and was hurled violently to the ground; and

WHEREAS, As a result of said fall, the said Janice Heston suffered bruises, abrasions, cuts, contusions, and was hospitalized and necessarily incurred certain medical, hospital and other expenses; and

WHEREAS, Janice Heston was in no sense at fault in the premises; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Marion County Board of Education Authorized to Pay Claim of Janice Heston, Infant.*—The board of education of Marion county is hereby authorized, as in its discretion it may see fit, to pay the sum of seventy-eight dollars and twenty-five cents to Janice Heston by Charles Heston, her next friend, to compensate her for personal injuries suffered, and to reimburse her for medical and hospital expenses incurred as a result of the collapse of the schoolhouse floor of Mudlick school, Winfield district, Marion county, West Virginia, under the jurisdiction of the board of education, Marion county, West Virginia.

- Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature based upon its conclusion of fact, that the appropriation made in section one hereof is for the payment of a moral obligation of the state of West Virginia.

CHAPTER 193

(Senate Bill No. 318—By Mr. Jones)

AN ACT authorizing the county court of Mason county to set aside in a special fund for road purposes any surpluses in general county funds after the expiration of the authority granted to the county court with respect to such surpluses by chapter one hundred ninety-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Mason county road fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Mason County Road Fund.*—After the expiration of the five-year period specified in chapter one hundred ninety-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three, relating to the disposition by the county court of Mason county of surpluses in the general county fund, the county court of Mason county shall have authority during the following five-year period to pay any surpluses in the general county fund into a special county road fund, and shall pay into such special county road fund any balance remaining in the special county fund created by the special act of the Legislature mentioned above. All moneys in the special road fund may, with the approval of the state road commission, be expended by the county court of Mason county for the improvement of secondary roads in Mason county.

CHAPTER 194

(Senate Bill No. 310—By Mr. Jones)

AN ACT authorizing the county court of Mason county to expend funds for the improvement, maintenance and equipment of a Four-H and Youth camp for educational and recreational purposes in Mason county, and creating a board for the control, management and supervision thereof.

[Passed February 25, 1955; in effect from passage. Approved by the Governor.]

Section

1. Mason county court authorized to expend funds for four-H and youth camp.
2. Mason county four-H and youth camp board; appointment and duties.
3. Organization meeting of the board.
4. Employees of the board; expenditures.
5. Estimates of expenditures; limitations.
6. Additional funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Mason County Court Authorized to Expend Funds for Four-H and Youth Camp.*—The county court of Mason county shall have authority to make provision in its budget and to expend county funds, on lands owned or hereafter acquired by the county court, for the improvement, maintenance and equipment of a Four-H and Youth camp to be used for educational and recreational purposes.

Sec. 2. *Mason County Four-H and Youth Camp Board; Appointment and Duties.*—There is hereby created a board of Four-H and Youth camp commissioners to be known as the "Mason County Four-H and Youth Camp Board." The board shall consist of five members and shall be a body corporate. The members of the board shall be appointed by the county court of Mason county as hereinafter provided. The board shall have control, management and supervision of the camp and its use.

All members of the board shall be residents and qualified voters of Mason county and not more than two shall

12 be appointed or serve at one time from the same magis-
13 terial district. Two of the original members shall be
14 appointed for a term of two years, two for a term of four
15 years, and one for a term of six years. Thereafter all ap-
16 pointments shall be for a term of six years, except that
17 appointments to fill a vacancy caused by the death, resig-
18 nation or removal of a member shall be for the unex-
19 pired term.

20 Members of the Four-H and Youth camp board shall be
21 appointed by the county court, upon nomination by a
22 nominating committee, consisting of five members, as
23 follows: One member of the committee shall be a person
24 selected by the leaders of the boys' and girls' Four-H
25 organization of Mason county, one member shall be
26 selected by the Mason county Farm Bureau, one member
27 shall be selected by the Farm Women's Council and the
28 Association of Farm Bureau Women, one member shall
29 be selected by the leaders of the scouting organizations of
30 Mason county, and one member shall be selected by the
31 county court of Mason county. If any organization au-
32 thorized to appoint a member of the nominating
33 committee shall cease to exist, or shall fail to exer-
34 cise its privilege of appointment, such nominating com-
35 mittee may still function as long as at least three
36 members thereof are appointed and participate. Selec-
37 tions to fill vacancies in membership on the nominating
38 committee shall be made in the same manner. No person
39 shall be appointed to fill any vacancy on the Four-H and
40 Youth camp board until after he shall have been nomi-
41 nated by the nominating committee as hereinbefore pro-
42 vided.

43 Before serving as a member of the "Mason County
44 Four-H and Youth Camp Board" each member shall take
45 and subscribe an oath that he will faithfully perform
46 his duties as a member of the board. Such oath shall be
47 administered by the clerk of the county court of Mason
48 county.

2 Sec. 3. *Organization Meeting of the Board.*—The first
3 meeting of the board shall be held at the time and place
to be designated by the county court, within thirty days

4 after the effective date of this act. Thereafter, regular
5 meetings shall be held as prescribed by rules adopted by
6 the board. Special meetings may be held at any time as
7 prescribed by such rules, or when called by the president
8 or any three members of the board. The board shall
9 elect from its members a president and a secretary. The
10 president shall preside as chairman of the meetings and
11 shall not vote upon any matter except in case of a tie.
12 A majority of the members shall constitute a quorum for
13 the transaction of business.

14 The secretary shall keep, or cause to be kept, a record
15 of all receipts and expenditures of the board. Such record
16 shall be submitted to the county court at least every six
17 months, or more often if required by the county court.

Sec. 4. *Employees of the Board; Expenditures.*—The
2 Four-H and Youth camp board shall employ only such per-
3 sons as may be approved by the county court. No expendi-
4 ture shall be made for any purposes under this act, ex-
5 cept upon written recommendation of the board.

Sec. 5. *Estimates of Expenditures; Limitations.*—The
2 Four-H and Youth camp board may each year, prior to the
3 levy term of county court, submit to the court a detailed
4 estimate of the amount needed for any of the purposes
5 enumerated in section one of this act. In making its
6 levy estimate, the court may provide for all, or any por-
7 tion, of the funds needed by the board for such purposes.
8 The court may from time to time allocate and spend for
9 such purposes any funds that may be available and not
10 required for other purposes for which such funds may
11 have been levied or collected. The county court shall
12 not expend for the purposes of this act an amount in
13 excess of ten thousand dollars per year for the first three
14 years, nor more than five thousand dollars per year
15 thereafter.

Sec. 6. *Additional Funds.*—The county court of Mason
2 county may, from time to time, authorize the Four-H and
3 Youth camp board to expend moneys for the purposes of
4 this act, in addition to county funds, but before any such
5 expenditures are authorized to be made by the board,

- 6 the limit of such expenditures shall be fixed by the court.
7 Neither the court nor the county shall, in any event, be
8 liable for any expenditures made or indebtedness in-
9 curred by the board in excess of the amounts authorized.
10 The board is authorized to solicit and receive donations
11 and gifts for use and maintenance of the camp.

CHAPTER 195

(House Bill No. 403—By Mr. Mills)

AN ACT to authorize the county court of McDowell county to use unexpended funds and surplus in the general fund of said county, and surpluses in any special fund of said county, for the purpose of creating a special building fund for building an addition to, alteration or repair of, the court house and the county jail, and to expend for such purposes the fund created.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. McDowell county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *McDowell County Court Authorized to Create a Special Building Fund.*—The county court of McDowell county is hereby authorized and empowered from year to year to use any unexpended funds of said county, and any surpluses in the general county fund, for the purpose of creating a special building fund for building an addition to, alterations or repairs of, the court house and the county jail, and said county court is authorized to expend for such purposes the fund so created.

Sec. 2. *Retransfer of Funds.*—In cases of emergency, the county court of McDowell county by unanimous vote thereof, shall be empowered to retransfer funds from the special building fund herein created to the general fund.

CHAPTER 196

(Senate Bill No. 317—By Mr. Mitchell)

AN ACT to amend and reenact section nine, chapter five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred nineteen, as amended by chapter one hundred seventy, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to the salary of the judge of the criminal court of McDowell county.

[Passed March 4, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

9. Salary of McDowell county criminal judge.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as amended by chapter one hundred seventy, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 9. *Salary of McDowell County Criminal Judge.*

- 2 —The said criminal judge shall, for his services, receive
- 3 seven thousand two hundred dollars per annum, to be
- 4 paid out of the county treasury.

CHAPTER 197

(House Bill No. 16—By Mr. Richardson, of Mercer)

AN ACT to amend and reenact section three, chapter eighteen, acts of the Legislature of West Virginia, regular session, one thousand eight hundred ninety-three, relating to election, time of electing, term of office, qualifications and removal from office of the judge of the criminal court of Mercer county; and the filling of vacancies in said office.

[Passed February 9, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

3. Election; qualifications; term of judge; removal from office; filling vacancies.

Be it enacted by the Legislature of West Virginia:

That section three, chapter eighteen, acts of the Legislature of West Virginia, regular session, one thousand eight hundred ninety-three, be amended and reenacted to read as follows:

Section 3. *Election; Qualifications; Term of Judge; Removal from Office; Filling Vacancies.*—There shall, at the general election to be held in this state on the Tuesday next after the first Monday in November in the year one thousand nine hundred sixty, and every eight years thereafter, be elected by the legal voters of Mercer county, West Virginia, a judge of the criminal court of said county, who shall be a resident member of the bar of said county, and shall be disqualified from practicing law in all the courts of this state during his continuance in office, who shall preside over said court for the term of eight years from the first day of January succeeding said election, and shall be, except as to jurisdiction, subject to the laws in force governing circuit judges. The judge of said court may be removed from office for the same reasons and in the same manner as judges of the circuit courts. And if from any cause the office shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of judge of the circuit court. The judge of said court elected, at the general election held in this state on the Tuesday next after the first Monday in November in the year one thousand nine hundred fifty-four, to preside over said court for the term of six years from the first day of January succeeding his election, shall hold office until the first day of January, one thousand nine hundred sixty-one, and until his successor is elected and qualified.

CHAPTER 198

(House Bill No. 317—By Mr. Dawson)

AN ACT to authorize the county court of Morgan county to use unexpended funds and surplus in the general fund of said county, and surpluses in any special funds of said county, for the purpose of creating a special building fund for building a residence for the sheriff of said county, and to expend for such purposes the fund created.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Morgan county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Morgan County Court Authorized to Create a Special Building Fund.*—The county court of Morgan county is hereby authorized and empowered from year to year to use any unexpended funds and surpluses in the general county fund, and any surpluses in any special fund of said county, for the purpose of creating a special building fund for building a residence for the sheriff of said county, and to expend for such purposes the fund created.

Sec. 2. *Retransfer of Funds.*—In cases of emergency, the county court of Morgan county, by unanimous vote thereof, shall be empowered to retransfer funds from the special building fund herein created to the general fund.

CHAPTER 199

(House Bill No. 476—By Mr. Crislip)

AN ACT to authorize and empower the county court of Nicholas county to transfer the unexpended balances in the county dog tax fund to the general county fund of said county.

[Passed March 3, 1955; in effect from passage. Approved by the Governor.]

Section

1. Nicholas county court authorized to transfer dog tax fund.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Nicholas County Court Authorized to Transfer Dog Tax Fund.*—The county court of Nicholas county is hereby authorized and empowered to transfer the unexpended balances now in the dog tax fund of said county, remaining and not needed for the payment and satisfaction of all claims and expenses against the said dog tax fund, to the general county fund of said county.

CHAPTER 200

(House Bill No. 151—By Mr. Adams)

AN ACT to authorize the board of commissioners of the county of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and a county building, providing for the leasing of temporary quarters during the construction of any county building, and for the construction, equipment and maintenance of any county building in conjunction with the city of Wheeling.

[Passed February 22, 1955; in effect from passage. Approved by the Governor.]

Section

1. Board of commissioners of the county of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and a county building.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Board of Commissioners of the County of Ohio Authorized to Lay an Additional Levy, and to use Proceeds Therefrom for Construction and Maintenance of an Airport and a County Building.*—For a period of five years commencing with the fiscal year one thousand nine

6 hundred fifty-five—one thousand nine hundred fifty-six,
 7 in addition to the levies heretofore authorized to be laid
 8 by county courts for general county current expense, and
 9 for the payment of interest and sinking fund require-
 10 ments on bonded indebtedness incurred subsequent to
 11 the passage of the tax levy limitation amendment, the
 12 board of commissioners of the county of Ohio is hereby
 13 authorized and empowered to lay such additional levy
 14 as may not be required for bonded indebtedness, on all of
 15 the property in Ohio county, but not to exceed four and
 16 nine-tenths cents on each one hundred dollars' assessed
 17 valuation on class I property; nine and eight-tenths cents
 18 on class II property; and nineteen and six-tenths cents on
 19 classes III and IV property. The proceeds of said levy
 20 shall be placed in a separate fund designated "public
 21 improvement fund", to be used solely for the construction,
 22 equipment and maintenance of an airport and a county
 23 building, and for the leasing of temporary quarters for a
 24 county building during any construction period. Any such
 25 county building may be constructed, equipped and main-
 26 tained in conjunction with the city of Wheeling.

Sec. 2. *Inconsistent Acts Repealed.*—All acts and parts
 2 of acts inconsistent or in conflict herewith, insofar as the
 3 same may be applicable to the county of Ohio, or the said
 4 board of commissioners of the county of Ohio, are hereby
 5 repealed.

CHAPTER 201

(House Bill No. 307—By Mr. Powell)

AN ACT to authorize and empower the county court of Pleas-
 ants county to use unexpended funds and surpluses in any
 fund of said county for the purpose of creating a special
 county building fund, and to use such fund for the con-
 struction of new county buildings and/or for enlarging,
 remodeling and improving present county buildings.

[Passed February 22, 1955; in effect ninety days from passage. Approved by the
 Governor.]

Section

1. Special building fund for Pleasants county.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Special Building Fund for Pleasants County.*

- 2 —The county court of Pleasants county is hereby author-
- 3 ized and empowered from year to year to use unexpended
- 4 funds and surpluses in the general county fund or any
- 5 other fund of said county for the purpose of creating a
- 6 special county building fund for the construction of new
- 7 county buildings and/or for enlarging, improving, re-
- 8 modeling and altering present county buildings. The said
- 9 county court is also authorized to expend for such pur-
- 10 poses the fund so created.

Sec. 2. *Retransfer of Funds.*—In case of emergency, the

- 2 county court of Pleasants county, by unanimous vote
- 3 thereof, is hereby empowered to retransfer funds from
- 4 the special building fund herein created to the general
- 5 fund of said county.

CHAPTER 202

(House Bill No. 275—By Mr. Whetsell)

AN ACT to authorize the county court of Preston county to use unexpended funds and surplus in the general fund of said county, and surpluses in special funds of said county, for the purpose of creating a special maintenance fund for the operation and maintenance of the Preston Memorial hospital, and to transfer said fund to the board of trustees of the Preston Memorial hospital to expend for such purposes the fund created.

[Passed February 22, 1955; in effect from passage. Approved by the Governor.]

Section

1. Preston county court authorized to create a special maintenance fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Preston County Court Authorized to Create a Special Maintenance Fund.*—The county court of Preston county is hereby authorized and empowered to use the sum of one thousand eight hundred fifty-four dollars and forty-seven cents, in the Kingwood district road bond interest and sinking fund; the sum of three thousand seven hundred seven dollars and eighty-three cents in the Portland district road bond interest and sinking fund; the sum of one thousand eight hundred sixty-three dollars and nine cents in the excess levy fund, all of which funds aggregate seven thousand four hundred twenty-five dollars and thirty-nine cents; and, any unexpended funds and surplus in the general county fund at the end of the fiscal year of one thousand nine hundred fifty-four—one thousand nine hundred fifty-five, for the purpose of creating a special maintenance fund for the operation and maintenance of the Preston Memorial hospital, and said county court is authorized to transfer said funds to the board of trustees of the Preston Memorial hospital to expend for such purposes the fund so created.

CHAPTER 203

(Senate Bill No. 324—By Mr. Jones)

AN ACT authorizing the board of education of the county of Putnam to reimburse Lloyd Cain for personal injuries, and for medical, hospital, and other necessary expenses incurred as a result of the negligence of said board of education of Putnam county, and to declare a moral obligation to exist on the part of said board of education in favor of said Lloyd Cain.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Authorization for reimbursement.
2. Finding of moral obligation.

WHEREAS, On the twenty-third day of October, one thousand nine hundred fifty-four, Lloyd Cain attended a football game played between Buffalo high school of Putnam county, West Virginia, and Hamlin high school of Lincoln county, West Virginia; and

WHEREAS, While observing the said game at the Buffalo high school football field in Buffalo, Putnam county, West Virginia, as a spectator, certain football players of the Buffalo high school football team and the Hamlin high school football team ran off the playing field and into and on the said Lloyd Cain, who as a spectator was standing near the playing field with other spectators where he had a right to be and where he would have ordinarily been free from danger, and seriously injured the said Lloyd Cain fracturing his right hip and leg; and

WHEREAS, The said Lloyd Cain suffered great physical pain and mental anguish, was hospitalized and was confined to bed for a long period of time, and necessarily incurred certain medical, hospital and other expenses and lost approximately six months from his employment at a salary of three hundred twenty-five dollars per month; and

WHEREAS, Said Lloyd Cain was in no sense at fault in the premises; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorization for Reimbursement.*—The board
2 of education of the county of Putnam, West Virginia, is
3 hereby authorized as in its discretion it may see fit, to
4 reimburse Lloyd Cain for his personal injuries and for
5 medical, hospital and other necessary expenses suffered
6 by him as a result of an accident whereby he was run
7 into and pinned beneath certain football players of the
8 Buffalo high school and Hamlin high school teams, at the
9 Buffalo high school football field, Buffalo, Putnam county,
10 West Virginia, on October twenty-third, one thousand
11 nine hundred fifty-four, which said players ran off the
12 playing field and into the area occupied by spectators,
13 including the said Lloyd Cain, thereby seriously injuring
14 the said Lloyd Cain, and which said accident and injury
15 was caused by the negligence of said county board of
16 education for the protection of spectators at such athletic

17 events: *Provided, however,* That the authorization hereby
18 granted to said board of education of the county of Put-
19 nam shall not exceed the sum of two thousand five hun-
20 dred dollars.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-
2 clared to be the finding of the Legislature that a moral
3 obligation on the part of the board of education of the
4 county of Putnam exists in favor of said Lloyd Cain.

CHAPTER 204

(House Bill No. 350—By Mr. Smith, of Putnam)

AN ACT to authorize the county court of Putnam county to use unexpended funds and surplus in the general fund of said county for the purpose of creating a special building fund for building an addition to, alteration or repair of, the courthouse, and to expend for such purposes the fund created.

[Passed March 12, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Putnam county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Putnam County Court Authorized to Create a Special Building Fund.*—The county court of Putnam
2 county is hereby authorized and empowered from year
3 to year to use any unexpended funds of said county, and
4 any surpluses in the general county fund, for the purpose
5 of creating a special building fund for building an addition
6 to, alteration or repair of, the courthouse, and to expend
7 for such purposes the fund created.

Sec. 2. *Retransfer of Funds.*—In cases of emergency,
2 the county court of Putnam county, by unanimous vote
3 thereof, shall be empowered to retransfer funds from the
4 special building fund herein created to the general fund.

CHAPTER 205

(Senate Bill No. 36—By Mr. Nuckols)

AN ACT to amend and reenact section nine, chapter one hundred ninety-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-three, fixing the salary of the judge of the criminal court of Raleigh county.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

9. Salary of the judge of the criminal court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred ninety-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 9. *Salary of the Judge of the Criminal Court of Raleigh County.*—The judge of the criminal court of Raleigh county, West Virginia, shall from and after the first day of January, one thousand nine hundred fifty-seven, receive for his services a salary in the amount of eight thousand five hundred dollars per annum, to be paid in monthly installments out of the county treasury of Raleigh county, out of funds of said treasury, in the manner provided by statute.

CHAPTER 206

(House Bill No. 455—By Mr. Hersman)

AN ACT to authorize the county court of Roane county to use unexpended funds and surplus in general fund of said county, and surpluses in any special fund of said county, for the purpose of creating a special building fund for

building an addition to, alteration or repair of, the courthouse and the county jail, and to expend for such purposes the fund so created.

[Passed March 12, 1955; in effect from passage. Approved by the Governor.]

Section

1. Roane county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Roane County Court Authorized to Create a Special Building Fund.*—The county court of Roane county is hereby authorized and empowered from year to year to use any unexpended funds of said county, or any funds arising from the sale of any property owned by said county court, and any surpluses in the general county fund, for the purpose of creating a special building fund for building an addition to, alterations or repairs, of the courthouse and the county jail, and said county court is authorized to expend for such purposes the fund so created.

Sec. 2. *Retransfer of Funds.*—In cases of emergency, the county court of Roane county, by unanimous vote thereof, shall be empowered to retransfer funds from the special building fund herein created to the general fund.

CHAPTER 207

(Senate Bill No. 213—By Mr. McKown)

AN ACT to authorize and empower the county court of Wayne county to set up a courthouse and jail building fund from surpluses thus far accumulated by the said county court and now retained in the general county fund, and also from surpluses hereinafter accumulated in the general county fund; and to transfer from the general county fund any money therein thus far accumulated, or that may hereafter from year to year so accumulate over and above

the money needed for the normal operation of said county, which said money so set up in said special fund may be used for enlarging, remodeling and improving the present courthouse and jail or for the construction of a new courthouse and jail on the present or another site and as well to purchase additional land from individuals, associations, or corporations, incident to the improvement of said courthouse and jail facilities.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Wayne county courthouse and jail building fund; purchase of additional land.

Be it enacted by the Legislature of West Virginia:

Section 1. Wayne County Courthouse and Jail Building

- 2 *Fund; Purchase of Additional Land.*—The county court
3 of Wayne county is hereby authorized and empowered to
4 transfer from its general county fund all money or moneys
5 therein and theretofore accumulated and held in said
6 fund for building purposes, into a special courthouse and
7 jail building account, and is further authorized and em-
8 powered from year to year to transfer from its general
9 county fund into said special fund all surpluses that may
10 accumulate in said general fund, and that said money or
11 moneys so accumulated in said special fund may be ex-
12 pended for the enlarging, remodeling and improving of
13 the present courthouse and jail, or for the construction
14 of a new one on the present courthouse site or on other
15 presently owned county sites and that a portion of said
16 fund may be used for the purpose of acquiring additional
17 real estate, either by purchase or through eminent do-
18 main, incident to presently owned county lots that may
19 be needed for the purpose of enlarging the same sufficient
20 to accommodate the construction of new courthouse and
21 jail facilities.

CHAPTER 208

(House Bill No. 97—By Mr. Schupbach)

AN ACT to authorize the county court of Wetzel county to use unexpended funds and surplus in the general fund of said county, and surpluses in any special fund of said county, for the purpose of creating a special building fund for building an addition to, alteration or repair of, the courthouse and the county jail, and to expend for such purposes the fund created.

[Passed February 9, 1955; in effect from passage. Approved by the Governor.]

Section

1. Wetzel county court authorized to create a special building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wetzel County Court Authorized to Create a Special Building Fund.*—The county court of Wetzel county is hereby authorized and empowered from year to year to use any unexpended funds of said county, and any surpluses in the general county fund, for the purpose of creating a special building fund for building an addition to, alterations or repairs, of the courthouse and the county jail, and said county court is authorized to expend for such purposes the fund so created.

Sec. 2. *Retransfer of Funds.*—In cases of emergency, the county court of Wetzel county, by unanimous vote thereof, shall be empowered to retransfer funds from the special building fund herein created to the general fund.

○

CHAPTER 209

(Senate Bill No. 236—By Mr. Swearingen)

AN ACT to authorize the county court of Wood county to use unexpended funds and surplus in the general fund of

said county, and surpluses in the dog fund of said county, for the purpose of creating a special building fund for the purpose of purchasing land for the location of county buildings, for the construction of new county buildings, and for enlarging, remodeling and improving county buildings, and to expend for such purposes the funds so created.

[Passed February 25, 1955; in effect ninety days from passage. Approved by the Governor.]

Section

1. Wood county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wood County Court Authorized to Create a Special Building Fund.* — The county court of Wood county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surpluses in the dog fund for the purpose of creating a special building fund to purchase land for the location of county buildings, to construct new county buildings, and to enlarge, remodel, and improve county buildings; and the said county court is authorized to expend for such purposes the funds so created.

CHAPTER 210

(House Bill No. 316—By Mr. England)

AN ACT to authorize the county court of Wyoming county to use unexpended funds and surpluses in the general fund of said county, and surpluses in any special fund of said county, for the purpose of creating a special fund in order to construct, remodel and improve county buildings.

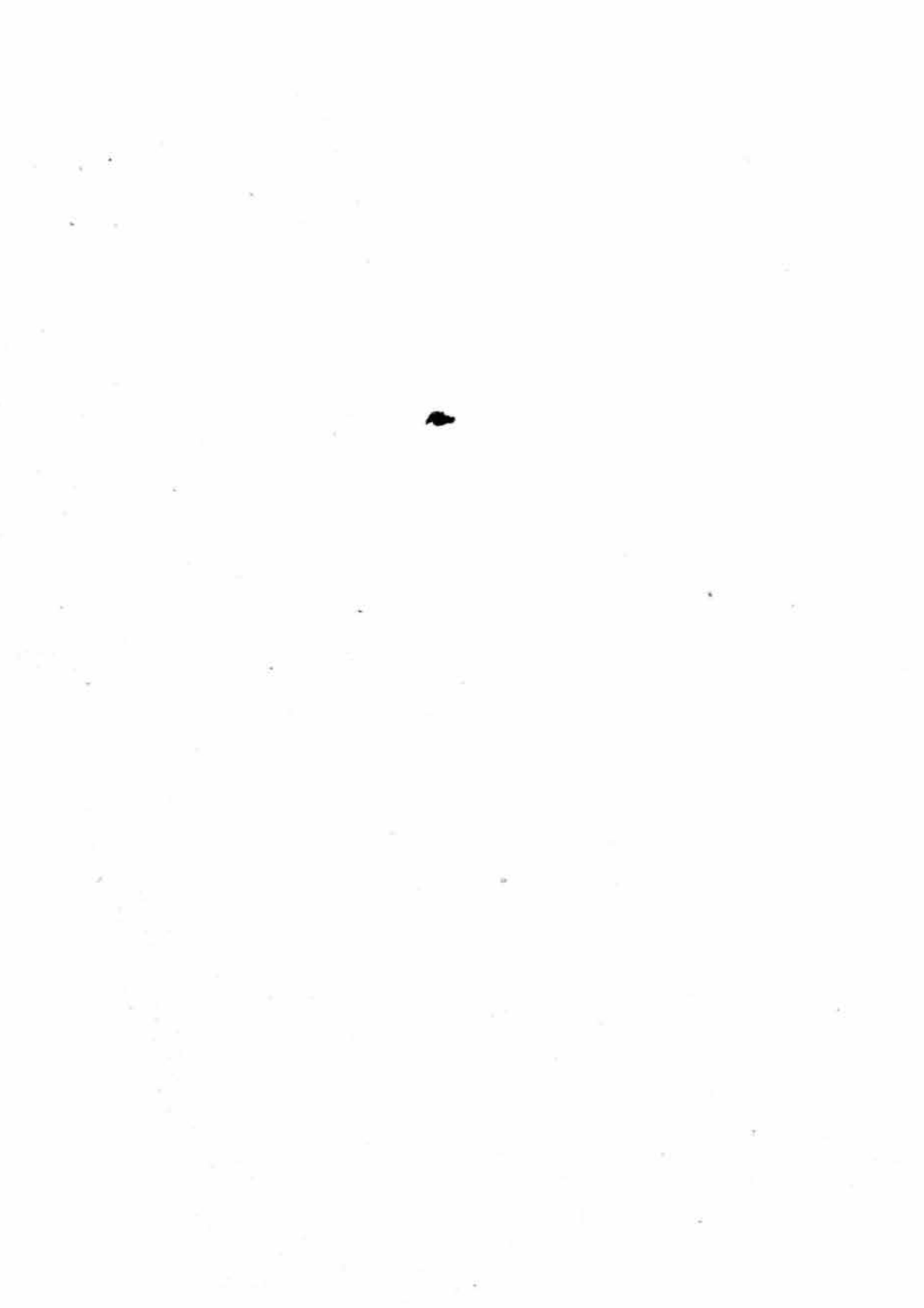
[Passed March 5, 1955; in effect from passage. Approved by the Governor.]

Section

1. Wyoming county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wyoming County Court Authorized to Create a Special Building Fund.*—The county court of Wyoming county is hereby authorized and empowered from year to year to use any unexpended funds of said county, and any surpluses in the general county fund and dog fund, or any other fund of said county not needed in the orderly operation of said fund, or funds, for the purpose of purchasing land for the location of county buildings, for the construction of new county buildings and for enlarging, remodeling and improving existing county buildings. The said county court is hereby authorized to expend for such purposes the funds so created.



RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature and the two Houses thereof during the session are included in this volume. Resolutions dealing with organization of the Legislature and other routine business, upon which action has been completed, will be found in the Journals of the Session.)

HOUSE CONCURRENT RESOLUTION NO. 3

(By Mr. Chilton)

[Adopted February 1, 1955.]

Creating a commission for the celebration of the one hundredth anniversary of the State of West Virginia.

WHEREAS, West Virginia is one of the later states to be admitted to the Union—only thirteen states having been added since its admission—and in some sections of the nation has too long been “the land overlooked”, with citizens of other states often failing to remember that West Virginia enjoys full statehood and is not a part of the Commonwealth of Virginia; and

WHEREAS, The State of West Virginia, born of travails of the Civil War, became a state on June 20, 1863, and will therefore reach its 100th anniversary in eight years; and

WHEREAS, It is the sense of the Legislature that it is meet that a centennial celebration be organized and held during the summer of 1963, the purpose of which shall be to point up progress during a century of statehood, and to bring favorable attention to the State of West Virginia, its people, its resources, its potential for the future; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That there is hereby established a commission to be known as the “West Virginia Centennial Commission,” and to be composed of fifteen commissioners, as follows:

The Governor of West Virginia, the President of the State Senate, the Speaker of the House of Delegates and the director

of the West Virginia Industrial and Publicity Commission, *ex officio*; five persons to be appointed by the Governor, three Senators to be appointed by the President of the Senate, and three Delegates to be appointed by the Speaker of the House of Delegates.

The members of the commission shall serve without compensation, and shall select a chairman, a vice chairman and a secretary from among their number.

It shall be the duty of the commission to plan for the proper observance of West Virginia's first 100 years of statehood, through an exposition or expositions of its varied resources and products as well as its ethical and cultural achievements, to be held at some point or points where such exposition can best be accommodated and also enjoy easy accessibility; and to plan such other appropriate methods for the observance of this anniversary as the commission shall deem suitable and proper.

It shall also be the duty of the commission to cooperate with historical and other groups in the purposes and plans of said celebration; and to give due and proper consideration to plans that may be submitted to them; to advise with and encourage local and general celebrations by schools, churches, patriotic organizations, historical societies, business, labor and civic organizations, and to do any and all things proper and practical to make such expositions and celebrations a pronounced success.

A vacancy on the commission shall be filled by the official authorized to make the original appointment.

HOUSE CONCURRENT RESOLUTION NO. 15

(By Mr. Adams and Mr. McCoy, of Jackson)

[Adopted February 18, 1955.]

Directing the State Road Commissioner to name the new bridge spanning the Kanawha River at Winfield, Putnam County, West Virginia, the "Memorial Bridge," and to erect, establish, and maintain on said bridge a bronze plaque memorializing the War Veterans of Putnam County.

Resolved by the House of Delegates, the Senate concurring therein:

That the State Road Commissioner is hereby directed to name the new bridge spanning the Kanawha River at Winfield, Putnam County, West Virginia, the "Memorial Bridge"; and, be it

Further Resolved, That the State Road Commissioner do erect, establish, and maintain on said bridge a bronze plaque memorializing the War Veterans of Putnam County.

HOUSE CONCURRENT RESOLUTION NO. 19

(By Mr. Whaley and Mr. Brotherton)

[Adopted March 3, 1955.]

Memorializing the Congress of the United States to establish a national monument on Blennerhassett Island.

WHEREAS, Blennerhassett Island in the Ohio river near Parkersburg, West Virginia, is a place of historic interest in that it played an important part in the life and intrigues of Aaron Burr, former vice president of the United States, and is a place of scenic beauty; and

WHEREAS, The island is now in private hands with little or nothing being done to preserve it as a permanent place of historic interest for future generations of Americans, but is in danger of losing its identity as a historic site; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Congress of the United States is hereby requested to give favorable consideration to the passage of legislation that would establish Blennerhassett Island as a national monument, and which would include the reconstruction of the Blennerhassett mansion and build an adequate approach to the island by bridge or ferry; and, be it

Further Resolved, That the Secretary of State is hereby directed to forward attested copies of this concurrent resolution to the President and Secretary of the United States Senate, the

Speaker and Clerk of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

COMMITTEE SUBSTITUTE FOR
HOUSE CONCURRENT RESOLUTION NO. 24

(Originating in the House Committee on the Judiciary)

[Adopted March 12, 1955.]

Directing the joint committee on government and finance to conduct a study of all phases of the system of sentencing persons to the state penal and correctional institutions and their commitment, parole or other release including commutations and the supervision and recommitment of such persons on parole.

WHEREAS, An adequate system of correction of delinquents is essential to the well-being of the State; and

WHEREAS, Cognizant of the importance of a good system of correction of delinquents being essential to the well-being of society and many citizens feeling that the existing system is inadequate; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Joint Committee on Government and Finance is hereby directed to make a thorough study, survey and investigation of all phases of the system of sentencing persons to the state penal and correctional institution and their commitment, parole or other release including commutations and the supervision and recommitment of such persons on parole, and make findings and recommendations to the Legislature.

The committee shall make such reports to the members of the Legislature from time to time as it shall deem advisable, and shall on or before January 15, 1956, make an interim report to the members of the Legislature embracing its findings and recommendations to that time. On or before the date of the convening of the regular session of the Legislature in the year

one thousand nine hundred fifty-seven, the committee shall make a final report to the Legislature, and shall include in such report such findings and recommendations as it shall deem pertinent and shall include in such report drafts of any proposed legislation which it shall deem necessary to carry the recommendations of the committee into effect.

In order to make possible the procurement of the necessary information to carry out the intent and spirit of this resolution, the committee is hereby empowered to call upon any department or agency of state government for such services, information and assistance as it may deem appropriate, to summon witnesses and take testimony and to cause the production of such papers, documents, records, and the like as the committee may deem expedient.

HOUSE JOINT RESOLUTION NO. 2

(By Mr. Dawson and Mr. Curtis)

[Adopted February 11, 1955.]

Proposing an amendment to the Constitution of the State of West Virginia, by adding a new section to article three thereof, designated section twenty-one, relating to jury service.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:

That article three of the Constitution be amended by adding thereto a new section, designated section twenty-one, to read as follows:

Section 21. Regardless of sex, all persons, who are otherwise qualified, shall be eligible to serve as petit jurors, in both civil and criminal cases, as grand jurors and as coroner's jurors.

COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION NO. 7

(Originating in the House Committee on Veterans Affairs)

[Adopted March 7, 1955.]

Proposing an amendment to the Constitution of the State of West Virginia, to be known as the "Korean Veterans Bonus Amendment," relating to the issuance and sale of state bonds for the payment of a bonus to veterans.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia shall be submitted to the voters of the State at the next general election, to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:

KOREAN VETERANS BONUS AMENDMENT

The Legislature shall by law provide for the issuance and sale of state bonds, which shall be in addition to all other state bonds heretofore issued, for the following purposes:

(1) The paying of a cash bonus to veterans of the armed forces of the United States who served during the Korean conflict. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States between the twenty-seventh day of June, one thousand nine hundred fifty, and the twenty-seventh day of July, one thousand nine hundred fifty-three, both dates inclusive, who were bona fide residents of the State of West Virginia at the time of their entry into such service and for a period of at least six months prior thereto, who were not dishonorably discharged from such service, and who within the period specified above actively served in such armed forces for a period of at least ninety days. Such a bonus shall also be paid to any disabled veteran, otherwise qualified, who was discharged within ninety days after entering the services because of a service-connected disability. The amount of such bonus shall be calculated on the basis of ten dollars for each month, or major fraction thereof, served within the territorial limits of the forty-eight states and the

District of Columbia, and fifteen dollars for each month, or major fraction thereof, served outside such limits, but such amount shall in no case exceed three hundred dollars for those who served only within the territorial limits specified above, and four hundred dollars for those who served outside such limits: The bonus to which any deceased veteran would be entitled, if living, shall be paid only to the following surviving relatives of such veteran, if such relatives are residents of this State when application for payment is made. An unmarried widow, or if none, any child or children under the age of sixteen, or if none, any dependent parent or parents.

The principal amount of bonds to be issued for the purpose provided in paragraph (1) above shall not exceed the principal amount of the ninety million dollars bonds authorized by the Veterans' Bonus Amendment submitted by chapter nineteen of the Acts of the Legislature of West Virginia of one thousand nine hundred forty-nine, regular session, and ratified by the people of West Virginia at the general election held on the seventh day of November, one thousand nine hundred fifty (hereinafter referred to as "Veterans' Bonus Amendment of one thousand nine hundred fifty"), which shall not have been issued on the date of the ratification of this amendment by the people of West Virginia: *Provided, however,* That such bonds issued under the provisions of paragraph (1) above may be funded or refunded at any time in the manner provided in paragraph (2) below.

(2) The funding or refunding of all or any part of the bonds heretofore issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty. Said bonds issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty may be so funded or refunded either on the maturity dates of said bonds or on any date on which said bonds are callable prior to maturity, and if any of said bonds have not matured or are not then callable prior to maturity, the Legislature may nevertheless provide at any time for the issuance of refunding bonds to fund or refund such bonds on the dates when said bonds mature or on any date on which said bonds are callable prior to maturity, and for the investment or reinvestment of the proceeds of such refunding bonds

in direct obligations of the United States of America until the date or dates upon which such bonds issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty mature or are callable prior to maturity.

The principal amount of bonds issued under the provisions of paragraph (2) above shall not exceed the principal amount of the bonds to be funded or refunded thereby.

Such bonds for the purposes authorized in paragraphs (1) and (2) above may be issued from time to time as separate issues for such purposes or as combined issues for such purposes.

Whenever the Legislature shall provide for the issuance of any bonds under the authority of this amendment, it shall at the same time provide for the levy and collection of an additional cigarette tax, or an additional tax on nonintoxicating beer, or an additional charge on the sale of each bottle of wine and liquor, or an additional general consumers sales tax, or a graduated income tax, or any two or more thereof, in such amount as may be required to pay annually the interest on such bonds and the principal thereof within and not exceeding thirty years, and all such taxes or charges so levied shall be irrevocably dedicated for the payment of the principal of and interest on such bonds until such principal of and interest on such bonds is finally paid and discharged, and any of the covenants, agreements or provisions in the acts of the Legislature levying such taxes or charges shall be enforceable in any court of competent jurisdiction by any of the holders of said bonds. The additional taxes on cigarettes and nonintoxicating beer and additional charges on the sale of each bottle of alcoholic liquor, provided for in chapters six, one hundred eighty-four and one hundred eighty-seven of the Acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, shall continue to be pledged for the payment of the principal of and interest on bonds issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty, or bonds issued pursuant to this amendment to fund or refund such bonds issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty: *Provided, however,* That upon the funding or refunding of all outstanding bonds

issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty, or the deposit in trust of sufficient funds to pay all the principal of and interest on such outstanding bonds issued pursuant to said Veterans' Bonus Amendment of one thousand nine hundred fifty to their respective dates of maturity or to the first date upon which said bonds are callable prior to maturity, the taxes and charges provided for in said chapters six, one hundred eighty-four and one hundred eighty-seven of the Acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, may be pledged to the payment of the principal of and interest on any bonds issued under any of the provisions of this amendment.

HOUSE RESOLUTION NO. 12

(By Mr. Adams)

[Adopted January 25, 1955.]

Memorializing the Congress of the United States to appropriate federal funds to assist municipalities within signatory states of the Ohio River Valley Compact in financing sanitary sewage systems and sewage treatment facilities.

WHEREAS, The federal government was instrumental in securing the signatures of eight states to the cooperative interstate anti-pollution agreement known as the Ohio River Valley Compact, and sponsored the organization known as the Ohio River Valley Water Sanitation Commission, for the purpose of clearing the Ohio River, its branches and tributaries of pollution; and

WHEREAS, The anti-pollution program of the said Ohio River Valley Water Sanitation Commission is rapidly moving forward and municipalities in signatory states are being called upon to immediately construct sanitary sewage systems and sewage treatment facilities; and

WHEREAS, Many municipalities in this and other signatory states now find that they are financially unable to carry out the anti-pollution programs required of them by law, and appear to be powerless to help themselves; therefore, be it

Resolved by the House of Delegates:

That we urge the Congress of the United States to appropriate federal funds for the purpose of giving assistance to municipalities within the signatory states of the Ohio River Valley Compact in constructing sanitary sewage systems and sewage treatment facilities required of them by law, and that we respectfully recommend that the members of Congress from the State of West Virginia do everything within their power to further the purposes of this resolution; and, be it

Further Resolved, That a copy of this resolution be forwarded to all members of the Congress of the United States from the State of West Virginia, to the chairman of the appropriate committees of the Senate and the House of Representatives of the United States, and the Clerk of the Senate and the Clerk of the House of Representatives of the Congress of the United States.

HOUSE RESOLUTION NO. 24

(By Mr. Adams)

[Adopted February 24, 1955.]

Requesting the two United States Senators and the members of the House of Representatives from West Virginia to use their best efforts to obtain the establishment of a Reserve Air Unit of the United States Air Force at the Wheeling-Ohio County Airport.

WHEREAS, The Wheeling-Ohio County Airport is well adapted for the use of certain types of military aircraft and could be very advantageously utilized by the United States Air Force for the establishment of a Reserve Air Unit; and

WHEREAS, Said Wheeling-Ohio County Airport is strategically located for said purposes and for national defense; and

WHEREAS, A Reserve Air Unit could be so established and said Airport could be fitted and equipped at a minimum of expense; therefore, be it

Resolved by the House of Delegates:

That the two United States Senators and the six members

of the House of Representatives from West Virginia are hereby respectfully requested to use their best efforts to obtain the establishment of a Reserve Air Unit of the United States Air Force at the Wheeling-Ohio County Airport; and, be it

Further Resolved, That copies of this resolution be transmitted to the two West Virginia members of the United States Senate and to the six members of the House of Representatives from West Virginia.

HOUSE RESOLUTION NO. 25

(By Mr. Saunders)

[Adopted March 7, 1955.]

Memorializing West Virginia members of the Congress to protect the coal industry and the economic status of the employees therein by restricting the importation of foreign residual oil.

WHEREAS, The importation of foreign residual oil has stifled the market for the sale of coal; and

WHEREAS, The curtailment of the sale of coal, resulting directly from the unrestricted importation of foreign residual oil, has and is reducing the living standards of the people of the State of West Virginia and is resulting in untold hardships and needless unemployment to the coal miners in the State of West Virginia; and

WHEREAS, This importation of foreign residual oil has resulted in a tremendous loss of state revenues to the extent that the state government has been hampered in providing essential services to the people of West Virginia; therefore, be it

Resolved by the House of Delegates:

That the West Virginia members of the United States Congress exert their best efforts in opposing the importation of foreign residual oil into the United States; and, be it

Further Resolved, That the Clerk of the House of Delegates forward attested copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives, and the members of Congress now serving from West Virginia.

SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Traubert and Mr. Stemple)

[Adopted March 11, 1955.]

Requesting the Joint Committee on Government and Finance and Commission on Interstate Cooperation to study the overall question of the state's renewable natural resources.

WHEREAS, We are vitally concerned regarding the substantial depletion of the non-renewable natural resources of West Virginia, the failure to protect adequately the State's renewable natural resources, and the failure to provide satisfactorily for replacement and enhancement of such renewable natural resources; and this situation has created economic problems which, if not effectively solved, will seriously endanger the security and welfare of the people of West Virginia; and

WHEREAS, As a result of the recent floods, the drought, and the unhealthy decline in the economy of the State, and particularly as a result of the discussions at a meeting sponsored by the West Virginia State Chamber of Commerce, held on April 2-3, 1954, on the question of the renewable natural resources of the State, an increasingly large number of the people of West Virginia are recognizing the very fundamental importance of water, soil, forests and wildlife; and it is essential that these basic natural resources be utilized with care and adequately protected if the agricultural, industrial, urban and recreational needs of the people of the State are to be satisfied; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

1. That the committees study the problem of a more adequate, realistic and practical forest fire prevention program based on a reappraisal of the State's organizational structure.
2. Provide for effective assistance to landowners in the reforestation of approximately one million acres of land by expanding the State's nursery facilities to supply nursery stock for tree planting purposes.
3. Establish as state policy a continuing plan of action with respect to the study and behavior of surface waters, and

to provide in cooperation with the federal government sufficient monies through an appropriate unit of state government to carry on an adequate stream gauging program for West Virginia.

4. Establish as state policy a continuing plan of action with respect to the study of the occurrence and availability of ground water, and to provide, in cooperation with the federal government, sufficient funds for the West Virginia Geological and Economic Survey and any other proper agencies to carry on investigation and research and to publish the results thereof.

5. That a study be made regarding further assistance to local watershed protection projects, authorized under the Watershed Protection Act of 1954, enacted by the 83rd Congress, and the West Virginia State Soil Conservation Districts Act of 1935, in the form of monies and other material assistance on a cost-sharing basis from municipal, county and/or state sources for construction and maintenance of flood water detention structures, and the acquisition of rights-of-way and easements.

6. That a comprehensive study of existing conservation laws be made with the express purpose in mind of amending existing laws, enacting new laws, or both, in order to provide for and develop a well integrated and efficient program of resource conservation and management under one principal natural resources department that will preserve for the people of the State of West Virginia and for future generations the renewable natural resources to the fullest extent possible consistent with economic utilization.

SENATE CONCURRENT RESOLUTION NO. 5

(By Mr. McKown)

[Adopted January 28, 1955.]

Relating to Arbor Day.

WHEREAS, The West Virginia Federation of Women's Clubs have expressed deep concern over the need for greater conservation of our forest lands and particularly the preservation and further development of the State's natural beauty as an

enhancement to the tourist trade and the aesthetic joy of our own people; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That this Legislature establish the second Friday in April of each year as the official date for Arbor Day; and through this resolution urge public education, city, county and state government, and civic and business organizations to observe Arbor Day by planning such educational and instructional exercises as shall bring before the people (1) the necessity of protecting our forests from the ravages of fire, and (2) the desire to increase the growth of trees for both ornament and use.

SENATE CONCURRENT RESOLUTION NO. 7

(By Mr. Bowers)

[Adopted March 9, 1955.]

Requesting and directing the Commission on Interstate Cooperation and the Joint Committee on Government and Finance to make a study of the state-supported system of higher education.

Resolved by the Senate, the House of Delegates concurring therein:

That the Commission on Interstate Cooperation and the Joint Committee on Government and Finance be hereby requested and directed to make a study of the state-supported system of higher education, in view of changed conditions arising from the elimination of segregation in the state educational institutions and from their greater accessibility by reason of improved transportation facilities, and in view of the fact that there exist costly and unnecessary duplications in the services and courses of study offered by the various institutions, in order to determine whether it might not be possible to effect substantial economies and at the same time improve the quality of education offered, and that in this connection consideration be given to the advisability of the elimination or consolidation of some of the institutions.

That a report of the study, together with any recommendations, be made to the Governor and to the Legislature on the first day of the next regular session thereof to be held in January, one thousand nine hundred fifty-six.

SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Traubert)

[Adopted March 9, 1955.]

Providing for the investigation of problems relating to municipal government.

WHEREAS, The municipalities in this State have been experiencing great difficulty in financing essential and desirable services since the inception of property-tax limitation in the year one thousand nine hundred thirty-two; and

WHEREAS, The increased industrialization of the State now in progress, and that contemplated by state and municipal officials and business leaders in future years, will create an additional burden upon existing municipal facilities including streets, sewers, water supply, fire and police protection services, street lighting, public health, recreation and numerous other facilities and services which already are inadequate because of deferred construction and maintenance during the depression and World War II. Such facilities constitute a major factor in the calculations of industrial leaders when contemplating the locating of industry; and

WHEREAS, It is deemed advisable to make a thorough examination of the existing laws of the State which pertain to municipal government and practices thereunder to determine whether they are adequate to permit residents of municipalities to determine the extent of services to be rendered, and to finance locally those desired as well as those demanded by orders of state agencies issued from time to time; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be requested to con-

duct an exhaustive study of the entire area of state-municipal relations in this State, as well as the internal problems of municipal government, and that such committees make a full report of their investigation and recommendations for legislative or other action to the Legislature on or before January first, one thousand nine hundred and fifty-seven.

That the committees are authorized to employ such assistants as they may deem advisable and to fix reasonable compensation and expenses of such persons and firms as may be employed within the amount made available by the appropriation herein provided.

SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Bean, Mr. President)

[Adopted February 9, 1955.]

Raising a special committee to visit, inspect and report to the Governor and the Legislature on conditions at the West Virginia Penitentiary.

WHEREAS, Reports from members of the Legislature and committees thereof that have visited the West Virginia Penitentiary, as well as published reports in the press, indicate that there is much unrest and tension among prisoners at this institution; and

WHEREAS, These reports indicate that the unrest and dissatisfaction among prisoners is due in large part to the operation of the present parole system in West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there is hereby created a special committee of nine lay citizens of the State to visit the West Virginia Penitentiary and to investigate and study the conditions and problems of the prisoners of the institution, with particular emphasis on the functions and operations of the present parole system. In this investigation and study, it shall be the duty of the committee to interview prisoners, prison officials and members and employees of the West Virginia Board of Probation and Parole

in an effort to learn the true situation at the penitentiary and the facts concerning the operation of the parole system in West Virginia.

The committee shall consist of three lay citizens to be appointed by the Governor, three to be appointed by the President of the Senate and three to be appointed by the Speaker of the House of Delegates, respectively. Not more than two of the members appointed by the Governor, the President of the Senate and the Speaker of the House of Delegates, respectively, shall be members of the same political party.

The committee is authorized and empowered to call upon any official of the penitentiary and officials or employees of any department or agency of the State for such services, information and assistance as it may deem appropriate, to summon witnesses and take testimony, and to cause the production of such papers, documents or records as the committee may deem proper. Any member of the committee may administer oaths or affirmations to witnesses appearing before the committee or any subcommittee thereof.

The committee is authorized to employ one secretary and/or reporter in the performance of its duties.

The members of the committee shall serve without compensation but shall be entitled to reimbursement for legitimate expenses for travel and maintenance incurred in the discharge of their duties. All expenses of the committee shall be paid in as nearly equal amounts as practicable from the contingent funds of the Senate and House of Delegates.

The committee shall report its findings and recommendations to the Governor and the Legislature prior to the adjournment of this session of the Legislature.

SENATE CONCURRENT RESOLUTION NO. 14

(By Mr. Swearingen and Mr. Carey)

[Adopted March 9, 1955.]

Creating an interim committee to conduct a study concerning the advisability and feasibility of constructing in Charles-

ton a separate building to house the State Museum and the Department of Archives and History.

WHEREAS, It is believed that a healthy, happy, well-informed and educated citizen is the best investment our State can have for a steady and prosperous growth; and

WHEREAS, The proper education of our future citizens is in large part dependent upon our ability to give to the people of the State, and particularly to the younger generation, full and adequate information concerning the history and traditions of our State from early colonial days down to the present; and

WHEREAS, Many of the early newspapers, books, pamphlets, maps, records, and manuscripts containing such historical information have already been taken out of this State to libraries and museums in other states, and thus made unavailable to the people of this State; and

WHEREAS, It is imperative that adequate space and funds be made available for the housing and display of such historical material in order to prevent further losses thereof; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a special interim committee be created to conduct a study of the advisability and feasibility of constructing in Charleston near the State Capitol, a museum building to house the State Museum and the Department of Archives and History.

That prior to the convening of the next regular session of the Legislature the committee make and issue a report to the Governor and to the Legislature concerning its study, together with such recommendations as may in its opinion be deemed advisable.

That the membership of the committee be composed of three members of the Senate, to be appointed by the President thereof, one of whom shall be designated as co-chairman, and three members of the House of Delegates to be appointed by the Speaker thereof, one of whom shall be designated as co-chairman. Not more than two members appointed from each House shall be members of the same political party.

That the Governor be authorized to appoint an advisory committee of not more than five representative citizens of the State to consult and advise with the interim committee in connection with the study.

That the committee be authorized to meet in Charleston, or elsewhere, as it may determine. The members of the interim committee and of the advisory committee shall serve without compensation.

SENATE CONCURRENT RESOLUTION NO. 18

(By Mr. Parker)

[Adopted March 8, 1955.]

Creating a commission for the purpose of making a study of the current problem of milk prices.

WHEREAS, The problems of production, distribution, and consumption of milk and milk products is of concern and interest to the entire citizenry of West Virginia; and

WHEREAS, The dairy farmers of West Virginia now are faced with a milk price situation dangerously close to disaster; and

WHEREAS, It is in the general interest of the public to study the reasons for the current situation with the goal of seeking the best possible solution or solutions to this problem; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Governor of West Virginia appoint a commission for the purpose of making a complete and thorough study of all phases of the current problem of milk prices to producers, handling, processing, and transportation costs, retail prices, milk sanitation regulations and procedures, importation of milk and milk products from other states, and any other problem the commission considers relevant to its study; and, be it

Further Resolved, That the commission consist of a representative of the West Virginia Dairyman's Association; a rep-

representative of the Dairymen's Cooperative Sales Association; a representative of the College of Agriculture, Forestry and Home Economics, West Virginia University; a representative of the Department of Agriculture; a representative of the West Virginia Farm Bureau; and the chairman of the Senate and House Committees on Agriculture; and, be it

Further Resolved, That this commission meet for the first time not later than May 1, 1955, and for as many times thereafter as the commission deems necessary, the commission selecting its own chairman at its first meeting called by the Governor; and, be it

Further Resolved, That the report of the findings of this commission be made to the 1956 session of the West Virginia Legislature if the commission feels that a sufficient emergency exists to warrant needed legislation.

SENATE CONCURRENT RESOLUTION NO. 22

(By Mr. Mitchell and Mr. Jones)

[Adopted March 11, 1955.]

Requesting the Board of Public Works and the Director of the Budget to visit and inspect state institutions.

WHEREAS, It is difficult if not impossible to arrive at a sound judgment concerning the needs of any state-supported institution without having made an inspection of the institution and a study of its operation and administration; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a majority of the members of the Board of Public Works and the Director of the Budget, or his assistant, are hereby respectfully requested to visit and make a personal inspection of each state-supported institution before preparing the annual budget and before passing upon the budget requests for the institution.

SENATE CONCURRENT RESOLUTION NO. 28

(By Mr. Amos)

[Adopted March 14, 1955.]

Extending appropriation for legislative interim committees, and other purposes.

Resolved by the Senate, the House of Delegates concurring therein:

That appropriations made by Acct. No. 101 and Acct. No. 102, chapter one, Acts of the Legislature, extraordinary session, one thousand nine hundred fifty-three, for the "Joint Committee on Government and Finance and other Committees" is hereby continued in full force and effect until the thirtieth day of June, one thousand nine hundred fifty-five; and that the appropriations made by said accounts for the Joint Committees raised under House Concurrent Resolution No. 4, House Concurrent Resolution No. 9 and Senate Concurrent Resolution No. 9 are hereby continued in full force and effect until all current bills for services, supplies and printing incurred by said committees in the performance of their duties and in the completion of their reports are paid.

The appropriation made by Acct. No. 101 "To establish bill drafting service and expenses connected therewith" and by Acct. No. 102 for "Legislative Drafting Office" are also continued in full force and effect until the thirtieth day of June, one thousand nine hundred fifty-five.

SENATE CONCURRENT RESOLUTION NO. 29

(By Mr. Jackson, of Logan)

[Adopted March 14, 1955.]

Concerning the recommendations in the report of the committee appointed pursuant to Senate Concurrent Resolution No. 10.

WHEREAS, The report of this committee dated the 3rd day of March, 1955, has recommended an amount of \$307,349 as a

minimum for urgently needed corrections and improvements at the West Virginia State Penitentiary; and

WHEREAS, There may remain a surplus of unappropriated funds as a result of the adoption of the budget for the fiscal year 1955-56; and

WHEREAS, This Legislature recognizes the urgent need for these corrections and improvements at the West Virginia State Penitentiary; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That any amount of surplus remaining unappropriated in general fund state revenue after adoption of the budget for the fiscal year, within the maximum of \$307,349 aforesaid, be made available for expenditure at the West Virginia State Penitentiary for improvements as outlined in the report of this committee.

COMMITTEE SUBSTITUTE FOR
SENATE JOINT RESOLUTION NO. 8

(Originating in the Senate Committee on Finance)

[Adopted March 12, 1955.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section one, article ten thereof, relating to taxation and finance.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of West Virginia, shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty-six, which proposed amendment is as follows:

That section one, article ten of the Constitution of West Virginia be amended so as to read as follows:

Taxation and Finance.

Section 1. Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including livestock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon, and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other such property situated within municipalities, two dollars; and the Legislature shall further provide by general law for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty per cent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty per cent the maximum rate herein provided and prescribed by law, except that, with respect to that part of the maximum rate which is allocated by law for the support of public schools, such increase may be so approved for a period not to exceed five years and in an amount not to exceed one hundred per cent of such school rates, and the revenue derived from this source shall be apportioned by the Legislature among the levying units of the State in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, the personal property, including livestock, employed exclusively in

agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The Legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof and to exempt from taxation incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the Legislature may provide. The rate of the State tax upon property shall not exceed one cent upon the hundred dollars valuation, except to pay the principal and interest of bonded indebtedness of the State now existing. The maximum rates hereinbefore provided on the several classes of property may be used for current expense purposes; levies required for the payment of indebtedness contracted under section eight of this article shall be laid separately and apart from, and in addition to, those used for current expense purposes, but in a similar manner.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1955

FIRST EXTRAORDINARY SESSION

(May 9-13, 1955)

CHAPTER 1

(Senate Bill No. 3—By Mr. Bean, Mr. President)

AN ACT to amend article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section three thereof, and by adding thereto a new section, to be designated section fifteen, relating to the allocation of state aid for schools.

[Passed May 13, 1955; in effect from passage. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

3. Computation of local share.
15. Qualification for state aid; reductions in county allocation.

Be it enacted by the Legislature of West Virginia:

That article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section three thereof, and by adding thereto a new section, to be designated section fifteen, to read as follows:

Section 3. *Computation of Local Share.*—On the basis
2 of the most recent survey of property valuations in the

3 state, completed as to all classes of property in all coun-
4 ties determined by the tax commissioner under pres-
5 ent or former provisions of this article, the board shall
6 for each county compute, by application of the levies for
7 general current expense purposes, as defined in the pre-
8 ceding section, the amount of revenue which such levies
9 would produce if levied upon one hundred per cent of
10 the true and actual value of each of the several classes
11 of property contained in the report or revised report of
12 such value, made to it by the tax commissioner, as fol-
13 lows: (1) The board shall first take ninety-seven and
14 one-half per cent of the amount ascertained by applying
15 these rates to the total assessed public utility valuation
16 in each classification of property in the county. (2) The
17 board shall then apply these rates to the appraised value
18 of other property in each classification in the county,
19 as determined by the tax commissioner, and shall deduct
20 therefrom five per cent as an allowance for the usual
21 losses in collections due to discounts, exonerations, de-
22 linquencies and the like. Fifty per cent of the amount
23 so determined shall be added to the ninety-seven and
24 one-half per cent of public utility taxes computed as pro-
25 vided above, and this total shall be the local share of the
26 particular county.

27 Commencing on the first day of June, one thousand
28 nine hundred fifty-five, the tax commissioner shall make
29 or cause to be made such surveys, examinations, audits,
30 and investigations of the value of the several classes of
31 property in each county which should be listed and
32 taxed under the several classifications provided by law,
33 and shall determine the appraised value thereof based
34 upon the true and actual value thereof. In making such
35 surveys he may use such methods of checking property
36 values and determining the amount of property in each
37 classification, and may use such accepted survey and
38 investigation procedures as are customarily employed
39 for appraisal purposes. The tax commissioner may em-
40 ploy such assistants as available appropriations will per-
41 mit. From moneys appropriated and available for state
42 aid, the tax commissioner shall be allowed not to exceed

43 two hundred ten thousand dollars for the fiscal year be-
44 ginning on the first day of July, one thousand nine hun-
45 dred fifty-five, and not to exceed one hundred thousand
46 dollars for each fiscal year thereafter.

47 On or before the first day of January, one thousand
48 nine hundred fifty-six, the tax commissioner shall com-
49 plete the appraisal for each of the fifty-five counties, and
50 shall render to the Legislature and to the state board
51 of school finance his report with respect thereto. There-
52 after the tax commissioner shall annually continue such
53 work of survey, examination, audit, and investigation in
54 each of the counties and shall annually revise his reports
55 to the Legislature and to the state board of school finance
56 concerning such appraisals, such reports to be made not
57 later than the first day of January of each year.

Sec. 15. *Qualification for State Aid; Reductions in*
2 *County Allocation.*—Beginning with the fiscal year, one
3 thousand nine hundred fifty-six—one thousand nine hun-
4 dred fifty-seven, in order for a county to qualify for its
5 full allocation of state aid, as provided in this article, the
6 assessed valuation of all non-public utility property in the
7 county for the assessment year one thousand nine hun-
8 dred fifty-six must be not less than thirty-five per cent
9 of the appraised value of such non-public utility prop-
10 erty as determined by the tax commissioner in his state-
11 wide report to be submitted in January, one thousand
12 nine hundred fifty-six; and for the fiscal year one thou-
13 sand nine hundred fifty-seven—one thousand nine hun-
14 dred fifty-eight, such assessed valuation for the assess-
15 ment year one thousand nine hundred fifty-seven must
16 be not less than forty per cent of the appraised value of
17 such property as determined in the tax commissioner's
18 last previous state-wide report; and during the year one
19 thousand nine hundred fifty-eight—one thousand nine
20 hundred fifty-nine, such assessed valuation for the as-
21 sessment year one thousand nine hundred fifty-eight
22 must be not less than forty-five per cent of the appraised
23 value so determined; and for each year thereafter such
24 assessed valuation must be not less than fifty per cent
25 of the appraised value of such property as determined

26 by the last previous state-wide report of the tax com-
27 missioner.

28 Whenever for any year a county has failed to raise the
29 assessed valuation of its non-public utility property up
30 to the assessment level required by the provisions of the
31 preceding paragraph, the amount of state aid to be paid
32 to the county, as determined by the allocation of state
33 aid made under other provisions of this article, shall be
34 reduced as follows: (1) First determine the number of
35 percentage points by which the county failed to reach
36 the required assessment level. (2) Reduce the alloca-
37 tion of state aid to the county by the same number of
38 percentage points.

39 Until such time as a complete survey for all fifty-five
40 counties of the state can be completed by the tax com-
41 missioner, the local share for each county shall remain
42 the same as was used in the allocation of state aid for
43 the fiscal year one thousand nine hundred fifty-four—one
44 thousand nine hundred fifty-five.

CHAPTER 2

(Senate Bill No. 4—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section four, article three, chap-
ter seventeen-a of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the reg-
istration of motor vehicles and to the issuance of certifi-
cates of title therefor.

[Passed May 13, 1955; in effect from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section

4. Application for certificate of title; tax limitation.

Be it enacted by the Legislature of West Virginia:

That section four, article three, chapter seventeen-a of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 4. *Application for Certificate of Title; Tax Limitation.*—Certificates of registration of any vehicle or registration plates therefor, whether original issue or duplicates, shall not be issued or furnished by the department of motor vehicles or any other officer charged with such duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of such vehicle. Such application shall be upon a blank form to be furnished by the department of motor vehicles and shall contain a full description of the vehicle, which description shall contain the manufacturer's serial or identification number or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon such vehicles, the names and addresses of the holders of such liens and such other information as the department of motor vehicles may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certification of title of each vehicle in the amount equal to two per cent of the value of said motor vehicle at the time of such certification. If the vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of said vehicle; if the vehicle is a used or second-hand vehicle, the present market value at time of transfer or purchase shall be deemed the value thereof for the purpose of this section: *Provided*, That so much of the purchase price or consideration as is represented by the exchange of other vehicles on which the tax herein imposed has been paid by the purchaser shall be deducted from the total actual price or consideration paid for said vehicle, whether the same be new or second-hand; if the vehicle be acquired through gift, or by any manner whatsoever, unless specifically exempted in this section, the present market value of the vehicle at the time of the gift or transfer shall be deemed the value thereof for purposes of this section. No cer-

39 tificate of title for any vehicle shall be issued to any
40 applicant unless such applicant shall have paid to the
41 department of motor vehicles the tax imposed by this
42 section which shall be two per cent of the true and actual
43 value of said vehicle whether the vehicle be acquired
44 through purchase, by gift, or by any other manner what-
45 soever except gifts and bequests between husband and
46 wife or between parents and children; but the tax im-
47 posed by this section shall not apply to vehicles to be
48 registered as class H or class I vehicles, as defined in
49 section one, article ten of this chapter, which are used or
50 to be used in interstate commerce, nor shall the tax im-
51 posed by this section apply to titling of vehicles by a
52 registered dealer of this state for resale only, nor shall the
53 tax imposed by this section apply to titling of vehicles by
54 the board of governors, the state board of education, the
55 county boards of education or other public tax supported
56 educational agencies. The total amount of revenue col-
57 lected by reason of this tax shall be paid into the state
58 road fund and expended by the state road commissioner in
59 the maintenance and construction of the state's secondary
60 roads. In addition to said tax, there shall be a charge of
61 one dollar for each original certificate of title so issued:
62 *Provided*, That the board of governors, the state board
63 of education, the county boards of education or other
64 public tax supported educational agencies, shall be ex-
65 empted from payment of such charge.

66 Notwithstanding the provisions of this section, the
67 owners of trailers, semi-trailers and other vehicles not
68 subject to the certificate of title tax prior to enactment
69 of this chapter shall not be required to pay the above-
70 mentioned tax upon making application for a certificate
71 of title for such vehicle, but shall be required to pay a
72 fee of one dollar for the issuance of each such certificate
73 of title.

74 Such certificate shall be good for the life of the vehicle,
75 so long as the same is owned or held by the original
76 holder of such certificate, and need not be renewed an-
77 nually, or any other time, except as herein provided.

78 If, by will or direct inheritance, a person becomes the

79 owner of a motor vehicle upon which the tax herein im-
80 posed has been paid, he shall not be required to pay such
81 tax.

82 A person who has paid the tax imposed by this section
83 shall not be required to pay the tax a second time for the
84 same motor vehicle, but he shall be required to pay a
85 charge of one dollar for the certificate of re-title of that
86 motor vehicle, except that such tax shall be paid by such
87 person when the title to such vehicle has been transferred
88 either in this or another state from such person to an-
89 other person and transferred back to such person.

RESOLUTION

SENATE CONCURRENT RESOLUTION NO. 3 (By Mr. Bean, Mr. President)

[Adopted May 13, 1955.]

Concerning the establishment of a Commission on Education.

WHEREAS, It is a recognized fact that the problems and needs of our public schools have reached a high point of concern in the public mind; and

WHEREAS, The pressing demands upon the time of this Legislature make it impossible to consider adequately the school needs and the financing of such needs; and

WHEREAS, It is the sincere intent and purpose of this Legislature to do all that it can to meet during the next fiscal year what appear to be emergency needs such as an increase in the salary of teachers for the purpose of mitigating the loss of competent teachers from our classrooms; and

WHEREAS, This Legislature recognizes the need for a thorough study and analysis of the needs of our public schools and higher education; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there be established a West Virginia Commission on Education which shall be representative of the whole cultural and economic community and shall have the authority and responsibility of making or having made under its supervision and direction a thorough study of (1) the needs and problems of the public schools such as teacher loss and shortage, overcrowdedness, and local financial responsibility, including excess levies and bond levies for school purposes in determining local share under and pursuant to the index of the Tax Commissioner; and (2) the public school system itself, to determine the quality of supervision and instruction, the cause of failure

of pupils in fundamentals, the effect of tenure upon teaching, the use of tests in measuring teaching and learning ability, the effectiveness of the different types of school organizations, the need for recognition and for the rewarding of effective teaching, and the quality and effectiveness of the present school curriculum; that the commission complete its study by November, 1955; and that its report, findings and recommendations be submitted to the Governor, the Legislature, and the public in general, with the understanding that such report and recommendations shall become an order of business on the agenda of the Legislature at its next regular session, one thousand nine hundred fifty-six; and, be it

Resolved further, That the Governor, the President of the Senate, and the Speaker of the House each name seven persons representing each of the following groups: business, agriculture, labor, the professions, industry, education, and civic organizations; that from the persons so appointed the Governor designate the chairman of the Commission; and that the Governor, the President of the Senate, and the Speaker of the House be members of the Commission, ex officio; and, be it

Resolved further, That the members of the Commission be named in sufficient time to be notified of an organizational meeting to be called in May, 1955, at which time the scope of the work and procedures of the Commission shall be outlined by the Governor, the President of the Senate, and the Speaker of the House; and, be it

Resolved further, That the Governor be requested to pay the expenses of the commission, from his civil contingent fund, in an amount not to exceed twenty-five thousand dollars.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1956

REGULAR SESSION

CHAPTER 1

(Com. Sub. for House Bill No. 1—Originating in the House Committee on Finance.)

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

[Passed February 10, 1956; in effect from passage.]

Title

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

Title 1. General Provisions.

Section

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

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to
2 appropriate money necessary for economical and efficient
3 discharge of the duties and responsibilities of the state and
4 its agencies during the fiscal year one thousand nine hun-
5 dred fifty-seven.

Sec. 2. *Definitions.*—For the purpose of this act:
2 "Board" shall mean the board of public works;

3 "Spending Unit" shall mean the department, agency, or
4 institution to which an appropriation is made;

5 The "fiscal year one thousand nine hundred fifty-seven"
6 shall mean the period from July first, one thousand nine
7 hundred fifty-six through June thirtieth, one thousand
8 nine hundred fifty-seven.

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

Sec. 3. *Classification of Appropriations.*—An appropria-
2 tion for:

3 "Personal services" shall be expended only for the pay-
4 ment of salaries, wages, fees, and other compensation for
5 skill, work, or employment;

6 Unless otherwise specified, appropriations for personal
7 services shall include salaries of heads of spending units.

8 "Current expenses" shall be expended only for operating
9 costs other than personal services or capital outlay;

10 "Repairs and alterations" shall include all expenditures
11 for materials, supplies and labor used in repairing and al-
12 tering buildings, grounds and equipment;

13 "Equipment" shall be expended only for things which
14 have an appreciable and calculable period of usefulness in
15 excess of one year;

16 "Buildings" shall include construction and alteration of
17 structures and the improvement of lands, sewer and water
18 improvements, and shall include shelter, support, storage,
19 protection, or the improvement of a natural condition;

20 "Lands" shall be expended only for the purchase of
21 lands or interest in lands.

22 Appropriations otherwise classified shall be expended
 23 only where the distribution of expenditures for different
 24 purposes cannot well be determined in advance or it is
 25 necessary or desirable to permit the spending unit freedom
 26 to spend an appropriation for more than one of the above
 27 purposes.

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

Title 2. Appropriations.

Section

1. Appropriations from general revenue.

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11. Appropriations to pay costs of publication of delinquent corporations.
12. Appropriations for local governments.
13. Total appropriation.
14. General school fund.

Section 1. *Appropriations from General Revenue.*—From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred fifty-eight seven.

LEGISLATIVE

1—Senate

Acct. No. 101

Fiscal Year
1956-57

1 Salary of Members.....	\$ 48,000.00
2 Compensation and per diem of officers and	
3 attaches	\$ 75,000.00
4 Mileage of Members.....	\$ 900.00
5 Current Expenses and Contingent Fund....	\$ 80,000.00
6 To pay Clerk of the Senate for compiling	
7 and publishing the West Virginia Blue	
8 Book, the distribution of which shall be	
9 made by the Office of the Clerk of the	
10 Senate and shall include seventy-five	
11 copies for each member of the Legislature	
12 and two copies to each classified and ap-	
13 proved high and junior high school and	
14 one to each Elementary School within the	
15 state	\$ 10,000.00
16 To pay the cost of printing the 1956 edition	
17 of Blue Book.....	\$ 41,500.00
18 To establish bill drafting service and ex-	
19 penses connected therewith.....	\$ 5,000.00

20		<i>Fiscal Year</i>
21		1955-56
22	Compensation and per diem of officers and	
23	attaches	\$ 25,000.00
24	Mileage of Members.....	\$ 900.00
25	Current Expenses and Contingent Fund ...	\$ 25,000.00

26 There is hereby appropriated from the Sen-
27 ate Current Expenses and Contingent
28 Fund, or any other appropriate fund of
29 the West Virginia Legislature, the sum
30 of two thousand seven hundred seventy-
31 seven dollars and fifty-six cents, to com-
32 pensate Vincent V. Chaney for services
33 rendered the Legislature of West Vir-
34 ginia, and the Auditor is hereby directed
35 to issue a warrant for the payment
36 thereof.

37 The above appropriations for the fiscal year
38 1955-56 are to remain in full force and
39 effect until the convening of the regular
40 session of the Legislature, 1957.

41 The Clerk of the Senate is authorized to
42 draw his requisitions upon the Auditor,
43 payable out of the contingent fund of the
44 Senate, for any bills for supplies and
45 services that may have been incurred by
46 the Senate and not included in the appro-
47 priation bill, and for bills for supplies
48 and services incurred after adjournment,
49 and for the necessary operation of the
50 Senate offices, the requisition for same
51 to be accompanied by the bills to be filed
52 with the Auditor.

2—House of Delegates

Acct. No. 102

Fiscal Year
1956-57

1	Salary of Members.....	\$	150,000.00
2	Compensation and per diem of officers and		
3	attaches	\$	104,000.00
4	Mileage of Members.....	\$	3,000.00
5	Current Expenses and Contingent Fund	\$	84,000.00
6	To establish bill drafting service and ex-		
7	penses connected therewith.....	\$	5,000.00
8			
9			
			Fiscal Year 1955-56
10	Compensation and per diem of officers and		
11	attaches	\$	30,000.00
12	Mileage of Members.....	\$	2,422.00
13	Current Expenses and Contingent Fund ...	\$	27,000.00

14 With the approval of the Speaker, an
 15 amount, not to exceed \$3,600.00 per year,
 16 is hereby authorized to be expended from
 17 the contingent fund of the House of Dele-
 18 gates for janitor services, etc.

19 The House Committee on Rules, with the
 20 approval of the Speaker, is hereby au-
 21 thorized to expend from the House con-
 22 tingent fund for the fiscal year 1955-56
 23 and/or the fiscal year 1956-57 an amount,
 24 not to exceed the sum of twenty thousand
 25 (\$20,000.00), for the purpose of altering
 26 the elevator in the northeast section of the
 27 main unit of the Capitol Building so as
 28 to provide automatic operation for passen-
 29 ger and freight service.

30 The Clerk of the House of Delegates, with
 31 the approval of the Speaker of the House,

32 is authorized to draw his requisitions upon
 33 the Auditor, payable out of the contingent
 34 fund of the House of Delegates, for any
 35 bills for supplies and services that may
 36 have been incurred by the House of Dele-
 37 gates, and not included in the appropria-
 38 tion bill, for bills for services and sup-
 39 plies incurred in preparation for the
 40 opening of the session and after adjourn-
 41 ment, and for the necessary operation of
 42 the House of Delegates' offices, the requi-
 43 sition for same to be accompanied by
 44 bills to be filed with the Auditor.

45 For duties imposed by law and by the
 46 House of Delegates, including the salary
 47 allowed by law as keeper of the rolls, the
 48 the Clerk of the House of Delegates shall
 49 be paid a salary of \$700.00 per month,
 50 payable from the contingent fund of the
 51 House of Delegates, and the Clerk may
 52 employ a secretary at a salary not to ex-
 53 ceed \$300.00 per month, payable monthly
 54 from the same fund.

3—Joint Expenses

Acct. No. 103

Fiscal Year
1956-57

1 For Legislative Printing, including printing,		
2 binding, and stationery	\$	125,000.00
3 Joint Committee on Government and Fi-		
4 nance	\$	140,000.00
5 Other Authorized Legislative Committees	\$	20,000.00
6 Commission on Interstate Cooperation ...	\$	18,000.00
7 Contingent Fund.....	\$	10,000.00
8 The above contingent fund is made avail-		
9 able for the Joint Committee on Govern-		

10 ment and Finance to meet any unforeseen
 11 obligations of the Legislature arising dur-
 12 ing the appropriation period.

	<i>Fiscal Year</i> 1955-56
13	
14	
15 For Legislative Printing, including printing,	
16 binding, and stationery_____	\$ 38,000.00
17 Commission on Interstate Cooperation_____	10,000.00
18 H. C. R. No. 12 (Contingent Funds)_____	60,000.00
19 The above appropriations for the fiscal year	
20 1955-56 are to remain in full force and	
21 effect until the convening of the regular	
22 session of the Legislature, 1957.	

JUDICIAL

4—*Supreme Court of Appeals*

Acct. No. 110

	<i>Fiscal Year</i> 1956-57
1 Salaries of Judges_____	\$ 87,500.00
2 Other Personal Services_____	81,620.00
3 Current Expenses_____	20,000.00
4 Equipment _____	2,000.00
5 Total_____	\$ 191,120.00

5—*Circuit Courts*

Acct. No. 111

1 Salaries of Judges_____	\$ 291,000.00
2 Current Expenses_____	54,000.00
3 Total_____	\$ 345,000.00

6—*Judges' Retirement System*

Acct. No. 112

1 To be transferred to the Judges' Retirement
 2 Fund, in accordance with the law relating

3	thereto, upon requisition of the State Au-		
4	ditor	\$	25,000.00

7—State Law Library

Acct. No. 114

1	Personal Services.....	\$	13,480.00
2	Current Expenses.....		1,000.00
3	Equipment		12,000.00
4	Total.....	\$	26,480.00

8—Auditor's Office—Criminal Charges

Acct. No. 119

1	Criminal Charges	\$	180,000.00
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EXECUTIVE

9—Governor's Office

Acct. No. 120

1	Salary of Governor.....	\$	14,826.00
2	Other Personal Services.....		32,230.00
3	Current Expenses.....		9,500.00
4	Equipment		1,500.00
5	Civil Contingent Fund.....		150,000.00
6	Of this appropriation there may be expended		
7	an amount not to exceed \$5,000.00 to pro-		
8	vide instruction, care and maintenance		
9	for persons who are deaf and blind, and		
10	for whom the state provides no facilities.		
11	Of this appropriation there may be ex-		
12	pended, at the discretion of the Governor,		
13	an amount not to exceed \$1,000.00 as West		
14	Virginia's contribution to the Interstate		
15	Oil Compact Commission.		
16	Custodial Fund.....	\$	33,000.00
17	To be used for current general expenses,		
18	including compensation of servants and		

19 employees, household maintenance, cost
 20 of official functions, and any additional
 21 household expenses occasioned by such
 22 official functions. In the event Napoleon
 23 Gardner, now for many years in the serv-
 24 ice of the Governor and his predecessors
 25 in office, shall become unable to perform
 26 such services for which he may earn com-
 27 pensation, an amount not in excess of
 28 \$50.00 per month may be expended out of
 29 this appropriation by the Governor at his
 30 discretion, for the use and benefit of the
 31 said Napoleon Gardner.

32 Total.....\$ 241,056.00

10—*Board of Probation and Parole*

Acct. No. 123

1	Personal Services.....	\$ 139,200.00
2	Current Expenses.....	37,000.00
3	Equipment	2,000.00
4	Total.....	\$ 178,200.00

FISCAL

11—*Auditor's Office—General Administration*

Acct. No. 150

1	Salary of State Auditor.....	\$ 7,250.00
2	Other Personal Services.....	138,020.00
3	Current Expenses.....	9,800.00
4	Equipment	10,000.00
5	Total.....	\$ 165,070.00

12—*Treasurer's Office*

Acct. No. 160

1	Salary of State Treasurer.....	\$ 7,250.00
2	Other Personal Services.....	62,710.00

3	Current Expenses.....	9,000.00
4	Equipment	5,000.00
5	Total.....	\$ 83,960.00

13—*Sinking Fund Commission*

Acct. No. 170

1	Personal Services.....	\$ 13,800.00
2	Current Expenses.....	750.00
3	Total.....	\$ 14,550.00

14—*State Tax Commissioner*

Acct. No. 180

1	Personal Services.....	\$ 651,680.00
2	Current Expenses.....	192,500.00
3	Equipment	25,000.00
4	Property Evaluation	103,000.00
5	Total.....	\$ 972,180.00

15—*West Virginia Board of Control*

Acct. No. 190

1	Salaries of Members.....	\$ 21,000.00
2	Other Personal Services.....	37,920.00
3	Current Expenses.....	9,725.00
4	Equipment	475.00
5	Total.....	\$ 69,120.00

16—*Director of the Budget*

Acct. No. 210

1	Personal Services.....	\$ 96,940.00
2	Current Expenses.....	12,000.00
3	Equipment	2,000.00
4	Total.....	\$ 110,940.00

17—*Director of the Budget—Inventory Control*

Acct. No. 211

1	Personal Services.....	\$	16,380.00
2	Current Expenses.....		4,500.00
3	Total.....	\$	20,880.00

LEGAL

18—*Attorney General*

Acct. No. 240

1	Salary of Attorney General.....	\$	7,500.00
2	Other Personal Services.....		96,780.00
3	Current Expenses.....		13,450.00
4	Equipment		3,500.00
5	To protect the resources or tax structure of		
6	the State in controversies or legal pro-		
7	ings affecting same.....		4,000.00
8	Total.....	\$	125,230.00

19—*Commission on Uniform State Laws*

Acct. No. 245

1	Total.....	\$	650.00
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INCORPORATING AND RECORDING

20—*Secretary of State*

Acct. No. 250

1	Salary of Secretary of State.....	\$	7,250.00
2	Other Personal Services.....		30,940.00
3	Current Expenses.....		5,000.00
4	Equipment		3,000.00
5	Total.....	\$	46,190.00

CUSTODIAL AND SERVICE

21—*Capitol Building and Grounds*

Acct. No. 270

1	Personal Services.....	\$	163,760.00
2	Current Expenses.....		95,000.00
3	Repairs and Alterations.....		32,000.00
4	Equipment		2,000.00
5	Total.....	\$	292,760.00

22—*Central Mailing Office*

Acct. No. 280

1	Personal Services.....	\$	12,620.00
2	Current Expenses.....		2,000.00
3	Equipment		200.00
4	Postage		50,000.00
5	Total.....	\$	64,820.00

6 The Workmen's Compensation Commission,
 7 Department of Public Assistance, Public
 8 Service Commission, Conservation Com-
 9 mission, Department of Motor Vehicles,
 10 State Road Commission and State Health
 11 Department shall reimburse the Postage
 12 appropriation of the Central Mailing Of-
 13 fice monthly for all meter service. Any
 14 spending unit receiving reimbursement for
 15 postage costs from the Federal Govern-
 16 ment shall refund to the Postage account of
 17 the Central Mailing Office such amounts.
 18 Should this appropriation for Postage be
 19 insufficient to meet the mailing require-
 20 ments of the State spending units as set
 21 out above, any excess postage meter serv-
 22 ice requirements shall be a proper charge
 23 against the units, and each spending unit
 24 shall refund to the Postage appropriation
 25 of the Central Mailing Office any amounts

- 26 required for that Department for postage
27 in excess of this appropriation.

23—*Department of Purchases*

Acct. No. 290

1	Personal Services.....	\$	74,450.00
2	Current Expenses.....		16,000.00
3	Equipment		1,000.00
4	Total.....	\$	91,450.00

EDUCATIONAL

24—*Department of Education—State Aid to Schools*

Acct. No. 295

- 1 State aid to supplement the General School
2 Fund\$ 50,815,720.00
3 To be transferred to the general school fund
4 upon the requisition of the Governor. To
5 be distributed according to law except an
6 amount not to exceed \$125,000.00, which
7 sum shall be available to the State Board
8 of School Finance to aid counties in pro-
9 viding instruction for physically and men-
10 tally handicapped children: *Provided, how-*
11 *ever,* That from the amount appropriated
12 herein to the State Board of School Fi-
13 nance to aid counties in providing instruc-
14 tion for the physically and mentally handi-
15 capped children, an amount not to exceed
16 \$10,000.00 may be used to pay the salary of
17 a director and other administrative ex-
18 penses for the physically and mentally
19 handicapped children's program.
20 In making distribution of state aid to coun-
21 ties as provided by law, the State Board of
22 School Finance shall allocate to each coun-
23 ty, state aid of not less than fifty dollars
24 for each weighted pupil in the county.

25—*Department of Education—Textbook Aid*

Acct. No. 297

1	Textbooks for Schools.....	\$	150,000.00
2	To be distributed according to chapter fifty-		
3	one, acts of the Legislature, regular ses-		
4	sion, 1939.		

26—*Teachers Retirement Board*

Acct. No. 298

1	Benefit Fund—Payments to Retired Teach-		
2	ers	\$	1,550,000.00
3	Employers' Accumulation Fund—To match		
4	contributions of members.....		2,795,808.00
5	Expense Fund		11,750.00
6	Total.....	\$	4,357,558.00

27—*West Virginia University*

Acct. No. 300

1	Personal Services.....	\$	4,471,100.00
2	Current Expenses.....		661,680.00
3	Repairs and Alterations.....		220,000.00
4	Equipment		238,000.00
5	State Aid to Medical Students.....		62,500.00
6	State Aid to Students of Veterinary Medi-		
7	cine		28,000.00
8	Oak Wilt Control Research		10,000.00
9	Total.....	\$	5,691,280.00
10	Out of the above appropriation for Personal		
11	Services the sum of \$6,000.00 shall be used		
12	only for the employment of a Spray Spe-		
13	cialist who shall be stationed only at West		
14	Virginia University Farm at Kearneys-		
15	ville.		
16	The above appropriation includes accounts		
17	previously numbered 301 to 314 inclusive.		

28—*Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services	\$	236,935.00
2	Current Expenses		35,910.00
3	Repairs and Alterations		20,000.00
4	Equipment		13,000.00
5	Total	\$	305,845.00

29—*Marshall College*

Acct. No. 320

1	Personal Services	\$	1,422,455.00
2	Current Expenses		126,830.00
3	Repairs and Alterations		47,000.00
4	Equipment		50,000.00
5	Flood Wall Assessment		3,200.00
6	Total	\$	1,649,485.00

30—*Fairmont State College*

Acct. No. 321

1	Personal Services	\$	471,100.00
2	Current Expenses		48,530.00
3	Repairs and Alterations		21,000.00
4	Equipment		19,000.00
5	Total	\$	559,630.00

31—*Glenville State College*

Acct. No. 322

1	Personal Services	\$	296,275.00
2	Current Expenses		37,335.00
3	Repairs and Alterations		16,000.00
4	Equipment		13,000.00
5	Total	\$	362,610.00

32—*West Liberty State College*

Acct. No. 323

1	Personal Services.....	\$	312,700.00
2	Current Expenses.....		34,285.00
3	Repairs and Alterations.....		16,000.00
4	Equipment		13,000.00
5	Total.....	\$	375,985.00

33—*Shepherd College*

Acct. No. 324

1	Personal Services.....	\$	287,360.00
2	Current Expenses.....		36,810.00
3	Repairs and Alterations.....		17,000.00
4	Equipment		13,000.00
5	Total.....	\$	354,170.00

34—*Concord College*

Acct. No. 325

1	Personal Services.....	\$	474,960.00
2	Current Expenses.....		44,550.00
3	Repairs and Alterations.....		22,000.00
4	Equipment		21,000.00
5	Total.....	\$	562,510.00

35—*West Virginia Institute of Technology*

Acct. No. 327

1	Personal Services.....	\$	379,020.00
2	Current Expenses.....		47,970.00
3	Repairs and Alterations.....		20,000.00
4	Equipment		45,000.00
5	Total.....	\$	491,990.00

36—*West Virginia State College*

Acct. No. 328

1	Personal Services	\$	710,385.00
2	Current Expenses		101,030.00
3	Repairs and Alterations		38,000.00
4	Equipment		29,000.00
5	Total	\$	878,415.00

37—*Bluefield State College*

Acct. No. 329

1	Personal Services	\$	288,520.00
2	Current Expenses		41,265.00
3	Repairs and Alterations		15,000.00
4	Equipment		12,000.00
5	Total	\$	356,785.00

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

Acct. No. 330

1	Personal Services	\$	12,100.00
2	Current Expenses		4,400.00
3	Repairs and Alterations		2,850.00
4	Equipment		2,100.00
5	Total	\$	21,450.00

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

Acct. No. 333

1	Personal Services	\$	340,988.00
2	Current Expenses		125,680.00
3	Repairs and Alterations		14,000.00
4	Equipment		13,000.00
5	Total	\$	493,668.00

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

Acct. No. 336

1	Personal Services	\$	12,740.00
2	Current Expenses		5,000.00
3	Repairs and Alterations		5,000.00
4	Equipment		3,500.00
5	Total	\$	26,240.00

41—*Department of Archives and History*

Acct. No. 340

1	Personal Services	\$	20,860.00
2	Current Expenses		4,100.00
3	Equipment		4,500.00
4	Total	\$	29,460.00

42—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$	42,950.00
2	Current Expenses		10,460.00
3	Equipment		790.00
4	Books and Periodicals		32,000.00
5	Total	\$	86,200.00

CHARITIES AND CORRECTION

43—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services	\$	157,270.00
2	Current Expenses		78,600.00
3	Repairs and Alterations		12,500.00
4	Equipment		5,850.00
5	Total	\$	254,220.00

44—Forestry Camp for Boys**Acct. No. 371**

1	Personal Services.....	\$	41,000.00
2	Current Expenses.....		40,000.00
3	Repairs and Alterations.....		700.00
4	Equipment		5,000.00
5	Total.....	\$	86,700.00

45—West Virginia Industrial Home for Girls**Acct. No. 372**

1	Personal Services.....	\$	83,000.00
2	Current Expenses.....		61,000.00
3	Repairs and Alterations.....		14,000.00
4	Equipment		8,000.00
5	Total.....	\$	166,000.00

46—West Virginia Industrial Home for Colored Girls—Lakin**Acct. No. 373**

1	Personal Services.....	\$	9,800.00
2	Current Expenses.....		8,000.00
3	Repairs and Alterations.....		2,000.00
4	Equipment		1,000.00
5	Total.....	\$	20,800.00

47—West Virginia State Prison for Women**Acct. No. 374**

1	Personal Services.....	\$	31,180.00
2	Current Expenses.....		39,450.00
3	Repairs and Alterations.....		6,000.00
4	Equipment		4,000.00
5	Total.....	\$	80,630.00

48—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services.....	\$	468,380.00
2	Current Expenses.....		460,000.00
3	Repairs and Alterations.....		26,000.00
4	Equipment		16,000.00
5	Total.....	\$	970,380.00

49—*Medium Security Prison*

Acct. No. 376

1	Personal Services.....	\$	171,200.00
2	Current Expenses.....		153,000.00
3	Repairs and Alterations.....		17,000.00
4	Equipment		11,000.00
5	Total.....	\$	352,200.00

50—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services.....	\$	44,000.00
2	Current Expenses.....		29,000.00
3	Repairs and Alterations.....		2,000.00
4	Equipment		6,000.00
5	Total.....	\$	81,000.00

51—*West Virginia Home for Aged and Infirm Colored
Men and Women—Huntington*

Acct. No. 382

1	Personal Services.....	\$	26,400.00
2	Current Expenses.....		38,960.00
3	Repairs and Alterations.....		9,000.00
4	Equipment		6,000.00
5	Total.....	\$	80,360.00

52—West Virginia Training School

Acct. No. 383

1	Personal Services	\$	200,180.00
2	Current Expenses		135,000.00
3	Repairs and Alterations		8,000.00
4	Equipment		12,000.00
5	Total	\$	355,180.00
6	In the event those children who are now		
7	inmates of Huntington State Hospital at		
8	Huntington are not transferred to this		
9	institution as proposed by the Board of		
10	Control, there is appropriated for use at		
11	this institution the following:		
12	Personal Services	\$	157,353.00
13	Current Expenses		118,300.00
14	Repairs and Alterations		8,000.00
15	Equipment		7,500.00
16	Total	\$	291,153.00

53—Andrew S. Rowan Memorial Home

Acct. No. 384

1	Personal Services	\$	171,600.00
2	Current Expenses		145,000.00
3	Repairs and Alterations		9,000.00
4	Equipment		6,000.00
5	Total	\$	331,600.00

HEALTH AND WELFARE

54—State Health Department

Acct. No. 400

1	Personal Services	\$	510,247.00
2	Current Expenses		73,000.00
3	Equipment		24,000.00
4	Cancer Control and Treatment		90,000.00

5	Tuberculosis Field Clinic and Nursing	
6	Service	9,500.00
7	Out-Patient Pneumothorax Treatment.....	23,000.00
8	Hospitalization of Needy Tubercular Chil-	
9	dren	5,000.00
<hr/>		
10	Total	\$ 734,747.00
11	Any unexpended balance remaining in the	
12	Hospital Survey and Planning account at	
13	the close of the fiscal year 1955-56 is here-	
14	by reappropriated for expenditure dur-	
15	ing the fiscal year 1956-57.	

55—State Water Commission

Acct. No. 401

1	Personal Services.....	\$ 37,290.00
2	Current Expenses.....	10,210.00
3	Equipment	1,475.00
4	For cooperation with the U. S. Geological	
5	Survey for a program of stream gauging	14,488.00
<hr/>		
6	Total	\$ 63,463.00

56—Bureau of Negro Welfare and Statistics

Acct. No. 403

1	Personal Services.....	\$ 11,160.00
2	Current Expenses.....	2,000.00
<hr/>		
3	Total	\$ 13,160.00

57—Department of Veterans Affairs

Acct. No. 404

1	Personal Services.....	\$ 142,260.00
2	Current Expenses.....	41,500.00
3	Equipment	1,000.00
4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	

6	Chapter thirty-nine, Acts of the Legis-	
7	lature, 1943_____	15,000.00
8	Total_____	\$ 199,760.00
9	Any unexpended balance remaining in the	
10	appropriation "To Provide Educational	
11	Opportunities for Children of War Veter-	
12	ans" at the close of the fiscal year 1955-56	
13	is hereby reappropriated for expenditure	
14	during the fiscal year 1956-57.	

58—Department of Public Assistance

Acct. No. 405

1	Personal Services_____	\$ 860,000.00
2	Current Expenses_____	202,000.00
3	Equipment _____	9,000.00
4	Public Assistance Grants (Classified Aid) —	7,278,700.00
5	Aid to Crippled Children_____	300,000.00
6	Medical Care for the Indigent_____	215,000.00
7	Hospitalization for the Indigent_____	479,700.00
8	Conservation of Vision and Prevention of	
9	Blindness _____	33,900.00
10	Child Welfare Services_____	83,650.00
11	General Relief_____	325,000.00
12	Boarding Care_____	340,000.00
13	Merit System_____	10,000.00
14	Social Security Matching Funds_____	19,000.00
15	Total_____	\$ 10,155,950.00

59—Department of Public Assistance—
Commodity Distribution

Acct. No. 406

1	Personal Services_____	\$ 90,000.00
2	Current Expenses_____	40,000.00
3	Total_____	\$ 130,000.00

60—*Weston State Hospital*

Acct. No. 420

1	Personal Services.....	\$	1,011,300.00
2	Current Expenses.....		635,200.00
3	Repairs and Alterations.....		28,750.00
4	Equipment		19,800.00
5	Water Supply.....		47,000.00
6	Total.....	\$	1,742,050.00

61—*Spencer State Hospital*

Acct. No. 421

1	Personal Services.....	\$	469,520.00
2	Current Expenses.....		308,280.00
3	Repairs and Alterations.....		16,950.00
4	Equipment		11,050.00
5	Total.....	\$	805,800.00
6	All revenue collected by the above spending		
7	unit in excess of the amount required to		
8	pay the principal and interest on out-		
9	standing Clinic Bonds shall be deposited		
10	to the State Fund-General Revenue.		

62—*Huntington State Hospital*

Acct. No. 422

1	Personal Services.....	\$	615,360.00
2	Current Expenses.....		434,610.00
3	Repairs and Alterations.....		27,500.00
4	Equipment		15,250.00
5	Total.....	\$	1,092,720.00
6	All revenue collected by the above spending		
7	unit in excess of the amount required to		
8	pay the principal and interest on out-		
9	standing Clinic Bonds shall be deposited		
10	to the State Fund-General Revenue.		

63—Lakin State Hospital**Acct. No. 423**

1	Personal Services_____	\$	268,120.00
2	Current Expenses_____		151,360.00
3	Repairs and Alterations_____		18,200.00
4	Equipment _____		11,050.00
5	Total_____	\$	448,730.00

64—Barboursville State Hospital**Acct. No. 424**

1	Personal Services_____	\$	171,840.00
2	Current Expenses_____		120,050.00
3	Repairs and Alterations_____		17,750.00
4	Equipment _____		6,850.00
5	Total_____	\$	316,490.00

65—Fairmont Emergency Hospital**Acct. No. 425**

1	Personal Services_____	\$	101,820.00
2	Current Expenses_____		65,000.00
3	Repairs and Alterations_____		7,000.00
4	Equipment _____		5,000.00
5	Total_____	\$	178,820.00

66—Welch Emergency Hospital**Acct. No. 426**

1	Personal Services_____	\$	109,340.00
2	Current Expenses_____		118,000.00
3	Repairs and Alterations_____		9,000.00
4	Equipment _____		6,000.00
5	Total_____	\$	242,340.00

67—Hopemont Sanitarium

Acct. No. 430

1 Personal Services	\$	453,120.00
2 Current Expenses		352,150.00
3 Repairs and Alterations		20,500.00
4 Equipment		8,000.00
5 Total	\$	833,770.00

68—Pinecrest Sanitarium

Acct. No. 431

1 Personal Services	\$	580,120.00
2 Current Expenses		515,240.00
3 Repairs and Alterations		28,000.00
4 Equipment		17,300.00
5 Total	\$	1,140,660.00

69—Denmar Sanitarium

Acct. No. 432

1 Personal Services	\$	180,000.00
2 Current Expenses		140,000.00
3 Repairs and Alterations		25,000.00
4 Equipment		7,750.00
5 Total	\$	352,750.00

70—Berkeley Springs Sanitarium

Acct. No. 436

1 Personal Services	\$	27,260.00
2 Current Expenses		6,500.00
3 Repairs and Alterations		1,200.00
4 Equipment		1,300.00
5 Total	\$	36,260.00

71—Non-State Institutions

Acct. No. 437

1	Morris Memorial Hospital.....	\$	10,000.00
2	Marmet Hospital, Inc.....		7,500.00
3	Total.....	\$	17,500.00
4	To be expended by the Department of Pub-		
5	lic Assistance to meet actual per capita		
6	costs for hospitalization of needy West		
7	Virginia patients at these institutions.		

72—State Board of Education—Rehabilitation Division

Acct. No. 440

1	Personal Services.....	\$	126,300.00
2	Current Expenses.....		35,900.00
3	Rehabilitation Center.....		27,846.00
4	Case Services.....		239,954.00
5	Supervisory Service for Vending Stand Pro-		
6	gram for the Blind.....		
7	Total.....	\$	438,000.00

BUSINESS AND INDUSTRIAL RELATIONS

73—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1	Personal Services.....	\$	184,860.00
2	Current Expenses.....		50,000.00
3	Equipment.....		2,000.00
4	Total.....	\$	236,860.00

74—Department of Mines

Acct. No. 460

1	Personal Services.....	\$	555,000.00
2	Current Expenses.....		141,000.00
3	Equipment.....		15,000.00
4	Total.....	\$	711,000.00

75—*Commission on Interstate Cooperation*

Acct. No. 472

1	Total	\$	10,000.00
2	Out of the above appropriation the sum of		
3	\$7,500.00 may be made available for West		
4	Virginia's membership in The Council of		
5	State Governments.		

76—*Interstate Commission on Potomac River Basin*

Acct. No. 473

1	West Virginia's contribution to Potomac		
2	River Basin Interstate Commission	\$	3,600.00

77—*Ohio River Valley Water Sanitation Commission*

Acct. No. 474

1	West Virginia's contribution to the Ohio		
2	River Valley Water Sanitation Commis-		
3	sion	\$	15,860.00

78—*Southern Regional Education Board*

Acct. No. 475

1	West Virginia's contribution to Southern		
2	Regional Education Board	\$	28,000.00
3	To be expended upon requisition of the		
4	Governor.		

79—*Department of Banking*

Acct. No. 480

1	Personal Services	\$	58,800.00
2	Current Expenses		22,000.00
3	Equipment		2,000.00
4	Total	\$	82,800.00

80—*West Virginia State Aeronautics Commission*

Acct. No. 485

1	Personal Services.....	\$	8,540.00
2	Current Expenses.....		3,000.00
3	Aerial Markers.....		2,000.00
4	Total.....	\$	13,540.00

81—*West Virginia Industrial and Publicity Commission*

Acct. No. 486

1	Personal Services.....	\$	52,070.00
2	Current Expenses.....		55,000.00
3	Equipment		1,000.00
4	Industrial Development.....		225,000.00
5	Total.....	\$	333,070.00

82—*West Virginia Non-Intoxicating Beer Commissioner*

Acct. No. 490

1	Personal Services.....	\$	76,450.00
2	Current Expenses.....		41,000.00
3	Equipment		500.00
4	Total.....	\$	117,950.00

83—*West Virginia Racing Commission*

Acct. No. 495

1	Personal Services.....	\$	39,700.00
2	Current Expenses.....		7,400.00
3	Total.....	\$	47,100.00

AGRICULTURE

84—*Department of Agriculture*

Acct. No. 510

1	Salary of Commissioner.....	\$	7,250.00
2	Other Personal Services.....		127,835.00

3	Current Expenses.....	60,000.00
4	Equipment	7,000.00
5	For the Eradication and Prevention of Live-	
6	stock Diseases	119,000.00
7	Aid to Dairy Development Program.....	50,065.00
8	Eradication and Control of Japanese Beetle	
9	and other plant pests.....	14,000.00
10	Eradication and Control of White Pine	
11	Blister	15,000.00
12	Eradication and Control of Oak Wilt.....	35,000.00
13	Total.....	\$ 435,150.00

85—Department of Agriculture—Soil Conservation Committee

Acct. No. 512

1	Personal Services.....	\$ 45,000.00
2	Current Expenses.....	18,000.00
3	Total.....	\$ 63,000.00

86—Department of Agriculture—Marketing and Research

Acct. No. 513

1	For cooperation with the Federal Govern-	
2	ment in a program of marketing and re-	
3	search	\$ 50,000.00
4	To provide additional Farm Market Fa-	
5	cities	80,000.00
6	Total.....	\$ 130,000.00
7	Any part or all of this appropriation may be	
8	transferred to Special Revenue Fund for	
9	the purpose of matching federal funds for	
10	the above named program.	

87—Department of Agriculture—Agricultural Awards

Acct. No. 515

1	Incorporated County and District Fairs, 4-H	
2	Fairs and Exhibits, and Vocational-Agri-	
3	cultural Fairs and Exhibits.....	\$ 12,500.00

4	West Virginia State Fair_____	22,500.00
5	State Agricultural Fairs and Agricultural	
6	and Industrial Exhibits_____	25,000.00
7	Mountain State Forest Festival_____	9,000.00
8	Total_____	\$ 69,000.00
9	To be expended at the discretion of the Com-	
10	missioner of Agriculture in accordance	
11	with law.	

CONSERVATION AND DEVELOPMENT

88—Geological and Economic Survey Commission

Acct. No. 520

1	Personal Services_____	\$ 69,340.00
2	Current Expenses_____	23,000.00
3	Equipment_____	6,000.00
4	Cooperative Mapping Program_____	50,000.00
5	Total_____	\$ 148,340.00
6	Of the above appropriation for "Current Ex-	
7	penses," the sum of \$10,000.00 may be used	
8	to cooperate with the United States Geo-	
9	logical Survey in Ground Waters Re-	
10	sources Study.	

89—Conservation Commission

Acct. No. 521

1	Personal Services_____	\$ 265,000.00
2	Current Expenses_____	16,000.00
3	Oak Wilt Control_____	4,000.00
4	Total_____	\$ 285,000.00
5	Out of the above appropriation the sum of	
6	\$80,000.00 under Personal Services and	
7	\$16,000.00 Current Expenses shall be used	
8	to match federal funds under the Pittman-	
9	Robertson and Dingell-Johnson programs.	

90—*Conservation Commission—Division of State Parks*

Acct. No. 522

1	Personal Services.....	\$	89,770.00
2	Current Expenses.....		53,000.00
3	Repairs and Alterations.....		25,000.00
4	Equipment		10,000.00
5	Total.....	\$	177,770.00

91—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	For cooperation with the United States De-		
2	partment of Agriculture in Fire Preven-		
3	tion and Control.....	\$	25,000.00
4	Any unexpended balance remaining in this		
5	account at the close of the fiscal year 1955-		
6	56 is hereby reappropriated for expendi-		
7	ture during the fiscal year 1956-57.		

92—*Conservation Commission—Historical Monuments*

Acct. No. 561

1	Care and Maintenance of Point Pleasant		
2	Battle Monument and Park.....	\$	3,300.00
3	Care and Maintenance of Rumsey Monu-		
4	ment and Park.....		350.00
5	Care and Maintenance of Morgan Morgan		
6	Memorial		25.00
7	Fairfax Stone, Tucker County, to buy and/		
8	or preserve land upon which the Fairfax		
9	Stone is situate and land adjacent there-		
10	to	\$	1,500.00
11	Total.....	\$	5,175.00

93—*Department of Veterans Affairs*

Acct. No. 564

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

PROTECTION

94—*Department of Public Safety*

Acct. No. 570

1	Personal Services.....	\$	931,644.00
2	Current Expenses.....		561,974.00
3	Repairs and Alterations.....		15,100.00
4	Equipment		74,350.00
5	Total.....	\$	1,583,068.00

95—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services.....	\$	51,000.00
2	Current Expenses.....		148,225.00
3	Repairs and Alterations.....		7,300.00
4	Equipment		7,400.00
5	Compensation of Commanding Officers,		
6	Clerical Allowances and Uniform Allow-		
7	ances		68,160.00
8	Property Maintenance.....		37,450.00
9	Total.....	\$	319,535.00

96—*Division of Civilian Defense*

Acct. No. 581

1	Personal Services.....	\$	16,180.00
2	Current Expenses.....		5,000.00
3	Equipment		3,200.00
4	Total.....	\$	24,380.00

97—*State Armory Board*

Acct. No. 582

1	For insurance, maintenance, repair and	
2	equipment for state-owned Armories.....	\$ 22,500.00

98—*State Board of Education—Insurance*

Acct. No. 584

1	Boiler Insurance Premiums.....	\$ 6,500.00
2	To pay insurance premiums on boilers at	
3	state colleges and institutions under the	
4	supervision of the State Board of Educa-	
5	tion.	
6	The above appropriation is for premiums for	
7	a three-year period.	

99—*West Virginia Board of Control—Insurance*

Acct. No. 585

1	Boiler Insurance Premiums.....	\$ 9,500.00
2	To pay insurance premiums on boilers at	
3	state institutions under the supervision of	
4	the Board of Control.	
5	The above appropriation is for premiums for	
6	a three-year period.	

100—*State Board of Certified Public Accountants*

Acct. No. 586

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

101—*State Board of Examiners of Registered Nurses*

Acct. No. 588

1	To pay the per diem of members and other	
2	general expenses.....	\$ 18,750.00
3	From Collections.....	18,750.00

102—*State Board of Dental Examiners*

Acct. No. 589

1 To pay the per diem of members and other		
2 general expenses.....	\$	5,000.00
3 From Collections.....		5,000.00

103—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses.....	\$	12,000.00
3 From Collections.....		12,000.00

104—*State Board of Osteopathy*

Acct. No. 591

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

105—*State Board of Optometry*

Acct. No. 592

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

106—*State Board of Embalmers and Funeral Directors*

Acct. No. 593

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

107—*State Board of Registration for Professional
Engineers*

Acct. No. 594

1 To pay the per diem of members and other		
2 general expenses.....	\$	15,000.00
3 From Collections.....		15,000.00

108—*State Board of Architects*

Acct. No. 595

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

109—*State Veterinary Board*

Acct. No. 596

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

110—*State Board of Law Examiners*

Acct. No. 597

1 To pay the per diem of members and other		
2 general expenses.....	\$	2,400.00

111—*Auditor's Office—Social Security*

Acct. No. 598

1 To match contributions of state employees		
2 for social security.....	\$	375,000.00
3 The above appropriation is intended to cover		
4 the state's share of social security costs for		
5 those spending units operating from Gen-		
6 eral Revenue Fund and General School		
7 Fund appropriations. The State Road Com-		
8 mission, Department of Motor Vehicles,		
9 Workmen's Compensation Commission,		
10 Public Service Commission, and other de-		
11 partments operating from Special Revenue		
12 Funds and/or Federal Funds shall pay		
13 their proportionate share of the social se-		
14 curity cost for their respective divisions.		
15 Such payments may be made from the bal-		
16 ances in the various Special Revenue		
17 Funds in excess of specific appropriations.		

Sec. 2. *Appropriations from Other Funds.*—From the funds designated there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred fifty-seven.

112—*State Road Commission—General Administration and Engineering*

Acct. No. 670

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$	419,320.00
2	Current Expenses		90,660.00
3	Equipment		30,000.00
4	Total	\$	539,980.00

In addition to the foregoing appropriations and claims as authorized by this act or by law to be paid from the state road fund, the balance or residue of the annual receipts of the state road fund is hereby appropriated first for the payment of interest on and principal of outstanding road bonds, and thereafter for maintenance, construction and reconstruction of state roads, in accordance with the provisions of chapter seventeen, code of West Virginia, 1931, as amended.

113—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

1	Personal Services	\$	527,200.00
2	Current Expenses		178,000.00
3	Equipment		9,000.00
4	Purchase of License Plates		117,000.00
5	Total	\$	831,200.00

**114—State Tax Commissioner—Gasoline Tax
Division**

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

1	Personal Services.....	\$	70,560.00
2	Current Expenses.....		21,000.00
3	Equipment		2,000.00
4	Total.....	\$	93,560.00

115—State Board of Education

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	24,660.00
2	Current Expenses.....		9,500.00
3	Equipment		500.00
4	Total.....	\$	34,660.00

116—State Board of Education—Vocational Division

Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	23,310.00
2	Current Expenses.....		6,500.00
3	Equipment		1,000.00
4	Vocational Aid		300,000.00
5	Total.....	\$	330,810.00

117—Department of Education—Veterans Education

Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services.....	\$	49,120.00
2	Current Expenses.....		15,580.00
3	Total.....	\$	64,700.00

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

118—*Department of Education*

Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent_____	\$	7,250.00
2	Other Personal Services_____		128,325.00
3	Current Expenses_____		56,000.00
4	Equipment _____		3,000.00
<hr/>			
5	Total_____	\$	194,575.00

119—*State Board of School Finance*

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services_____	\$	13,440.00
2	Current Expenses_____		3,000.00
<hr/>			
3	Total_____	\$	16,440.00

120—*Department of Education—School Lunch Program*

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services_____	\$	45,200.00
2	Current Expenses_____		10,300.00
3	Aid to Counties—Includes hot lunches and		
4	canning for hot lunches_____		125,000.00
<hr/>			
5	Total_____	\$	180,500.00

121—*Department of Education*

Acct. No. 706

TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents_____	\$	64,000.00
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122—*Department of Education*

Acct. No. 707

TO BE PAID FROM GENERAL SCHOOL FUND

1 State Aid to Children's Homes.....	\$	25,000.00
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123—*Auditor's Office*

Acct. No. 708

TO BE PAID FROM GENERAL SCHOOL FUND

1 Premiums on Bonds of County Clerks.....	\$	2,000.00
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124—*Auditor's Office—Land Department*

Acct. No. 709

TO BE PAID FROM GENERAL SCHOOL FUND

1 Personal Services.....	\$	31,980.00
2 Current Expenses.....		1,000.00
3 Equipment		500.00
4 Total.....	\$	33,480.00

125—*Real Estate Commission*

Acct. No. 801

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services.....	\$	15,000.00
2 Current Expenses.....		10,000.00
3 Equipment		750.00
4 Total.....	\$	25,750.00

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

126—*Public Land Corporation*

Acct. No. 802

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	9,550.00
2	Current Expenses.....		4,000.00
3	Total.....	\$	13,550.00

- 4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund out of
6 income received by the corporation as
7 provided by law.

127—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

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

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

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	47,100.00
2	Current Expenses.....		16,400.00
3	Equipment		6,100.00
4	Total.....	\$	69,600.00

- 5 The total amount of this appropriation shall
6 be paid from Special Revenue Fund out of
7 fees and collections as provided by law.

129—*Department of Purchases—Revolving Fund*

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	73,900.00
2	Current Expenses.....		28,000.00
3	Equipment		5,000.00
4	Total.....	\$	106,900.00

- 5 The total amount of this appropriation shall
6 be paid from Special Revenue Fund as
7 provided by Chapter 25-A, Article 2, Code
8 of West Virginia.

- 9 The above appropriation includes salaries
10 and operating expenses.

- 11 There is hereby appropriated from this fund,
12 in addition to the above appropriation, the
13 necessary amount for the purchase of sup-
14 plies for resale.

130—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	127,480.00
2	Current Expenses.....		40,000.00
3	Equipment		9,000.00
4	Total.....	\$	176,480.00

- 5 The total amount of this appropriation shall
6 be paid from Special Revenue Fund out of
7 collections made by the Department of
8 Agriculture as provided by law. It is the
9 intention that special funds in excess of

- 10 the amounts hereby appropriated shall be
11 made available by budget amendments
12 upon request of the Commissioner of Ag-
13 riculture.

131—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	17,820.00
2	Current Expenses.....		7,000.00
3	Total.....	\$	24,820.00

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

132—*Insurance Commissioner*

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	96,780.00
2	Current Expenses.....		13,000.00
3	Equipment		2,000.00
4	Total.....	\$	111,780.00

- 5 The total amount of this appropriation shall
6 be paid from Special Revenue Fund out
7 of collections for license and report fees
8 as provided by law.

133—*Insurance Commissioner—Fire Marshal*

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	76,640.00
2	Current Expenses		25,000.00

3	Equipment	3,700.00
4	Building Repair and Maintenance.....	2,500.00

5	Total	\$ 107,840.00
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6 The total amount of this appropriation shall
 7 be paid from Special Revenue Fund out
 8 of collections of the special tax of one-
 9 half of one per cent of premium receipts
 10 of fire insurance companies as provided
 11 by law.

134—Public Service Commission

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners.....	\$ 22,500.00
2	Other Personal Services.....	225,000.00
3	Current Expenses.....	29,050.00
4	Equipment	4,600.00

5	Total	\$ 281,150.00
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6 The total amount of this appropriation shall
 7 be paid from Special Revenue Fund out
 8 of collections for special license fees from
 9 public service corporations as provided
 10 by law. Out of the above appropriation
 11 \$5,000.00 may be transferred to the State
 12 Water Commission for use in cooperation
 13 with the U. S. Geological Survey in a pro-
 14 gram of stream gauging.

135—Public Service Commission—Motor Carrier Division

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$ 134,740.00
2	Current Expenses.....	39,000.00
3	Equipment	2,500.00
4	Total	\$ 176,240.00

5 The total amount of this appropriation shall
6 be paid from Special Revenue Fund out
7 of receipts collected for or by the Public
8 Service Commission pursuant to and in
9 the exercise of regulatory authority over
10 motor carriers as authorized by law.

136—*Conservation Commission*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services.....	\$ 557,040.00
2 Current Expenses.....	353,745.00
3 Repairs and Alterations.....	56,675.00
4 Equipment	86,200.00
5 Buildings, Land and Improvements.....	10,000.00
6 Land Purchase.....	50,000.00
7 National Forests.....	65,000.00
8 White Pine Blister Rust Control.....	5,000.00
9 Oak Wilt Control.....	4,000.00
10 For payment of bounties.....	2,000.00
11 For construction of ponds and small lakes....	65,000.00
12 For re-stocking of game.....	6,000.00
13 Total.....	\$ 1,260,660.00

14 The total amount of this appropriation shall
15 be paid from Special Revenue Fund out
16 of fees collected by the Conservation
17 Commission. Expenditures shall be lim-
18 ited to the amounts appropriated except
19 for Federal Funds received and Spe-
20 cial Funds collected at state parks.
21 Special Funds in excess of the amounts
22 hereby appropriated may be made avail-
23 able by budget amendment upon request
24 of the Conservation Commission and ap-
25 proval of The Board of Public Works for
26 any emergency which might arise in the
27 operation of this Division during the fiscal
28 year.

137—*Department of Public Safety—Inspection Fees*

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	63,660.00
2	Current Expenses.....		60,740.00
3	Repairs and Alterations.....		6,000.00
4	Equipment		9,000.00
5	Total	\$	139,400.00

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

138—*Department of Public Safety—Instruction Permit Fees*

Acct. No. 836

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	39,780.00
2	Current Expenses.....		35,220.00
3	Total	\$	75,000.00

4 The total amount of this appropriation shall
 5 be paid from Special Revenue Fund out
 6 of fees collected for instruction permits as
 7 provided by law.

139—*West Virginia Liquor Control Commission*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Members.....	\$	21,000.00
2	Other Personal Services		2,734,000.00
3	Current Expenses.....		720,000.00
4	Repairs and Alterations		19,000.00
5	Equipment		14,000.00
6	Total	\$	3,508,000.00

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

10 The above appropriation includes the sal-
11 aries of store personnel, store inspectors,
12 store operating expenses and equipment;
13 and salaries, expenses and equipment for
14 administration offices.

15 There is hereby appropriated from liquor
16 revenues, in addition to the above appro-
17 priation, the necessary amount for the
18 purchase of liquor under the limitations
19 set forth in Chapter 8, Acts of the Legisla-
20 ture, Regular Session, 1955.

140—*West Virginia Merit System Council*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	35,535.00
2	Current Expenses.....		9,000.00
3	Total.....	\$	44,535.00

4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund sup-
6 ported by participating agencies as pro-
7 vided by law.

141—*Department of Labor—Bedding Division*

Acct. No. 843

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services.....	\$	10,200.00
2	Current Expenses.....		8,000.00
3	Total.....	\$	18,200.00

4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund out

- 6 of fees, fines and penalties as provided by
7 law.

142—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1	Personal Services	\$	569,780.00
2	Current Expenses		220,000.00
3	Equipment		32,800.00
4	Total	\$	822,580.00

- 5 There is hereby authorized to be paid out
6 of the above appropriation for Current
7 Expenses the amount necessary for the
8 premiums on bonds given by the State
9 Treasurer and bond custodian for the
10 protection of the Workmen's Compen-
11 sation Fund.

Sec. 3 *Supplemental and Deficiency Appropriations.*—

- 2 From the State Fund, General Revenue, except as other-
3 wise provided, there are hereby appropriated the fol-
4 lowing amounts, as itemized, for expenditure during the
5 fiscal year one thousand nine hundred fifty-six to sup-
6 plement the 1955-56 appropriations, and to be available
7 for expenditure upon date of passage.

143—*Governor's Office*

Acct. No. 120

1	Contingent Fund	\$	100,000.00
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144—*Board of Probation and Parole*

Acct. No. 123

1	Personal Services	\$	9,600.00
2	Current Expenses		5,000.00
3	Total	\$	14,600.00

145—*Auditor's Office*

Acct. No. 150

1	Personal Services.....	\$	7,000.00
2	Current Expenses.....		1,000.00
3	Equipment		1,800.00
4	Total.....	\$	9,800.00

146—*State Tax Commissioner*

Acct. No. 180

1	Personal Services.....	\$	12,000.00
2	Current Expenses		8,000.00
3	Property Evaluation.....		14,500.00
4	Total.....	\$	34,500.00

147—*Capitol Building and Grounds*

Acct. No. 270

1	Repairs and Alterations.....	\$	50,500.00
2	Any unexpended balance remaining in this		
3	appropriation at the close of the fiscal year		
4	1955-56 is hereby reappropriated for ex-		
5	penditure during the fiscal year 1956-57.		

148—*Department of Education*

Acct. No. 295

1	State Aid for School Building Program.....	\$	171,529.69
2	Any unexpended balance remaining in this		
3	appropriation at the close of the fiscal year		
4	1955-56 is hereby reappropriated for ex-		
5	penditure during the fiscal year 1956-57.		

149—*Glenville State College*

Acct. No. 322

1	To repair the walls and floors of the Lewis		
2	Bennett Hall (Boys' Dormitory)	\$	50,000.00

- 3 Any unexpended balance remaining in this
 4 appropriation at the close of the fiscal year
 5 1955-56 is hereby reappropriated for ex-
 6 penditure during the fiscal year 1956-57.

150—*Shepherd College*

Acct. No. 324

1 Repairs and Alterations.....\$ 5,800.00

151—*West Virginia Industrial School for Boys*

Acct. No. 370

1 Complete Gymnasium Building.....\$ 6,862.94

152—*Forestry Camp for Boys*

Acct. No. 371

1 Establishment, Maintenance and Operation
 2 of Forestry Camp to accommodate 100
 3 Boys\$ 35,000.00

153—*West Virginia State Prison for Women*

Acct. No. 374

1 Current Expenses.....\$ 4,000.00

154—*West Virginia Penitentiary*

Acct. No. 375

1 Rebuild Sewerage System.....\$ 65,000.00
 2 Laundry Equipment..... 36,014.00
 3 Complete New Cell Block..... 150,000.00
 4 Total.....\$ 251,014.00

- 5 Any unexpended balance remaining in this
 6 appropriation at the close of the fiscal year
 7 1955-56 is hereby reappropriated for ex-
 8 penditure during the fiscal year 1956-57.

155—*West Virginia Children's Home*

Acct. No. 380

1	Major repairs to dwelling.....	\$	3,000.00
2	Any unexpended balance remaining in this		
3	appropriation at the close of the fiscal year		
4	1955-56 is hereby reappropriated for ex-		
5	penditure during the fiscal year 1956-57.		

156—*West Virginia Training School*

Acct. No. 383

1	To complete building.....	\$	28,000.00
2	Any unexpended balance remaining in this		
3	appropriation at the close of the fiscal year		
4	1955-56 is hereby reappropriated for ex-		
5	penditure during the fiscal year 1956-57.		

157—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	To construct a fire escape on the Ball		
2	Building	\$	3,000.00

158—*Weston State Hospital*

Acct. No. 420

1	To replaster the interior walls of Ward		
2	Building LMO.....	\$	20,000.00

159—*Huntington State Hospital*

Acct. No. 422

1	Personal Services.....	\$	12,000.00
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160—*Industrial and Publicity Commission*

Acct. No. 486

1	Personal Services.....	\$	8,500.00
2	Industrial Development.....		67,000.00
3	Total.....	\$	75,500.00

- 4 Any unexpended balance remaining in the
5 appropriation "Industrial Development"
6 at the close of the fiscal year 1955-56 is
7 hereby reappropriated for expenditure
8 during the fiscal year 1956-57.

161—*Department of Agriculture*

Acct. No. 510

- 1 Oak Wilt Control.....\$ 12,000.00

162—*Geological and Economic Survey Commission*

Acct. No. 520

- 1 Cooperative Mapping Program.....\$ 50,000.00
2 Any unexpended balance remaining in this
3 appropriation at the close of the fiscal year
4 1955-56 is hereby reappropriated for ex-
5 penditure during the fiscal year 1956-57.

163—*Conservation Commission—Division of State Parks*

Acct. No. 522

- 1 To repair and rebuild Superintendent's
2 dwelling at Cacapon State Park\$ 12,500.00
3 Any unexpended balance remaining in this
4 appropriation at the close of the fiscal year
5 1955-56 is hereby reappropriated for ex-
6 penditure during the fiscal year 1956-57.

164—*Adjutant General—State Militia*

Acct. No. 580

- 1 Compensation of commanding officers, cleri-
2 cal allowances and uniform allowances...\$ 17,000.00
3 Expenses of transfer of Air National Guard
4 167th Fighter Interceptor Squadron from
5 Charleston to Martinsburg..... 4,475.00
6 Total.....\$ 21,475.00

- 7 Any unexpended balance remaining in the
 8 appropriation for "Transfer of the Fighter
 9 Interceptor Squadron" from Charleston to
 10 Martinsburg at the close of the fiscal year
 11 1955-56 is hereby reappropriated for ex-
 12 penditure during the fiscal year 1956-57.

165—*Auditor's Office—Social Security*

Acct. No. 598

- 1 To Match Contributions of State Employees
 2 for Social Security.....\$ 125,000.00
 3 Any unexpended balance remaining in this
 4 appropriation at the close of the fiscal year
 5 1955-56 is hereby reappropriated for ex-
 6 penditure during the fiscal year 1956-57.

166—*Department of Motor Vehicles*

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

- 1 Personal Services.....\$ 12,000.00
 2 License Plates.....127,000.00
 3 Total.....\$ 139,000.00

- Sec. 4 *Awards for Claims Against the State.*—From
 2 the fund designated there is hereby appropriated for the
 3 fiscal year 1955-56 for payment of claims against the state
 4 the following amounts, as itemized:

Claims Versus State Adjutant General

TO BE PAID FROM GENERAL REVENUE FUND

- 1 Furman G. Gillespie.....\$ 97.00
 2 Joseph W. Roush.....244.04
 3 Lawrence Mohr.....318.60
 4 Carl V. Ridgley.....10,099.00
 5 G. T. Williams.....110.70

Claims Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1	Homer Birchfield.....	\$ 267.93
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Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

1	Eastern Coal Sales Company.....	\$ 4,616.10
2	Blue Grass Cooperage Co.....	446.66

*Claims Versus West Virginia University
(Agricultural Extension Service of the College of
Agriculture, Forestry and Home Economics)*

TO BE PAID FROM GENERAL REVENUE FUND

1	Logan Company, a corporation.....	\$ 776.84
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Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1	Ohio Valley Bus Company.....	\$ 5,893.30
2	Harry Shabdue.....	684.25
3	Hobert E. Smith.....	175.00
4	Offie Burdette.....	75.00
5	W. S. Burger.....	121.11
6	Cameron Oil and Gas Co.....	50.50
7	Martha S. Painter, admx. estate of Anna B.	
8	Summers, deceased.....	1,600.00
9	Dorr Summers.....	8,400.00
10	D. C. Summers.....	4,300.00
11	Fidelity-Phenix Fire Insurance Company.....	47.94
12	E. H. Scruggs.....	51.00
13	James Franklin Wagers.....	25.00
14	Florence Lawhorn Weikle.....	185.00
15	Lawrence Edwin Weikle.....	1,084.25
16	John Ray Cantley.....	40.00

Sec. 4-a. *Appropriations from Surplus Revenues.*—The following items are appropriated from the General Revenue Fund, subject to the following terms and conditions:

4 (a) The following items are hereby appropriated and
5 are to be available for expenditure only out of the sur-
6 plus in the Treasury on the first day of July, 1956, or at
7 the time release or encumbrance of any such items is
8 made, subject to the conditions and limitations herein-
9 after expressed.

10 (b) Expenditures authorized, which are for construc-
11 tion purposes, shall be for a complete and usable unit or
12 project including necessary equipment, and in any case
13 where additional funds are available, by aid from a Fed-
14 eral Agency or other source, such fact may be considered
15 by the Board in determining what items should at any
16 time be encumbered or released for expenditure: *Pro-*
17 *vided*, That in making such release the Board shall first
18 determine that all funds available will be provided for
19 completion of a complete and usable unit or project, in-
20 cluding necessary equipment: *And provided further*, That
21 sufficient funds shall be available for release of all items
22 under this section, before any release is made.

23 (c) Any of the items under this section may be re-
24 leased or encumbrances made therefor at any time after
25 the first day of July, 1956, as the Board may deem proper,
26 subject to the limitations herein.

27 Subject to the foregoing conditions, the following ap-
28 propriations are made for the purposes named in this
29 section:

30 Item 1: Conservation Commission, for the
31 following purposes:

32 (a) For the construction of electric serv-
33 ice to Blackwater Falls State Park \$36,-
34 000.00; (b) power line construction to Mont
35 Chateau State Park \$3,600.00; (c) construc-
36 tion of power line to Cacapon State Park
37 \$3,200.00; basing and paving of road to new
38 cabins and new lodge at Cacapon State Park
39 \$20,000.00, total \$23,200.00; (d) construction
40 of residence and development and extension
41 of picnic and public use facilities at Blue-

42 stone State Park \$47,500.00; (e) construc-	
43 tion, surfacing and resurfacing roads and	
44 parking lots at Tygart Lake State Park	
45 \$50,000.00; (f) matching funds for construc-	
46 tion of lake at Cedar Creek State Park \$25,-	
47 000.00; (g) construction of check dams, road	
48 grading, basing, and for public toilets and	
49 picnic additions at North Bend State Park	
50 \$25,000.00; (h) grading and basing of roads	
51 to new cabin and lodge at Tomlinson Run	
52 State Park \$25,000.00; (i) construction of	
53 power lines, picnic shelters, water supply,	
54 trail and road improvements, and similar	
55 improvements at Grandview State Park	
56 \$20,000.00; (j) to supplement Federal aid for	
57 construction of dam at Meadow Creek Lake	
58 \$30,000.00	\$ 285,300.00
59 Item 2: West Liberty State College for	
60 purchase of land.....	15,000.00

Sec. 5. *Reappropriations.*—The date for expiring the
 2 unexpended balances, if any, in items 2, 8, 26, 28, 30 and 42,
 3 in the appropriations made by and under authority of Sec-
 4 tion 5 of the 1953 Budget Act, as reappropriated by Section
 5 4 of the 1955 Budget Act, is extended to June 30, 1957, and
 6 such items are hereby reappropriated from their respec-
 7 tive dates of expiration to June 30, 1957.

Sec. 6. *Special Revenue Appropriations.*—There is here-
 2 by appropriated for expenditure during the fiscal year one
 3 thousand nine hundred fifty-seven appropriations made
 4 by general law from special revenue which are not paid
 5 into the state fund as general revenue under the provisions
 6 of section two, article two, chapter twelve of the code of
 7 West Virginia, one thousand nine hundred thirty-one:
 8 *Provided, however,* That none of the moneys so appropri-
 9 ated by this section shall be available for expenditure ex-
 10 cept in compliance with and in conformity to the pro-
 11 visions of articles two and three, chapter twelve of the code
 12 of West Virginia, and chapter thirty-nine, acts of the Leg-
 13 islature, regular session, one thousand nine hundred thir-

14 ty-nine, and unless the spending unit has filed with the
15 state director of the budget and the state auditor prior to
16 the beginning of each fiscal year:

17 (a) An estimate of the amount and sources of all reve-
18 nues accruing to such fund;

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

Sec. 7. *Specific Funds and Collection Accounts.*—A fund
2 or collection account, which by law is dedicated to a spe-
3 cific use is hereby appropriated in sufficient amount to
4 meet all lawful demands upon the fund or collection ac-
5 count, and shall be expended according to the provisions
6 of article three, chapter twelve of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one.

Sec. 8. *Appropriations for Refunding Erroneous Pay-*
2 *ments.*—Money that has been erroneously paid into the
3 state treasury is hereby appropriated out of the fund into
4 which it was paid for refund to the proper person.

5 When the officer authorized by law to collect money for
6 the state finds that a sum has been erroneously paid, he
7 shall issue his requisition upon the auditor for the refund-
8 ing of the proper amount. The auditor shall issue his war-
9 rant to the treasurer and the treasurer shall pay the war-
10 rant out of the fund into which the amount was originally
11 paid.

Sec. 9. *Sinking Fund Deficiencies.*—There is hereby ap-
2 propriated to the board of public works a sufficient amount
3 to meet a deficiency that may arise in the funds of the state
4 sinking fund commission because of the failure of any state
5 agency for either general obligation or revenue bonds or
6 any local taxing district for general obligation bonds to re-
7 mit funds necessary for the payment of interest and sink-
8 ing fund requirements. The board of public works is au-
9 thorized to transfer from time to time such amounts to the
10 state sinking fund commission as may be necessary for
11 this purpose.

12 The state sinking fund commission shall reimburse the
13 State of West Virginia through the board of public works

14 from the first remittance collected from any state agency
15 or local taxing district for which the board of public works
16 advanced funds, with interest at the rate carried by the
17 bonds for which the advance was made.

Sec. 10. *Appropriations from Taxes and License Fees.*—

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

Sec. 11. *Appropriations to Pay Costs of Publication of*

2 *Delinquent Corporations.*—There is hereby appropriated
3 out of the state fund, general revenue, out of funds not
4 otherwise appropriated to be paid upon requisition of the
5 auditor and/or the governor, as the case may be, a sum
6 sufficient to pay the cost of publication of delinquent corp-
7 orations as provided by sections seventy-five and seventy-
8 seven, article twelve, chapter eleven of the code of West
9 Virginia.

Sec. 12. *Appropriations for Local Governments.*—There

2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal
5 corporations and which have been paid into the treasury:

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

Sec. 13. *Total Appropriation.*—Where only a total sum

2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay, except as otherwise provided in Title I, Section 3.

Sec. 14. *General School Fund.*—The balance of the pro-

2 ceeds of the general school fund remaining after the pay-

3 ment of the appropriations made by this act is appropri-
4 ated for expenditure in accordance with section six, article
5 nine, chapter eighteen of the code of West Virginia, one
6 thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.
2. Moving and integrating institutions.
3. Constitutionality.

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

Sec. 2. *Moving and Integrating Institutions.*—This sec-
2 tion shall apply to the following institutions under supervi-
3 sion of the Board of Control:

- 4 (a) West Virginia Colored Children's Home;
- 5 (b) West Virginia Children's Home;
- 6 (c) West Virginia Industrial School for Colored Boys;
- 7 (d) West Virginia Industrial School for Boys;
- 8 (e) Denmar Sanitarium;
- 9 (f) Pinecrest Sanitarium;
- 10 (g) West Virginia Home for Aged and Infirm Colored
- 11 Men and Women;
- 12 (h) Weston State Hospital;
- 13 (i) West Virginia Industrial Home for Colored Girls.

14 The appropriations affecting the institutions outlined
15 above are in contemplation of proposals submitted to the
16 Senate Finance Committee by the West Virginia Board of
17 Control under date of February 3, 1956.

18 The appropriations are for the purpose of transferring
19 the present population of the West Virginia Colored Chil-

20 dren's Home at Huntington to the West Virginia Children's
21 home at Elkins; transferring the present population from
22 the West Virginia Industrial School for Colored Boys from
23 Lakin to the West Virginia Industrial School for Boys at
24 Pruntytown; transferring the present population from
25 Denmar Sanitarium to Pinecrest Sanitarium; transferring
26 the population at West Virginia Home for Aged and Infirm
27 Colored Men and Women at McKendree to the former
28 West Virginia Colored Children's Home at Huntington and
29 to the former West Virginia Industrial Home for Colored
30 Girls at Huntington; transferring 250 mentally tubercu-
31 lar inmates of the population from Weston State Hospital
32 to Denmar Sanitarium; transferring the present popula-
33 tion from the West Virginia Industrial Home for Colored
34 Girls at Huntington, to Lakin, West Virginia, to the former
35 West Virginia Industrial School for Colored Boys.

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

CHAPTER 2

(House Bill No. 20—By Mr. Mills)

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

[Passed February 3, 1956; in effect from passage. Approved by the Governor.]

Section

1. Finding and declaring certain claims against the state adjutant general, state board of control, state road commission, state tax commissioner and West Virginia university, to be moral obligations of the state, and directing payment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. *Finding and Declaring Certain Claims Against the State Adjutant General, State Board of Control, State Road Commission, State Tax Commissioner and West Virginia University, to Be Moral Obligations of the State, and Directing Payment Thereof.*—The Legislature has considered the findings of fact and recommendations reported to it by the attorney general concerning various claims against the state and agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

(a) Claims versus State Adjutant General.

(1) Gillespie, Furman G.....	\$ 97.00
(2) Mohr, Lawrence	318.60
(3) Ridgley, Carl V.	10,099.00
(4) Roush, Joseph W.....	244.04
(5) Williams, G. T.....	110.70

(b) Claims versus State Board of Control.

(1) Birchfield, Homer	\$ 267.93
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(c) Claims versus State Road Commission.

(1) Burdette, Offie	\$ 75.00
(2) Burger, W. S.	121.11
(3) Cameron Oil and Gas Company.....	50.50
(4) Cantley, John Ray.....	40.00
(5) Fidelity-Phenix Fire Insurance Company	47.94
(6) Painter, Martha S., admx., estate of Anna B. Summers, deceased	1,600.00
(7) Scruggs, E. H.....	51.00
(8) Shabdue, Harry.....	684.25
(9) Smith, Hobert.....	175.00
(10) Summers, D. C.....	4,300.00
(11) Summers, Dorr.....	8,400.00

38	(12) Wagers, James Franklin.....	25.00
39	(13) Weikle, Florence Lawhorn.....	185.00
40	(14) Weikle, Lawrence Edwin.....	1,084.25
41	(d) Claims versus State Tax Commissioner.	
42	(1) Blue Grass Cooperage Company.....	\$ 446.66
43	(e) Claims versus West Virginia University.	
44	(1) Logan Company, Inc.....	\$ 776.84

CHAPTER 3

(Senate Bill No. 17—By Mr. Allen and Mr. Chenoweth)

[Passed February 9, 1956; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five-(thirty-four), article one; sections one-(thirty-four), one-(forty), two-(thirty-two), two-(thirty-seven), three-(thirty-two), three-(fifty-two), and five-(thirty-four), all of article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and section five-(thirty-four), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of county commissioners, sheriff, county clerk, circuit clerk, prosecuting attorney and assessor of Nicholas county; salaries of the sheriff and county clerk of Putnam county; and the salary of the circuit clerk of Wyoming county.

Be it enacted by the Legislature of West Virginia:

That section five-(thirty-four), article one; sections one-(thirty-four), one-(forty), two-(thirty-two), two-(thirty-seven), three-(thirty-two), three-(fifty-two) and section five-(thirty-four), all of article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and section five-(thirty-four), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

CHAPTER 7. COUNTY COURTS AND COUNTY OFFICERS**Article****1. County Courts Generally.****7. Salaries; Deputies and Assistants and Their Salaries.****Article 1. County Courts Generally.****Section**

5-(34). Salary of county commissioners of Nicholas county.

Section 5-(34). *Nicholas County*.—For the county of
2 Nicholas, sixty dollars per month.

Article 7. Salaries; Deputies and Assistants and Their Salaries.**Section**

1-(34). Salary of sheriff of Nicholas county.

1-(40). Salary of sheriff of Putnam county.

2-(32). Salary of county clerk of Nicholas county.

2-(37). Salary of county clerk of Putnam county.

3-(32). Salary of circuit clerk of Nicholas county.

3-(52). Salary of circuit clerk of Wyoming county.

5-(34). Salary of prosecuting attorney of Nicholas county.

Sec. 1-(34). *Nicholas County*.—For the county of Nich-
2 olas, four thousand two hundred dollars.

Sec. 1-(40). *Putnam County*.—For the county of Put-
2 nam, three thousand six hundred dollars.

Sec. 2-(32). *Nicholas County*.—For the county of Nich-
2 olas, three thousand six hundred dollars.

Sec. 2-(37). *Putnam County*.—For the county of Put-
2 nam, three thousand six hundred dollars.

Sec. 3-(32). *Nicholas County*.—For the county of Nich-
2 olas, three thousand six hundred dollars.

Sec. 3-(52). *Wyoming County*.—For the county of
2 Wyoming, five thousand four hundred dollars.

Sec. 5-(34). *Nicholas County*.—For the county of Nich-
2 olas, four thousand dollars.

CHAPTER 11. TAXATION**Article 2. Assessors.****Section**

5-(34). Salary of assessor of Nicholas county.

Sec. 5-(34). *Nicholas County*.—For the county of Nich-
2 olas, three thousand four hundred dollars.

CHAPTER 4

(House Bill No. 2—By Mr. Bowles and Mr. Seibert)

AN ACT to amend and reenact section five, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-five, relating to the salaries of prosecuting attorneys.

[Passed January 11, 1956; in effect ninety days from passage. Approved by the Governor.]

Article 7. Salaries; Deputies and Assistants and Their Salaries.

Section

5. Salaries of prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That section five, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-five, be amended and reenacted to read as follows:

Section 5. *Salaries of Prosecuting Attorneys.*—The annual compensation of the prosecuting attorney in each county, including the compensation provided by law for his services as attorney for boards of education and other administrative boards and officers in the county, shall, on and after January one, one thousand nine hundred fifty-seven, be in the amounts set forth in sections five- (one) to five- (fifty-five), inclusive, of this article.

CHAPTER 5

(House Bill No. 16—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries of teachers.

[Passed February 9, 1956; in effect July 1, 1956. Approved by the Governor.]

Article 7. Teachers.

Section

2. Salaries for teachers; basic salaries; advanced salaries.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Salaries for Teachers; Basic Salaries; Advanced Salaries.*—For the purpose of this section, assistant superintendents, directors and supervisors of instruction, and elementary and secondary principals shall be defined as teachers:

County boards of education shall fix the rate of salary to be paid teachers in accordance with the following classifications and requirements:

(A) Basic salaries shall be the salaries fixed for teachers in accordance with the certification classification of the teachers. Such salaries shall be those set forth in the following schedule:

(1) For teachers holding five-year certificates secured by examination or other first-grade certificates, not less than one hundred sixty-five dollars a month.

(2) For teachers holding short course certificates, not less than one hundred seventy-five dollars a month.

18 (3) For teachers holding normal school or other certi-
19 cates which required at the time of issuance at least two
20 years of collegiate work, not less than two hundred fifteen
21 dollars a month.

22 (4) For teachers holding certificates which required at
23 the time of issuance at least three years of collegiate
24 training, not less than two hundred thirty-five dollars a
25 month.

26 (5) For teachers holding collegiate elementary, first-
27 class high school, or other certificates of equal rank, based
28 on a bachelor's degree earned in an approved institution,
29 not less than three hundred ten dollars a month.

30 (6) For teachers who have received a master's degree
31 in an institution qualified and approved to do graduate
32 work, or have completed the requirements therefor, hold-
33 ing the collegiate elementary, first-class high school, or
34 other certificate of equal rank, three hundred forty dol-
35 lars a month.

36 (7) For teachers who have received a doctor's degree
37 from an institution of university rank qualified and ap-
38 proved to confer the doctor's degree, holding the collegiate
39 elementary, first-class high school, or other certificate of
40 equal rank, at least three hundred forty-five dollars a
41 month.

42 Basic salaries shall be uniform throughout the state for
43 teachers holding equivalent credentials.

44 A teacher teaching his first regular term of school shall
45 be paid the basic salary in accordance with his certifica-
46 tion classification.

47 Upon the change of the certification classification of a
48 teacher, the basic salary of that teacher shall be that of
49 the new certification classification.

50 (B) Advanced salaries shall mean any salaries greater
51 than basic salaries. Advanced salary increments shall be
52 the increments added to the basic salaries of teachers for
53 experience and for such other services as recognized
54 herein. Salary increments for teaching experience shall
55 be those set forth in the following schedule:

56 (1) For teachers who hold the short course or certi-
57 cate of lower grade, the rate of salary shall be the basic
58 salary plus at least six dollars a month for the second
59 term, and the basic salary plus an additional annual in-
60 crease of at least six dollars a month for each year taught
61 thereafter to and including the seventh year.

62 (2) For teachers who hold the third-class elementary
63 (standard normal) certificate, the rate of salary shall be
64 the basic salary plus at least six dollars a month for the
65 second term; and the basic salary plus an additional an-
66 nual increase of at least six dollars a month for each year
67 taught thereafter to and including the ninth year.

68 (3) For teachers who hold the second-class collegiate
69 certificate, the rate of salary shall be the basic salary
70 plus at least six dollars a month for the second term; and
71 the basic salary plus an additional annual increase of at
72 least six dollars a month for each year taught thereafter
73 to and including the eleventh year.

74 (4) For teachers who hold the collegiate elementary,
75 first-class high school, or other certificate of equal rank,
76 based on a bachelor's degree earned in an approved in-
77 stitution, the rate of salary shall be the basic salary plus
78 at least six dollars a month for the second term; and the
79 basic salary plus an additional annual increase of at least
80 six dollars a month for each year taught thereafter to
81 and including the fourteenth year.

82 (5) For teachers who have received a master's degree
83 in an institution qualified and approved to do graduate
84 work, holding a collegiate elementary certificate, first-
85 class high school, or other certificate of equal rank, the
86 rate of salary shall be the basic salary plus at least six
87 dollars a month for the second term; and the basic salary
88 plus an additional annual increase of at least six dollars
89 a month for each year taught thereafter to and including
90 the seventeenth year.

91 Boards of education may fix higher salaries for high
92 school and elementary school principals, teachers of one-
93 teacher schools, and any teacher assigned to or employed
94 for duties other than or in addition to his regular instruc-
95 tional duties, by the addition of further increments con-

96 sistent with the duties performed. Such additional salary
97 increments shall conform to the regulations of the state
98 board of education.

99 Advanced salaries shall be uniform throughout the dis-
100 trict for teachers holding similar credentials and in the
101 same classification as to experience and duties.

102 Upon the change of the certification classification of the
103 teacher, his advanced salary increments as provided in
104 this section shall be added to his new basic salary created
105 by the change in the certification classification.

106 In determining the number of regular terms of school
107 a teacher has taught, boards of education shall credit as
108 regular teaching, service in armed forces of the United
109 States in the World War, and active work in educational
110 positions other than teaching, but no teacher shall be
111 given credit for teaching more than one regular term in
112 any school year.

113 Any board of education failing to comply with the pro-
114 visions of this section may be compelled to do so by
115 mandamus.

CHAPTER 6

(House Bill No. 28—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section eleven, article nine-a,
chapter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the allo-
cation of state aid for schools.

[Passed February 9, 1956; in effect July 1, 1956. Approved by the Governor.]

Article 9-a. Allocation of State Aid for Schools.

Section

11. Total county foundation program; amount of state aid.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Total County Foundation Program; Amount of State Aid.*—The total foundation school program for each county for the next fiscal year shall be the sum of the amounts allowed the county under the preceding provisions of the formula.

Prior to the first day of July in each year, the state board shall determine the total foundation school program for each county for the next fiscal year. The board shall then allocate to each county its share of the total funds available for state aid to schools during such fiscal year. The amount of state aid for each county shall be the total foundation school program of the county for the year minus the local share of the county, determined for the year as provided in this article; except, however, the allocation of state aid to a county shall be not less than fifty dollars for each weighted pupil in the county, except, however, that in making computations under section seven of this article there shall be excluded from such computations any basic salary increase provided for teachers by the fifty-second Legislature.

In addition thereto, an amount of state aid necessary and for the purpose of paying basic and advanced salary increases for teachers, as provided by the fifty-second Legislature, shall be allocated to each county in an amount sufficient to pay such increases for the number of full-time teachers actually employed within the county during the preceding school year.

After such computation is completed, the state board shall immediately certify to each county board the amount of state aid allocated to the county for the next fiscal year.

CHAPTER 7

(Senate Bill No. 7—By Mr. Amos, by request)

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

by adding thereto a new article, to be designated article eleven-a, relating to the authority of the board of governors of West Virginia university to issue revenue bonds to finance the construction of new buildings for West Virginia university and to pledge as security for such bonds the revenue collected at the university from certain student fees.

[Passed February 9, 1956; in effect ninety days from passage. Approved by the Governor.]

Article 11-a. Revenue Bonds for University Capital Improvements.

Section

1. Board of governors of West Virginia university authorized to issue revenue bonds for certain capital improvements.
2. Special university capital improvements fund created in state treasury; collections to be paid into special fund; authority of board of governors to pledge such collections as security for revenue bonds.
3. Issuance of revenue bonds.
4. Trust agreement for holders of bonds.
5. Sinking fund for payment of bonds.
6. Credit of state not pledged.
7. Bonds exempt from taxation.
8. Conflicting laws repealed.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Board of Governors of West Virginia University Authorized to Issue Revenue Bonds for Certain Capital Improvements.*—The board of governors of West Virginia university shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed ten million dollars in principal amount thereof, to finance the costs of providing new buildings for the college of agriculture, the agricultural experiment station, the agricultural extension division, the college of engineering, the engineering experiment station, and the

11 school of mines of West Virginia university. The princi-
12 pal of and interest on such bonds shall be payable solely
13 from the special non-revolving fund herein provided
14 for such payment. The costs of any such building or
15 buildings shall include the cost of acquisition of land,
16 the construction and equipment of any such building or
17 buildings, and the provision of roads, utilities and other
18 services necessary, appurtenant or incidental to such
19 building or buildings; and shall also include all other
20 charges or expenses necessary, appurtenant or incidental
21 to the construction, financing and placing in operation
22 of any such building or buildings.

Sec. 2. *Special University Capital Improvements Fund*
2 *Created in State Treasury; Collections to Be Paid Into*
3 *Special Fund; Authority of Board of Governors to Pledge*
4 *Such Collections as Security for Revenue Bonds.*—There
5 is hereby created in the state treasury a special non-
6 revolving university capital improvements fund. On and
7 after the first day of July, one thousand nine hundred
8 fifty-seven, there shall be paid into such special fund
9 all fees collected under the provisions of section one,
10 article one-a, chapter twenty-five of this code, from
11 students at the university other than students in the
12 schools of medicine, medical technology, dentistry, dental ✓
13 technology, nursing and pharmacy, except such fees as
14 are required by that section to be paid into other special
15 funds.

16 The board of governors shall have authority to pledge
17 all or such part of the revenue paid into the special uni-
18 versity capital improvements fund as may be needed to
19 meet the requirements of the sinking fund established
20 in connection with any revenue bond issue authorized
21 by this article, including a reserve fund for the payment
22 of the principal of and interest on such revenue bond
23 issue when other moneys in the sinking fund are in-
24 sufficient therefor; and may provide in the resolution
25 authorizing any issue of such bonds, and in any trust
26 agreement made in connection therewith, for such pri-
27 orities on the revenues paid into the special fund as may
28 be necessary for the protection of the prior rights of

29 the holders of bonds issued at different times under the
30 provisions of this article.

31 If any balance shall remain in the special university
32 capital improvements fund after the board has issued
33 the maximum of ten million dollars' worth of bonds
34 authorized by this article, and after the requirements of
35 all sinking funds and reserve funds established in con-
36 nection with the issue of such bonds have been satisfied,
37 such balance may and shall be used solely for the re-
38 demption of any of the outstanding bonds issued here-
39 under which by their terms are then redeemable, or for
40 the purchase of bonds at the market price, but at not
41 exceeding the price, if any, at which such bonds shall
42 in the same year be redeemable, and all bonds redeemed
43 or purchased shall forthwith be cancelled and shall not
44 again be issued. Whenever all outstanding bonds issued
45 hereunder shall have been paid, the special university
46 capital improvements fund shall cease to exist and any
47 balance then remaining in such fund shall be transferred
48 to the general revenue fund of the state. Thereafter all
49 fees formerly paid into such special fund shall be paid
50 into the general revenue fund of the state.

Sec. 3. *Issuance of Revenue Bonds.*—The issuance of
2 bonds under the provisions of this article shall be au-
3 thorized by a resolution of the board of governors, which
4 shall recite an estimate by the board of the cost of the
5 proposed building or buildings; and shall provide for the
6 issuance of bonds in an amount sufficient, when sold as
7 hereinafter provided, to provide moneys sufficient to pay
8 such cost, less the amount of any other funds available
9 for the construction of the building or buildings from
10 any appropriation, grant or gift therefor. Such resolu-
11 tion shall prescribe the rights and duties of the bond-
12 holders and the board, and for such purpose may pre-
13 scribe the form of the trust agreement hereinafter re-
14 ferred to. The bonds shall be of such series, bear such
15 date or dates, mature at such time or times not exceed-
16 ing thirty years from their respective dates, bear inter-
17 est at such rate or rates not exceeding five per cent per
18 annum, payable semi-annually; be in such denomina-

19 tions; be in such form, either coupon or fully registered
20 without coupons, carrying such registration exchangea-
21 bility and interchangeability privileges; be payable in
22 such medium of payment and at such place or places;
23 be subject to such terms of redemption at such prices
24 not exceeding one hundred five per cent of the princi-
25 pal amount thereof, and be entitled to such priorities on
26 the revenues paid into the special university capital im-
27 provements fund as may be provided in the resolution
28 authorizing the issuance of the bonds or in any trust
29 agreement made in connection therewith. The bonds
30 shall be signed by the governor, and by the president
31 of the board of governors, under the great seal of the
32 state, attested by the secretary of state, and the coupons
33 attached thereto shall bear the facsimile signature of the
34 president of the board. In case any of the officers whose
35 signatures appear on the bonds or coupons cease to be
36 such officers before the delivery of such bonds, such sig-
37 natures shall nevertheless be valid and sufficient for all
38 purposes the same as if such officers had remained in of-
39 fice until such delivery.

40 Such bonds shall be sold in such manner as the board
41 may determine to be for the best interests of the state,
42 taking into consideration the financial responsibility of
43 the purchaser, the terms and conditions of the purchase,
44 and especially the availability of the proceeds of the
45 bonds when required for payment of the cost of such
46 building or buildings, such sale to be made at a price not
47 lower than a price which, when computed upon stand-
48 ard tables of bond values, will show a net return of not
49 more than six per cent per annum to the purchaser upon
50 the amount paid therefor. The proceeds of such bonds
51 shall be used solely for the payment of the cost of such
52 building or buildings, and shall be deposited in the state
53 treasury in a special fund and checked out as provided
54 by law for the disbursement of other state funds. If the
55 proceeds of such bonds, by error in calculation or other-
56 wise, shall be less than the cost of such building or build-
57 ings, additional bonds may in like manner be issued to
58 provide the amount of the deficiency; and unless other-
59 wise provided for in the resolution or trust agreement

60 hereinafter mentioned, shall be deemed to be of the same
61 issue, and shall be entitled to payment from the same
62 fund, without preference or priority, as the bonds before
63 issued for such building or buildings. If the proceeds of
64 bonds issued for such building or buildings shall exceed
65 the cost thereof, the surplus shall be paid into the sink-
66 ing fund to be established for payment of the principal
67 and interest of such bonds as hereinafter provided. Prior
68 to the preparation of definitive bonds, the board may,
69 under like restrictions, issue temporary bonds with or
70 without coupons, exchangeable for definitive bonds upon
71 their issuance.

72 The bonds issued under the provisions of this article
73 shall be and have all the qualities of negotiable instru-
74 ments under the law merchant and under the negotiable
75 instruments law of this state.

Sec. 4. *Trust Agreement for Holders of Bonds.*—The
2 board may enter into an agreement or agreements with
3 any trust company, or with any bank having the powers
4 of a trust company, either within or outside the state, as
5 trustee for the holders of bonds issued hereunder, set-
6 ting forth therein such duties of the board in respect to
7 the payment of the bonds, the fixing, establishing and
8 collecting of the fees hereinbefore referred to, the ac-
9 quisition, construction, improvement, maintenance, op-
10 eration, repair and insurance of such building or build-
11 ings, the conservation and application of all moneys, the
12 security for moneys on hand or on deposit, and the rights
13 and remedies of the trustee and the holders of the bonds,
14 as may be agreed upon with the original purchasers of
15 such bonds; and including therein provisions restricting
16 the individual right of action of bondholders as is cus-
17 tomary in trust agreements respecting bonds and deben-
18 tures of corporations, protecting and enforcing the rights
19 and remedies of the trustee and the bondholders, and
20 providing for approval by the original purchasers of the
21 bonds of the appointment of consulting engineers and
22 of the security given by those who contract to construct
23 such building or buildings, and for approval by the con-
24 sulting engineers of all contracts for construction. Any

25 such agreement entered into by the board shall be bind-
26 ing in all respects on such board and its successors from
27 time to time in accordance with its terms; and all the
28 provisions thereof shall be enforceable by appropriate
29 proceedings at law or in equity, or otherwise.

Sec. 5. *Sinking Fund for Payment of Bonds.*—From
2 the special university capital improvements fund the
3 board shall make periodic payments to the state sinking
4 fund commission in an amount sufficient to meet the re-
5 quirements of any issue of bonds sold under the pro-
6 visions of this article, as specified in the resolution of the
7 board authorizing the issue and in any trust agreement
8 entered into in connection therewith. The payments so
9 made shall be placed by the commission in a special
10 sinking fund which is hereby pledged to and charged
11 with the payment of the principal of the bonds of such
12 issue and the interest thereon, and to the redemption or
13 repurchase of such bonds, such sinking fund to be a fund
14 for all bonds of such issue without distinction or priority
15 of one over another. The moneys in the special sinking
16 fund, less such reserve for payment of principal and in-
17 terest as may be required by the resolution of the board
18 authorizing the issue and any trust agreement made in
19 connection therewith, may be used for the redemption
20 of any of the outstanding bonds payable from such fund
21 which by their terms are then redeemable, or for the
22 purchase of bonds at the market price; but at not ex-
23 ceeding the price, if any, at which such bonds shall in the
24 same year be redeemable; and all bonds redeemed or
25 purchased shall forthwith be cancelled and shall not
26 again be issued.

Sec. 6. *Credit of State Not Pledged.*—No provisions
2 of this article shall be construed to authorize the board
3 at any time or in any manner to pledge the credit or tax-
4 ing power of the state, nor shall any of the obligations
5 or debts created by the board under the authority herein
6 granted be deemed to be obligations of the state.

Sec. 7. *Bonds Exempt from Taxation.*—All bonds is-
2 sued by the board under the provisions of this article

3 shall be exempt from taxation by the state of West Vir-
4 ginia, or by any county, school district or municipality
5 thereof.

Sec. 8. *Conflicting Laws Repealed.*—The powers con-
2 ferred by this article shall be in addition and supple-
3 mental to the existing powers of the board of governors.
4 The provisions of any other law or laws conflicting with
5 the provisions of this article shall be and the same are
6 hereby superseded to the extent of any such conflict.

CHAPTER 8

(Com. Sub. for Senate Bill No. 21—Originating in the Senate
Committee on Finance)

AN ACT to amend chapter eighteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended;
by adding thereto a new article, to be designated article
twelve-a, relating to the authority of the West Virginia
board of education to issue revenue bonds to finance the
construction of a new building for Marshall college and to
pledge as security for such bonds the revenue collected
at Marshall college from certain student fees.

[Passed February 9, 1956; in effect ninety days from passage. Approved by the
Governor.]

Article 12-a. Revenue Bonds for Marshall College Capital Improvements.

Section

1. West Virginia board of education authorized to issue revenue bonds for certain capital improvements.
2. Special Marshall college capital improvements fund created in state treasury; collections to be paid into special fund; authority of West Virginia board of education to pledge such collections as security for revenue bonds.
3. Issuance of revenue bonds.
4. Trust agreement for holders of bonds.
5. Sinking fund for payment of bonds.
6. Credit of state not pledged.
7. Bonds exempt from taxation.
8. Conflicting laws repealed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *West Virginia Board of Education Authorized to Issue Revenue Bonds for Certain Capital Improvements.*—The West Virginia board of education shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed nine hundred fifty thousand dollars in principal amount thereof, to finance the cost of providing a health and physical education building for Marshall college. The principal of and interest on such bonds shall be payable solely from the special non-revolving fund herein provided for such payment. The costs of any such building or buildings shall include the cost of acquisition of land, the construction and equipment of any such building or buildings, and the provision of roads, utilities and other services necessary, appurtenant or incidental to such building or buildings; and shall also include all other charges or expenses necessary, appurtenant or incidental to the construction, financing and placing in operation of any such building or buildings.

Sec. 2. *Special Marshall College Capital Improvements Fund Created in State Treasury; Collections to Be Paid Into Special Fund; Authority of West Virginia Board of Education to Pledge Such Collections as Security for Revenue Bonds.*—There is hereby created in the state treasury a special non-revolving Marshall college capital improvements fund. On and after the first day of July, one thousand nine hundred fifty-seven, there shall be paid into such special fund all fees collected under the provisions of section one, article one-a, chapter twenty-five of this code, from students at Marshall college, except such fees as are required by that section to be paid into other special funds.

The board of education shall have authority to pledge all or such part of the revenue paid into the special Marshall college capital improvement fund as may be needed

17 to meet the requirements of the sinking fund established
18 in connection with any revenue bond issue authorized by
19 this article, including a reserve fund for the payment of
20 the principal of and interest on such revenue bond issue
21 when other moneys in the sinking fund are insufficient
22 therefor; and may provide in the resolution authorizing
23 any issue of such bonds, and in any trust agreement made
24 in connection therewith, for such priorities on the reve-
25 nues paid into the special fund as may be necessary for
26 the protection of the prior rights of the holders of bonds
27 issued at different times under the provisions of this
28 article.

29 If any balance shall remain in the special Marshall col-
30 lege capital improvement fund after the board has issued
31 the maximum of nine hundred fifty thousand dollars'
32 worth of bonds authorized by this article, and after the
33 requirements of all sinking funds and reserve funds es-
34 tablished in connection with the issue of such bonds
35 have been satisfied, such balance may and shall be used
36 solely for the redemption of any of the outstanding bonds
37 issued hereunder which by their terms are then redeem-
38 able, or for the purchase of bonds at the market price,
39 but at not exceeding the price, if any, at which such
40 bonds shall in the same year be redeemable; and all bonds
41 redeemed or purchased shall forthwith be cancelled and
42 shall not again be issued. Whenever all outstanding bonds
43 issued hereunder shall have been paid, the special Mar-
44 shall college capital improvement fund shall cease to
45 exist and any balance then remaining in such fund shall
46 be transferred to the general revenue fund of the state.
47 Thereafter all fees formerly paid into such special fund
48 shall be paid into the general revenue fund of the state.

2 Sec. 3. *Issuance of Revenue Bonds.*—The issuance of
3 bonds under the provisions of this article shall be au-
4 thorized by a resolution of the board of education, which
5 shall recite an estimate by the board of the cost of the
6 proposed building or buildings; and shall provide for the
7 issuance of bonds in an amount sufficient, when sold as
8 hereinafter provided, to provide moneys sufficient to pay
such cost, less the amount of any other funds available

9 for the construction of the building or buildings from any
10 appropriation, grant or gift therefor. Such resolution
11 shall prescribe the rights and duties of the bondholders
12 and the board, and for such purpose may prescribe the
13 form of the trust agreement hereinafter referred to. The
14 bonds shall be of such series, bear such date or dates,
15 mature at such time or times not exceeding thirty years
16 from their respective dates, bear interest at such rate or
17 rates not exceeding five per cent per annum, payable semi-
18 annually; be in such denominations; be in such form,
19 either coupon or fully registered without coupons, carry-
20 ing such registration exchangeability and interchangea-
21 bility privileges; be payable in such medium of payment
22 and at such place or places; be subject to such terms of
23 redemption at such prices not exceeding one hundred five
24 per cent of the principal amount thereof, and be entitled
25 to such priorities on the revenues paid into the special
26 state colleges' capital improvements fund as may be pro-
27 vided in the resolution authorizing the issuance of the
28 bonds or in any trust agreement made in connection
29 therewith. The bonds shall be signed by the governor,
30 and by the president of the board of education, under the
31 great seal of the state, attested by the secretary of state,
32 and the coupons attached thereto shall bear the facsimile
33 signature of the president of the board. In case any of
34 the officers whose signatures appear on the bonds or cou-
35 pons cease to be such officers before the delivery of such
36 bonds, such signatures shall nevertheless be valid and
37 sufficient for all purposes the same as if such officers had
38 remained in office until such delivery.

39 Such bonds shall be sold in such manner as the board
40 may determine to be for the best interests of the state,
41 taking into consideration the financial responsibility of
42 the purchaser, the terms and conditions of the purchase,
43 and especially the availability of the proceeds of the
44 bonds when required for payment of the cost of such
45 building or buildings, such sale to be made at a price not
46 lower than a price which, when computed upon standard
47 tables of bond values, will show a net return of not more
48 than six per cent per annum to the purchaser upon the

49 amount paid therefor. The proceeds of such bonds shall
50 be used solely for the payment of the cost of such build-
51 ing or buildings, and shall be deposited in the state
52 treasury in a special fund and checked out as provided
53 by law for the disbursement of other state funds. If the
54 proceeds of such bonds, by error in calculation or other-
55 wise, shall be less than the cost of such building or build-
56 ings, additional bonds may in like manner be issued to
57 provide the amount of the deficiency, but in no case to
58 exceed nine hundred fifty thousand dollars as provided
59 in section one of this article; and unless otherwise pro-
60 vided for in the resolution or trust agreement herein-
61 after mentioned, shall be deemed to be of the same issue,
62 and shall be entitled to payment from the same fund,
63 without preference or priority, as the bonds before issued
64 for such building or buildings. If the proceeds of bonds
65 issued for such building or buildings shall exceed the
66 cost thereof, the surplus shall be paid into the sinking
67 fund to be established for payment of the principal and
68 interest of such bonds as hereinafter provided. Prior
69 to the preparation of definitive bonds, the board may,
70 under like restrictions, issue temporary bonds with or
71 without coupons, exchangeable for definitive bonds upon
72 their issuance.

73 The bonds issued under the provisions of this article
74 shall be and have all the qualities of negotiable instru-
75 ments under the law merchant and under the negotiable
76 instruments law of this state.

Sec. 4. *Trust Agreement for Holders of Bonds.*—The
2 board may enter into an agreement or agreements with
3 any trust company, or with any bank having the powers
4 of a trust company, either within or outside the state,
5 as trustee for the holders of bonds issued hereunder,
6 setting forth therein such duties of the board in respect
7 to the payment of the bonds, the fixing, establishing and
8 collecting of the fees hereinbefore referred to, the ac-
9 quisition, construction, improvement, maintenance, oper-
10 ation, repair and insurance of such building or buildings,
11 the conservation and application of all moneys, the se-
12 curity for moneys on hand or on deposit, and the rights

13 and remedies of the trustee and the holders of the bonds,
14 as may be agreed upon with the original purchasers of
15 such bonds; and including therein provisions restricting
16 the individual right of action of bondholders as is cus-
17 tomary in trust agreements respecting bonds and deben-
18 tures of corporations, protecting and enforcing the rights
19 and remedies of the trustee and the bondholders, and
20 providing for approval by the original purchasers of the
21 bonds of the appointment of consulting engineers and of
22 the security given by those who contract to construct
23 such building or buildings, and for approval by the con-
24 sulting engineers of all contracts for construction. Any
25 such agreement entered into by the board shall be bind-
26 ing in all respects on such board and its successors from
27 time to time in accordance with its terms; and all the
28 provisions thereof shall be enforceable by appropriate
29 proceedings at law or in equity, or otherwise.

Sec. 5. *Sinking Fund for Payment of Bonds.*—From the
2 special Marshall college capital improvement fund the
3 board shall make periodic payments to the state sink-
4 ing fund commission in an amount sufficient to meet the
5 requirements of any issue of bonds sold under the pro-
6 visions of this article, as specified in the resolution of the
7 board authorizing the issue and in any trust agreement
8 entered into in connection therewith. The payments so
9 made shall be placed by the commission in a special
10 sinking fund which is hereby pledged to and charged
11 with the payment of the principal of the bonds of such
12 issue and the interest thereon, and to the redemption or
13 repurchase of such bonds, such sinking fund to be a fund
14 for all bonds of such issue without distinction or priority
15 of one over another. The moneys in the special sinking
16 fund, less such reserve for payment of principal and in-
17 terest as may be required by the resolution of the board
18 authorizing the issue and any trust agreement made in
19 connection therewith, may be used for the redemption of
20 any of the outstanding bonds payable from such fund
21 which by their terms are then redeemable, or for the
22 purchase of bonds at the market price; but at not exceed-
23 ing the price, if any, at which such bonds shall in the

- 24 same year be redeemable; and all bonds redeemed or pur-
25 chased shall forthwith be cancelled and shall not again
26 be issued.

Sec. 6. *Credit of State Not Pledged.*—No provisions of
2 this article shall be construed to authorize the board at
3 any time or in any manner to pledge the credit or taxing
4 power of the state, nor shall any of the obligations or
5 debts created by the board under the authority herein
6 granted be deemed to be obligations of the state.

Sec. 7. *Bonds Exempt from Taxation.*—All bonds issued
2 by the board under the provisions of this article shall be
3 exempt from taxation by the state of West Virginia, or
4 by any county, school district or municipality thereof.

Sec. 8. *Conflicting Laws Repealed.*—The powers con-
2 ferred by this article shall be in addition and supple-
3 mental to the existing powers of the board of education.
4 The provisions of any other law or laws conflicting with
5 the provisions of this article shall be and the same are
6 hereby superseded to the extent of any such conflict.

CHAPTER 9

(Senate Bill No. 11—By Mr. Bean, Mr. President)

AN ACT to approve "The Southern Regional Education Com-
pact" and to authorize the state of West Virginia to become
a party thereto, subject to the approval of other states now
parties to the compact.

[Passed February 8, 1956; in effect ninety days from passage. Approved by the
Governor.]

The Southern Regional Education Compact.

Section

1. Approval of compact.
2. Engrossed copies to be furnished other states.

Be it enacted by the Legislature of West Virginia:

Section 1. *Approval of Compact.*—The following compact is hereby approved and ratified, and the state of West Virginia is hereby declared to be a party thereto, subject to the approval of other states now parties to the compact, and all agreements, covenants and obligations therein shall be binding upon the state of West Virginia.

The Southern Regional Education Compact

WHEREAS, The states who are parties hereto have during the past several years conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the southern states in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several states who reside within such region; and

WHEREAS, Meharry Medical college of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment, be turned over to the southern states, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the southern states and Meharry Medical college, which proposal, because of the present financial condition of the institution, has been approved by the said states who are parties hereto; and

WHEREAS, The said states desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities; now, therefore,

In consideration of the mutual agreements, covenants and obligations assumed by the respective states who are parties hereto (hereinafter referred to as "states"), the said several states do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting states which, for the purposes of this compact, shall constitute an area for regional edu-

39 cation supported by public funds derived from taxation
40 by the constituent states and derived from other sources
41 for the establishment, acquisition, operation and main-
42 tenance of regional educational schools and institutions
43 for the benefit of citizens of the respective states resid-
44 ing within the region so established as may be deter-
45 mined from time to time in accordance with the terms
46 and provisions of this compact.

47 The states do further hereby establish and create a
48 joint agency which shall be known as the "Board of
49 Control for Southern Regional Education" (hereinafter
50 referred to as the "board"), the members of which board
51 shall consist of the governor of each state, *ex officio*, and
52 four additional citizens of each state to be appointed by
53 the governor thereof, with the advice and consent of the
54 senate, at least one of whom shall be selected from the
55 field of education, and at least one of whom shall be a
56 member of the legislature of that state. The governor
57 shall continue as a member of the board during his tenure
58 of office as governor of the state; but the members of the
59 board appointed by the governor shall hold office for a
60 period of four years, except that in the original appoint-
61 ments one board member so appointed by the governor
62 shall be designated at the time of his appointment to serve
63 an initial term of two years, one board member to serve
64 an initial term of three years, and the remaining board
65 members to serve the full term of four years, but there-
66 after the successor of each appointed board member shall
67 serve the full term of four years. Vacancies on the board
68 caused by death, resignation, refusal or inability to serve,
69 shall be filled by appointment by the governor for the
70 unexpired portion of the term. The officers of the board
71 shall be a chairman, a vice chairman, a secretary, a treas-
72 urer, and such additional officers as may be created by the
73 board from time to time. The board shall meet annually
74 and officers shall be elected to hold office until the next
75 annual meeting. The board shall have the right to formu-
76 late and establish by-laws not inconsistent with the pro-
77 visions of this compact to govern its own actions in the per-
78 formance of the duties delegated to it, including the right

79 to create and appoint an executive committee and a finance
80 committee with such powers and authority as the board
81 may delegate to them from time to time. The board may,
82 within its discretion, elect as its chairman, a person who is
83 not a member of the board, provided such person resides
84 within a signatory state; and upon such election, such per-
85 son shall become a member of the board with all the rights
86 and privileges of such membership.

87 It shall be the duty of the board to submit plans and rec-
88 ommendations to the states from time to time for their ap-
89 proval and adoption by appropriate legislative action for
90 the development, establishment, acquisition, operation and
91 maintenance of educational schools and institutions within
92 the geographical limits of the regional area of the states, of
93 such character and type and for such educational purposes,
94 professional, technological, scientific, literary, or other-
95 wise, as they may deem and determine to be proper, neces-
96 sary or advisable. Title to all such educational institutions
97 when so established by appropriate legislative actions of
98 the states and to all properties and facilities used in con-
99 nection therewith shall be vested in said board as the
100 agency of and for the use and benefit of the said states and
101 the citizens thereof; and all such educational institutions
102 shall be operated, maintained and financed in the manner
103 herein set out, subject to any provisions or limitations
104 which may be contained in the legislative acts of the
105 states, authorizing the creation, establishment and opera-
106 tion of such educational institutions.

107 In addition to the power and authority heretofore
108 granted, the board shall have the power to enter into such
109 agreements or arrangements with any of the states and
110 with educational institutions or agencies, as may be re-
111 quired in the judgment of the board, to provide adequate
112 services and facilities for the graduate, professional, and
113 technical education for the benefit of the citizens of the re-
114 spective states residing within the region, and such addi-
115 tional and general power and authority as may be vested
116 in the board from time to time by legislative enactment
117 of the said states.

118 Any two or more states who are parties of this compact

119 shall have the right to enter into supplemental agreements
120 providing for the establishment, financing and operation of
121 regional educational institutions for the benefit of citizens
122 residing within an area which constitutes a portion of the
123 general region herein created, such institutions to be fi-
124 nanced exclusively by such states and to be controlled ex-
125 clusively by the members of the board representing such
126 states provided such agreement is submitted to and ap-
127 proved by the board prior to the establishment of such
128 institutions.

129 Each state agrees that, when authorized by the legisla-
130 ture, it will from time to time make available and pay over
131 to said board such funds as may be required for the estab-
132 lishment, acquisition, operation and maintenance of such
133 regional educational institutions as may be authorized by
134 the states under the terms of this compact, the contribu-
135 tion of each state at all times to be in the proportion that
136 its population bears to the total combined population of
137 the states who are parties hereto as shown from time to
138 time by the most recent official published report of the
139 bureau of the census of the United States of America; or
140 upon such other basis as may be agreed upon.

141 This compact shall not take effect or be binding upon any
142 state unless and until it shall be approved by proper legis-
143 lative action of as many as six or more of the states whose
144 governors have subscribed hereto within a period of
145 eighteen months from the date hereof. When and if six or
146 more states shall have given legislative approval of this
147 compact within said eighteen months' period, it shall be
148 and become binding upon such six or more states sixty
149 days after the date of legislative approval by the sixth
150 state; and the governors of such six or more states shall
151 forthwith name the members of the board from their
152 states as hereinabove set out, and the board shall then
153 meet on call of the governor of any state approving this
154 compact, at which time the board shall elect officers, adopt
155 by-laws, appoint committees and otherwise fully organize.
156 Other states whose names are subscribed hereto shall
157 thereafter become parties hereto upon approval of this
158 compact by legislative action within two years from the

159 date hereof, upon such conditions as may be agreed upon
160 at the time: *Provided, however,* That with respect to any
161 state whose constitution may require amendment in order
162 to permit legislative approval of the compact, such state
163 or states shall become parties hereto upon approval of
164 this compact by legislative action within seven years from
165 the date hereof, upon such conditions as may be agreed
166 upon at the time.

167 After becoming effective this compact shall thereafter
168 continue without limitation of time: *Provided, however,*
169 That it may be terminated at any time by unanimous
170 action of the states: *And provided further,* That any
171 state may withdraw from this compact if such with-
172 drawal is approved by its legislature, such withdrawal
173 to become effective two years after written notice thereof
174 to the board accompanied by a certified copy of the
175 requisite legislative action, but such withdrawal shall
176 not relieve the withdrawing state from its obligations
177 hereunder accruing up to the effective date of such
178 withdrawal. Any state so withdrawing shall *ipso facto*
179 cease to have any claim to or ownership of any of
180 the property held or vested in the board or to any of
181 the funds of the board held under the terms of this
182 compact.

183 If any state shall at any time become in default in
184 the performance of any of its obligations ~~assumed~~ herein
185 or with respect to any obligation imposed upon said state
186 as authorized by and in compliance with the terms and
187 provisions of this compact, all rights, privileges and
188 benefits of such defaulting state, its members on the
189 board and its citizens shall *ipso facto* be and become
190 suspended from and after the date of such default. Unless
191 such default shall be remedied and made good within a
192 period of one year immediately following the date of
193 such default, this compact may be terminated with re-
194 spect to such defaulting state by an affirmative vote of
195 three-fourths of the members of the board (exclusive
196 of the members representing the state in default), from
197 and after which time such state shall cease to be a party
198 to this compact and shall have no further claim to or own-

199 ership of any of the property held by or vested in the
200 board or to any of the funds of the board held under
201 the terms of this compact; but such termination shall
202 in no manner release such defaulting state from any
203 accrued obligations or otherwise affect this compact or
204 the rights, duties, privileges or obligations of the remain-
205 ing states thereunder.

206 IN WITNESS WHEREOF this compact has been ap-
207 proved and signed by governors of the several states,
208 subject to the approval of their respective legislatures in
209 the manner hereinabove set out, as of the eighth day of
210 February, one thousand nine hundred forty-eight.

STATE OF ALABAMA

By James E. Folsom, Governor

STATE OF ARKANSAS

By Ben Laney, Governor

STATE OF FLORIDA

By Millard F. Caldwell, Governor

STATE OF GEORGIA

By M. E. Thompson, Governor

STATE OF KENTUCKY

By Earle D. Clements, Governor

STATE OF LOUISIANA

By J. H. Davis, Governor

STATE OF MARYLAND

By Wm. Preston Lane, Jr.,
Governor

STATE OF MISSISSIPPI

By F. L. Wright, Governor

STATE OF NORTH CAROLINA

By R. Gregg Cherry, Governor

STATE OF OKLAHOMA

By Roy J. Turner, Governor

STATE OF SOUTH CAROLINA

By J. Strom Thurmond, Governor

STATE OF TENNESSEE

By Jim McCord, Governor

STATE OF TEXAS

By Beauford H. Jester, Governor

COMMONWEALTH OF VIR-
GINIA

By Wm. M. Tuck, Governor

STATE OF WEST VIRGINIA

By Clarence W. Meadows,
Governor

Sec. 2. Engrossed Copies to Be Furnished Other States.—

2 Immediately upon the enactment hereof, the governor
3 shall sign and send to the governor of each state that
4 is a party to the above compact an engrossed copy of
5 this act.

CHAPTER 10

(House Bill No. 9—By Mr. Speaker, Mr. Flannery)

AN ACT authorizing the issuance and sale of not exceeding ten million dollars of road bonds of the state of West Virginia to raise money for road construction and maintenance purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on such bonds and the principal thereof within twenty-five years.

[Passed February 9, 1956; in effect from passage. Approved by the Governor.]

Road Bonds.

Section

1. Road bonds; amount; when may issue.
2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

Section 1. Road Bonds; Amount; When May Issue.—

- 2 Bonds of the state of West Virginia of the par value of
- 3 ten million dollars are hereby authorized to be issued
- 4 and sold for the purpose of raising funds for assisting
- 5 in building, constructing and maintaining the system of
- 6 roads and highways provided for by the constitution.

7 Such bonds may be issued by the governor in such
8 amounts, in coupon or registered form, in such denomi-
9 nations, at such times and bearing such date or dates as
10 the governor may determine, and shall become due and
11 payable serially in equal amounts beginning one year
12 and ending twenty-five years from the date thereof:
13 *Provided, however,* That no bonds may be issued under
14 the provisions of this act until bonds authorized and
15 issued under the provisions of the "Good Roads Amend-
16 ment" to the constitution of the state, ratified at the
17 general election held in November, one thousand nine
18 hundred twenty, have been retired and canceled out of
19 the state road sinking fund created by section six, chap-
20 ter one hundred thirteen, acts of the Legislature of West
21 Virginia, one thousand nine hundred twenty-one, in an
22 amount equal to or greater than the amount to be issued
23 hereunder at any one time.

Sec. 2. *Transfer Fee; Registration Fee; Where Payable;*
2 *Interest Rate; Tax Exempt.*—The auditor and the treas-
3 urer are hereby authorized to arrange for the transfer
4 of registered bonds, and for each such transfer a fee of
5 fifty cents shall be charged by and paid to the state of
6 West Virginia, to the credit of the state road sinking
7 fund. Bonds taken in exchange shall be canceled by the
8 auditor and treasurer and be carefully preserved by the
9 treasurer. The treasurer shall make provisions for regis-
10 tering "payable to bearer" bonds, and for each bond
11 registered a fee of fifty cents shall likewise be charged
12 by and paid to the state of West Virginia, to the credit
13 of the state road sinking fund. All of such bonds shall
14 be payable at the office of the treasurer of the state of
15 West Virginia, or, at the option of the holder, at some
16 bank in the city of New York to be designated by the
17 governor. The bonds shall bear interest at a rate not
18 exceeding four and one-half per cent per annum, pay-
19 able semi-annually, on the first day of _____, and the
20 first day of _____, of each year, to bearer, at the office
21 of the treasurer of the state of West Virginia, at the
22 capitol of the state, or at the bank designated by the
23 governor, upon presentation and surrender of interest
24 coupons, then due, in the case of coupon bonds. In the

25 case of registered bonds the treasurer of the state of
26 West Virginia shall issue his check for the interest then
27 due on the first day of _____, and _____ of each
28 year, and mail it to the registered owner at his address
29 as shown by the record of registration. Both the principal
30 and interest of the bonds shall be payable in lawful
31 money of the United States of America and the bonds
32 shall be exempt from taxation by the state of West Virginia,
33 or by any county, district, or municipality thereof,
34 which facts shall appear on the face of the bonds as
35 part of the contract with the holder thereof.

Sec. 3. *Form of Bond.*—The bonds and coupons shall
2 be engraved and the bonds shall be signed on behalf
3 of the state of West Virginia, by the treasurer thereof,
4 under the great seal of the state, and countersigned by
5 the auditor of the state, and shall be in the following
6 form or to the following effect, as nearly as may be,
7 namely:

8 CUPON ROAD BOND

9 (Or registered road bond, as the case may be)

10 OF THE

11 STATE OF WEST VIRGINIA

12 \$ _____ No. _____

13 The state of West Virginia, under and by virtue of
14 authority of an act of the Legislature passed at the
15 regular session of one thousand nine hundred fifty-six,
16 on the _____ day of _____, one thousand nine hundred
17 fifty-six, and approved by the governor on the _____ day
18 of _____, one thousand nine hundred fifty-six, which
19 is hereby made a part hereof as fully as if set forth at
20 length herein, acknowledges itself to be indebted to,
21 and hereby promises to pay to the bearer hereof (in the
22 case of a coupon bond) or to _____ or assigns (the
23 owner of record, in case of registered bonds) on the _____
24 day of _____, 19____, in lawful money of the United
25 States of America at the office of the treasurer of the
26 state of West Virginia at the capitol of said state, or at
27 the option of the holder at _____ bank in the city
28 of New York, the sum of _____ dollars, with interest
29 thereon at _____ per centum per annum from date, pay-

30 able semi-annually in like lawful money of the United
31 States of America at the treasurer's office or bank afore-
32 said, on the first day of and the first day of
33 of each year, (and in the case of coupon bonds) accord-
34 ing to the tenor of the annexed coupons bearing the
35 engraved facsimile signature of the treasurer of the
36 state of West Virginia, upon surrender of such coupons.
37 This bond (in case of a coupon bond) may be exchanged
38 for a registered bond of like tenor upon application to
39 the treasurer of the state of West Virginia.

40 To secure the payment of this bond, principal sum
41 and interest, when other funds and revenues sufficient
42 are not available for that purpose, it is agreed that,
43 within the limits prescribed by the constitution, the
44 board of public works of the state of West Virginia shall
45 annually cause to be levied and collected an annual
46 state tax on all property in the state, until this bond is
47 fully paid, sufficient to pay the annual interest on this
48 bond and the principal sum thereof within the time this
49 bond becomes due and payable.

50 This bond is hereby made exempt from any taxation
51 by the state of West Virginia, or by any county, district,
52 or municipal corporation thereof.

53 In testimony whereof, witness the signature of the
54 treasurer of the state of West Virginia, and the counter-
55 signature of the auditor of the state, hereto affixed ac-
56 cording to law, dated the day of , one
57 thousand nine hundred , and the seal of the state
58 of West Virginia.

59 (Seal)

60

61

.....
Treasurer of the State of West Virginia

62 Countersigned:

63

64

.....
Auditor of the State of West Virginia

Sec. 4. *Form of Coupon.*—The form of coupon shall be
2 substantially as follows, to-wit:

3

STATE OF WEST VIRGINIA

4

Bond No. Coupon No.

5

On the first day of, 19....., the state of West

6 Virginia will pay to the bearer, in lawful money of the
7 United States of America, at the office of the treasurer
8 of the state, or at the option of the holder at _____
9 bank in the city of New York, the sum of _____ dollars,
10 the same being semi-annual interest on Road Bond
11 No. _____.

12

13

Treasurer of the State of West Virginia

14 The signature of the treasurer to such coupon shall be
15 by his engraved facsimile signature and the coupons
16 shall be numbered in the order of their maturity, from
17 number one consecutively. The bonds and coupons may
18 be signed by the present treasurer and auditor, or by
19 any of their respective successors in office, and bonds
20 signed by the persons now in office may be sold by the
21 governor or his successor in office without being signed
22 by the successor in office of the present treasurer or
23 auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the pur-
4 pose, in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and postoffice address of the person,
7 firm or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund Sources Used to Pay*
2 *Bonds and Interest; Investment of Remainder.*—Into the
3 state road sinking fund there shall be paid all moneys
4 received from the annual state tax levy on the taxable
5 property in the state levied under the provisions of this
6 act, from any and all appropriations made by the state
7 from other sources for the purpose of paying the in-
8 terest on such bonds or paying off and retiring the bonds,
9 from fines, forfeitures and penalties, if any, made ap-
10 plicable by law for the payment of such bonds or the
11 interest thereon, from transfer fees as herein provided,
12 and from any source whatsoever, which is made liable
13 by law for the payment of the principal of such bonds
14 or the interest thereon.

15 All such funds shall be kept by the treasurer in a

16 separate account, under the designation aforesaid, and
17 all money belonging to the fund shall be deposited in
18 the state treasury to the credit thereof.

19 Such fund shall be applied by the treasurer of the
20 state first to the payment of the semiannual interest on
21 such bonds as it shall become due as herein provided.
22 The remainder of the fund shall be turned over by the
23 state treasurer to the state sinking fund commission,
24 whose duty it shall be to invest the same in bonds of the
25 government of the United States, bonds of the state of
26 West Virginia, or any political subdivision thereof: *Pro-*
27 *vided, however,* That bonds so purchased by the state
28 sinking fund commission shall mature so as to provide
29 sufficient money to pay off all bonds herein provided to
30 be issued as they become due; and the money so paid
31 into the state road sinking fund under the provisions of
32 this act shall be expended for the purpose of paying the
33 interest and principal of the bonds hereby provided for
34 as they severally become due and payable and for no
35 other purpose except that the fund may be invested
36 until needed, as herein provided.

2 *Sec. 7. Tax Levy to Pay, Unless Other Funds Avail-*
3 *able.*—In order to provide the revenue necessary for the
4 payment of the principal and interest of such bonds, as
5 hereinbefore provided, the board of public works, within
6 the limits prescribed by the constitution, is authorized,
7 empowered and directed to lay annually a tax upon all
8 real and personal property subject to taxation within
9 this state, sufficient to pay interest on the bonds accruing
10 during the current year and one twenty-fifth of the total
11 issue (at par value) of such bonds, for such number of
12 years, not exceeding twenty-five, as may be necessary
13 to pay the interest thereon and to pay off the principal
14 sum of the bonds; and such taxes, when so collected,
15 shall not be liable for or applicable to any other purpose:
16 *Provided, however,* That if there be other funds in the
17 state treasury, or in the state road funds, in any fiscal
18 year, not otherwise appropriated, or if other sources of
19 revenue be hereafter provided by law for the purpose,
the board of public works is authorized, empowered and

20 directed to set apart, in any year there be such funds,
21 or other sources of revenue provided for such purpose, a
22 sum sufficient to pay the interest on bonds accruing dur-
23 ing the current year, and to pay off, and retire the
24 principal of such bonds, or any part thereof, at maturity.

25 The authority hereby vested in the board of public
26 works shall be in addition to the authority now vested in
27 it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-
2 ernor shall sell the bonds herein mentioned at such
3 time or times as he may determine necessary to provide
4 funds for road construction and maintenance purposes,
5 as herein provided, upon recommendation of the state
6 road commission. All sales shall be at not less than par
7 and accrued interest. All interest coupons becoming
8 payable prior to the sale date shall be canceled by the
9 treasurer and rendered ineffective, before the delivery
10 of the bonds so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.*—The pro-
2 ceeds of all sales of bonds herein authorized shall be
3 paid into the state road fund created by section one,
4 article three, chapter seventeen of the code of West Vir-
5 ginia, one thousand nine hundred thirty-one, as last
6 amended.

Sec. 10. *Plates Property of State.*—The plates from
2 which the bonds authorized by this act are engraved
3 shall be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—
2 The state auditor shall be the custodian of all unsold
3 bonds issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-
2 thorize the issuance of interim certificates to be issued
3 to the purchasers of such bonds to be held by them in
4 lieu of engraved bonds. When interim certificates are
5 so issued, they shall become full and legal obligations
6 of the state of West Virginia under all of the provisions
7 of this act just as fully and completely as the engraved
8 and permanent bonds.

- Sec. 13. *Payment of Expenses.*—All necessary expenses incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 11

(Senate Com. Sub. for House Bill No. 13—Originating in the Senate Committee on Finance)

AN ACT to amend article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section eighty thereof, and by adding thereto two new sections, to be designated sections eighty-a and ninety-one, all relating to the annual license tax to be paid by foreign corporations, and to the annual license fee to be paid by domestic and foreign insurance corporations, and other organizations licensed by the insurance commissioner.

[Passed February 9, 1956; in effect July 1, 1956. Approved by the Governor.]

Article 12. License Taxes.

Section

80. License tax on foreign corporations.
80-a. Additional license tax on domestic and foreign corporations and other business organizations licensed by the insurance commissioner.
91. Repeal; partial invalidity.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section eighty thereof, and by adding thereto two new sections, to be designated sections eighty-a and ninety-one, to read as follows:

Section 80. *License Tax on Foreign Corporations.*—

- 2 Every foreign corporation holding property or doing busi-

3 ness in this state shall make report to the auditor an-
4 nually in the third month preceding the beginning of the
5 license tax year, in which report shall be set out: (a)
6 The name of each corporation, the name of the state or
7 country by which incorporated, the date of the incorpora-
8 tion, the date of the certificate of the secretary of state
9 authorizing it to do business in this state, the place of its
10 principal office, the names and postoffice addresses of its
11 president, secretary and its officers, if any, charged with
12 the duty of making returns of its property for taxation
13 and the name and postoffice address of its attorney of
14 record in this state; (b) the number of shares of its au-
15 thorized capital stock having a par value and the par
16 value of each share, and the number of its issued and out-
17 standing shares and the par value of each share; (c) the
18 number of shares of its authorized capital stock having
19 no par value, the number of shares of such stock author-
20 ized to be issued and the considerations fixed for the issue
21 of each share of the same by its charter or board of di-
22 rectors, and the number of shares thereof issued and out-
23 standing; (d) the value of the property owned and used
24 by such corporation within this state, where situate, of
25 what it consists, and the number of acres of land it holds
26 in this state, and the value of its property owned and
27 used without this state; and (e) the proportion of its capi-
28 tal stock which is represented by property owned and
29 used in the state of West Virginia. Such report shall be
30 verified by the affidavit of the president, secretary or
31 other executive officers of such corporation.

32 It shall be the duty of the auditor to assess and fix the
33 license tax of such corporation according to the propor-
34 tion of its issued and outstanding capital stock which is
35 represented by its property owned and used in this state,
36 which license tax shall be at the rate prescribed in sec-
37 tion seventy-eight of this article, plus seventy-five per
38 cent of such tax: *Provided*, That no such corporation shall
39 pay an annual license tax of less than two hundred fifty
40 dollars, which shall be in addition to the fee of the auditor
41 as statutory attorney in fact. The auditor may in any case
42 require such additional information as he may deem nec-

43 essary to enable him to assess and fix the just amount of
 44 license tax of such corporation; and it shall be his duty
 45 to notify every such corporation of the amount so assessed
 46 by him and it shall be the duty of the corporation to pay
 47 the same to the auditor of the state within thirty days
 48 thereafter, and if it fail to do so it shall be liable to the
 49 penalties prescribed in sections eighty-six and eighty-
 50 seven of this article.

Sec. 80-a. *Additional License Tax on Domestic and For-*
 2 *ign Corporations and Other Business Organizations Li-*
 3 *censed by the Insurance Commissioner.*—Every domestic
 4 or foreign corporation, company, or other business or-
 5 ganization, licensed by the insurance commissioner to
 6 engage in business in this state, except such as may be
 7 exempted by the provisions of section eighty-eight of this
 8 article, shall pay to the auditor an additional annual li-
 9 cense fee, as provided in this section. In the case of any
 10 such company or other such licensed organization hav-
 11 ing capital stock and/or unassigned surplus, the amount
 12 of the license tax shall be calculated upon the capital
 13 stock or unassigned surplus of the company or organi-
 14 zation whichever is greater, as shown by the last annual
 15 statement on file in the office of the insurance commis-
 16 sioner and calculated upon the schedule provided in this
 17 section. The minimum additional license tax provided in
 18 this section shall be two hundred fifty dollars per annum,
 19 payable by any licensed company or organization to which
 20 the provisions of this section apply. Every such company
 21 shall furnish to the auditor all such information necessary
 22 for the proper calculation of the tax:

23 TAX SCHEDULE

24	<i>Issued and outstanding capital stock</i>	
25	<i>or unassigned surplus as the case may be:</i>	<i>Tax</i>
26	Not over \$100,000.....	\$ 250.00
27	Over \$100,000 but not over \$125,000.....	265.00
28	Over \$125,000 but not over \$150,000.....	280.00
29	Over \$150,000 but not over \$175,000.....	295.00
30	Over \$175,000 but not over \$200,000.....	310.00

31	Over \$200,000 but not over \$1,000,000.....	355.00
32	on first \$200,000, and an additional 15¢ on each	
33	\$1,000 or fraction thereof in excess of \$200,000.	
34	Over \$1,000,000 but not over \$5,000,000.....	475.00
35	on first \$1,000,000, and an additional 15¢ on each	
36	\$1,000 or fraction thereof in excess of \$1,000,000.	
37	Over \$5,000,000 but not over \$10,000,000.....	1,275.00
38	on first \$5,000,000, and an additional 16¢ on each	
39	\$1,000 or fraction thereof in excess of \$5,000,000.	
40	Over \$10,000,000 but not over \$15,000,000.....	2,125.00
41	on first \$10,000,000, and an additional 17¢ on	
42	each \$1,000 or fraction thereof in excess of	
43	\$10,000,000.	
44	Over \$15,000,000 but not over \$20,000,000.....	3,025.00
45	on first \$15,000,000, and an additional 18¢ on	
46	each \$1,000 or fraction thereof in excess of	
47	\$15,000,000.	
48	Over \$20,000,000.....	5,000.00

Sec. 91. *Repeal; Partial Invalidity.*—The provisions of
 2 all acts or parts of acts, or of this code, which are incon-
 3 sistent with the provisions of sections eighty and eighty-a
 4 of this article and chapter are hereby repealed to the
 5 extent of any such inconsistency. The provisions of this
 6 act are severable and if any shall be held unconstitutional
 7 or invalid, such determination shall not affect or impair
 8 any of the remaining provisions hereof.

CHAPTER 12

(House Bill No. 12—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section two-b, article seven-
 teen, and section two, article eighteen, chapter eleven of
 the code of West Virginia, one thousand nine hundred
 thirty-one, as amended, relating to the imposition, collec-
 tion and disposition of an additional tax on the sale of
 cigarettes, and upon the use, consumption or storage of

cigarettes in this state, and declaring the purpose therefor and limitations thereon.

[Passed February 9, 1956; in effect July 1, 1956. Approved by the Governor.]

Article

17. Excise Tax on Sale of Cigarettes.

18. Excise Tax on Use, Consumption or Storage of Cigarettes.

Be it enacted by the Legislature of West Virginia:

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

Article 17. Excise Tax on Sale of Cigarettes.

Section

2-b. Additional cigarette tax for support of schools.

Section 2-b. *Additional Cigarette Tax for Support of Schools.*—For the purpose of providing additional revenue for the support of free schools, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred fifty-six, in addition to the taxes imposed by sections two and two-a of this article, an additional excise tax of one and one-half cents on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of of administration and operation, shall be paid by the tax commissioner into the general school fund, to be used solely for the support of free schools: *Provided, however,* That the additional one-half cent tax on each ten cigarettes or fractional part thereof imposed or levied

22 by this section shall be suspended on the last day of
23 June, one thousand nine hundred fifty-eight.

Article 18. Excise Tax on Use, Consumption or Storage of Cigarettes

Section

2. Levy of tax on cigarettes.

Section 2. *Levy of Tax on Cigarettes.*—For the purpose
2 of providing revenue for the general fund of this state
3 an excise tax is hereby levied, on and after midnight of
4 the last day of June, one thousand nine hundred fifty-six,
5 on the use, consumption or storage of cigarettes by con-
6 sumers in this state at the rate of two and one-half cents
7 on each ten cigarettes or fractional part thereof: *Pro-*
8 *vided, however,* That the tax shall not apply if the tax
9 levied in article seventeen of this chapter has been paid:
10 *Provided further,* That the additional one-half cent tax on
11 each ten cigarettes or fractional part thereof imposed or
12 levied by this section shall be suspended on the last day
13 of June, one thousand nine hundred fifty-eight.

CHAPTER 13

(Senate Com. Sub. for House Bill No. 10—Originating in the
Senate Committee on Finance)

AN ACT to amend and reenact article twenty-three, chapter
nineteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to horse racing.

[Passed February 9, 1956; in effect July 1, 1956. Approved by the Governor.]

Article 23. Horse Racing.

Section

1. Racing commission established; meetings and report to governor; number; terms; power and duties.
2. Qualifications and compensation of members, secretary, steward and employees.
3. Horse racing revenues paid into general fund.
4. License for horse racing for stake, purse or reward.
5. Application for license; priority of racing dates; review.

6. Procedure for suspension or revocation of a license.
7. Per diem tax on tracks; tax on pool contribution; how taxes paid; financial responsibility of licensee.
8. Disposition of funds for payment of outstanding pari-mutuel tickets.
9. Only pari-mutuel system of wagering permitted; minors; auditor.
10. Conducting race meet without license; penalty.
11. License tax to be in lieu of all other taxes.
12. Gaming statutes not to apply to pari-mutuel system of wagering.
13. Licenses for jockeys, etc.; relief fund for.
14. Number of races daily.
15. Internal affairs and business of licensee.
16. Definitions.
17. Inconsistent laws repealed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Racing Commission Established; Meetings and Report to Governor; Number; Terms; Power and Duties.*—There is hereby created the West Virginia racing commission, which shall be a corporation and, as such, may contract and be contracted with, sue and be sued, and shall have a corporate seal. Said commission shall have its principal office in the state capitol at Charleston, and shall meet annually at its office in the month of January, and at such other times and places as shall be designated by its chairman. It shall also make and publish annually a report to the governor of the business transacted by it.

The commission shall consist of three members, all of whom shall be actual and bona fide residents of this state and not more than two of whom shall at any one time belong to the same political party. They shall be appointed by the governor by and with the advice and consent of the Senate. The term of office of the members of such commission shall be four years, except that of the first appointees, one shall be appointed for two years, one for three years and one for four years, and their appointments shall be made within twenty days after this act shall become effective, and their successors shall thereafter be appointed for terms of four years each.

25 No person not a bona fide member of the commission
26 shall vote upon or participate in the deliberations of the
27 commission on any matter which may come before it.
28 Said commission shall have all the powers necessary to
29 carry out fully and effectively all the purposes of this
30 act, and shall have the power to prescribe reasonable
31 regulations under which all races shall be conducted
32 within the state of West Virginia except as hereinafter
33 provided. The commission may at any time, for the
34 violation of any such regulation, or for any fraudulent
35 practices, require the removal of any racing official or
36 racing employee employed by any licensee licensed here-
37 under; and shall have power to summon witnesses and
38 to administer oaths or affirmations to such witnesses and
39 take testimony whenever in the judgment of said com-
40 mission it may be necessary for the discharge of its
41 duties. False swearing on the part of any witness shall
42 be deemed perjury and shall be punished as such.

Sec. 2. *Qualifications and Compensation of Members,*
2 *Secretary, Steward and Employees.*—The compensation
3 of the members of the commission shall not exceed the
4 sum of twenty-five dollars per day, and actual bona fide
5 expenses, while actually engaged in the business of the
6 commission, and shall not exceed the sum of two thou-
7 sand five hundred dollars per annum in the aggregate
8 for compensation. The commission shall, under the re-
9 strictions and within the qualifications hereinafter set
10 forth, appoint a secretary and steward, to represent the
11 commission, and such additional help as shall be reason-
12 ably necessary to administer the provisions of this act;
13 and shall, within the limits prescribed by the Legisla-
14 ture, fix their compensation and actual expenses. The
15 compensation and actual expenses of the members and
16 employees of the commission shall be paid from the
17 funds in the hands of the state treasurer collected from
18 the license tax on pari-mutuel wagering and shall be
19 itemized in the budget in the same manner as all other
20 departments of the state government, but no such ex-
21 penses shall be paid unless an itemized account thereof,
22 under oath, be first filed with the state auditor.

23 (a) No person who directly or indirectly has an in-
24 terest in any manner whatsoever, including an interest
25 as owner, lessor, lessee, stockholder or employee, in any
26 race track, where horse race meetings may be held, shall
27 be eligible for appointment to the commission.

28 (b) No person while serving as a member of the
29 Legislature, or as an elective officer of this state, shall be
30 eligible for appointment to the commission.

31 (c) No person convicted of an offense, which, under
32 the laws of this state or any other state or of the United
33 States of America, constitutes a felony or a violation of
34 chapter sixty-one, article four of this code, shall be
35 eligible for appointment to the commission.

36 (d) No person shall knowingly be employed by the
37 commission in any capacity whatsoever who shall:

38 1. Directly or indirectly, or in any capacity, own or
39 have an interest in any race track where horse race
40 meetings may be held, including an interest as owner,
41 lessor, lessee, stockholder or employee.

42 2. At the time of his employment as a racing official
43 be or have been within one year prior thereto, a member
44 of the Legislature or an elective officer of this state, un-
45 less he is experienced and qualified as a racing official.

46 3. Have been prior to the time of his employment, or
47 shall during the time of his employment, convicted of
48 an offense, which, under the laws of this state or any
49 other state or of the United States of America, consti-
50 tutes a felony or a violation of chapter sixty-one, article
51 four of this code.

52 4. In any manner have delegated to him the duties
53 and powers of the members of the commission, as direc-
54 tor or supervisor of racing, or in any other manner or
55 capacity whatsoever.

56 Any steward employed by the commission or by a
57 licensee thereof, shall be a person of integrity, and ex-
58 perience and qualified for such position by the generally
59 accepted practices and customs of horse racing in the
60 United States.

61 Any person violating any provision of this section shall
62 be guilty of a misdemeanor, and, upon conviction, shall be
63 confined in jail not less than six months nor more than
64 one year and be fined not less than five hundred nor
65 more than one thousand dollars, or in the discretion of
66 the court, by both such fine and imprisonment. Venue
67 of such offense shall be in the county, or any one of the
68 counties, wherein the person violating this section car-
69 ried out any duties of, or performs any work for, the
70 commission, which constitutes the basis of the charge or
71 complaint against him.

Sec. 3. *Horse Racing Revenues Paid Into General Fund.*

2 —All revenues collected pursuant to the provisions of
3 this article, as license taxes, pari-mutuel pool operation
4 taxes or otherwise, including all moneys accruing to the
5 state from unredeemed pari-mutuel tickets, shall be paid
6 directly to the treasurer of the state of West Virginia
7 and be deposited by him to the credit of the general
8 revenue fund of the state. Remittance of all such col-
9 lected and accrued revenues shall be made by the com-
10 mission to the state treasurer at least one time during
11 each thirty-day period of the racing season, and a final
12 remittance as to any particular race meeting shall be
13 made within thirty days from and after the close of
14 each such race meeting.

Sec. 4. *License for Horse Racing for Stake, Purse or*

2 *Reward.*—No person shall hereafter hold or conduct any
3 horse race meeting within the state of West Virginia
4 whereat horse racing shall be permitted for any stake,
5 purse or reward except under the license of the West
6 Virginia racing commission. However, nothing in this
7 act shall be construed to prevent in any way the use of
8 any grounds, enclosure or race track owned and con-
9 trolled by any person for any local, county or state fair,
10 agriculture or livestock exposition, even though racing
11 be conducted thereat, when no wagering or pari-mutuel
12 pool selling upon the result of the racing so held thereat
13 is permitted within the knowledge or acquiescence of
14 the person conducting the same and when the pari-
15 mutuel pool system of wagering is not conducted.

Sec. 5. *Application for License; Priority of Racing Dates; Review.*—Any person desiring to conduct a horse race meeting within the state of West Virginia to permit or conduct pari-mutuel pools shall apply to the West Virginia racing commission for a license to do so. Such application shall be filed with the commission at least thirty days prior to the first day of each horse race meeting which said person proposes to hold or conduct. The commission shall prescribe blank forms in making such applications. Such applications shall specify the days upon which said race meeting is to be conducted. It shall state the name of the person making such application, the postoffice address of the person making such application, the number of days he intends to hold or conduct such meeting (which shall be successive week days, excluding Sundays), and the location of the place or track or enclosure where he proposes to hold or conduct such race meeting.

In fixing the dates for race meetings at the various tracks in this state the commission shall consider the racing circuits with which the race tracks in this state are associated, or contiguous to, and shall also consider dates which are calculated to increase the tax revenues accruing from racing.

The commission shall promptly consider such applications and within ten days after the filing of such application with the commission, shall grant or reject any application for a license. If said license is refused, said commission shall forthwith publicly state its reasons for the refusal in writing, attach them to the application so refused and immediately notify the applicant. Such refusal and reasons for same shall, at all times, be subject to inspection upon application of anyone desiring to inspect same. Said findings shall be subject to review by mandamus in any court of this state having jurisdiction, including the circuit court of the county wherein the horse race meeting is proposed to be held, with the right to appeal to the supreme court of appeals in the manner prescribed by law.

Sec. 6. *Procedure for Suspension or Revocation of a*

2 *License.*—The commission shall not suspend or revoke
3 a license until after a hearing has been held in the county
4 wherein the licensee is or has been conducting race meet-
5 ings. Notice of such hearing shall be served on the
6 licensee at least ten days prior to the hearing. Such
7 notice shall set forth the reasons for such proposed
8 suspension or revocation and be served in the manner
9 set forth in this code for the service of a summons.
10 Appeal from the decision of the commission shall lie in
11 the circuit court of the county wherein such hearing is
12 held, with the right of appeal to the supreme court of
13 appeals in the manner provided by law.

Sec. 7. *Per Diem Tax on Tracks; Tax on Pool Contri-*
2 *bution; How Taxes Paid; Financial Responsibility of*
3 *Licensee.*—A person operating any horse race track one
4 mile or more in length shall pay each day upon which
5 horse races are run, a license tax of five hundred dollars;
6 any race track less than one mile in length shall pay for
7 each day upon which horse races are run, a license tax
8 of two hundred fifty dollars; *Provided, however, That*
9 *the per diem tax shall not apply to horse shows or county*
10 *fairs at which racing is conducted for not more than*
11 *six days. Any person licensed by the commission to con-*
12 *duct racing and to permit and conduct pari-mutuel wag-*
13 *ering under this article shall, in addition to the aforemen-*
14 *tioned tax, pay to the racing commission of the state of*
15 *West Virginia a tax of five per cent of the total contribu-*
16 *tion to all pari-mutuel pools conducted or made at any and*
17 *every race meeting licensed under this article. Such pay-*
18 *ments shall be made to the commission or its agents after*
19 *the last race on each day and every day of each and every*
20 *race meeting, and shall be made from all contributions*
21 *to all pari-mutuel pools to each and every race of the day,*
22 *which payments shall be deposited with the treasurer of*
23 *the state of West Virginia to the credit of the general*
24 *revenue fund.*

25 Any person making application for a license for a meet-
26 ing to be held on any track in the state of West Virginia,
27 shall, when required, furnish satisfactory evidence to the
28 commission of his or their ability to pay license fees,

29 purses, salaries of officials and other expenses incident
30 to the meeting. In the event the applicant is not able to
31 furnish such satisfactory evidence of his or their ability
32 to pay such expenses and fees, then the commission may
33 require bond or other adequate security for not more
34 than four successive days before such license is issued.

Sec. 8. *Disposition of Funds for Payment of Outstanding Pari-Mutuel Tickets.*—All moneys held by any licensee for payment of outstanding pari-mutuel tickets, if not claimed within one year after the close of any race meeting, shall be turned over by the licensee to the commission within fifteen days after the expiration of such one-year period, and the licensee shall give such information as the commission may require concerning such outstanding and unredeemed tickets. All such moneys shall be deposited by the commission with the treasurer of the state of West Virginia, to be kept by him in a special account to be known as "West Virginia Racing Commission Special Account—Unredeemed Pari-Mutuel Tickets." The commission shall cause to be published one time, in some newspaper published of general circulation in the county in which such race meeting was held, a notice to the holders of such unredeemed tickets, notifying them to present such tickets for payment at the office of the commission in the city of Charleston within one year from the date of the publication of such notice.

22 Any such tickets that shall not be presented for payment within one year from the date of the publication of the notice shall thereafter be irredeemable, and the moneys theretofore held for the redemption of such tickets shall become the property of the state of West Virginia, and be deposited to the credit of the general fund of the state, and be expended in such manner as may be provided by law.

30 The cost for the publication of the notice provided for by this section shall be paid from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel wagering, when not otherwise provided in the budget; but no such costs shall be paid unless an item-

35 ized account thereof, under oath, be first filed with the
36 state auditor.

Sec. 9. *Only Pari-Mutuel System of Wagering Permitted; Minors; Auditor.*—A person licensed by the commission shall permit only the pari-mutuel system of wagering within the enclosure at which horse racing is held, and the commission deducted by the licensee from the said pari-mutuel pool shall not exceed fourteen per cent of the total pari-mutuel pools for the day, including the license fee of the gross amount handled hereinbefore provided for, plus the breakage, which shall be made and calculated to the dime. Such breakage shall be retained by the licensee: *Provided, however,* That no holder of such license shall permit or allow any person under the age of twenty-one years to wager thereat, knowing or having reason to believe that such person is under the age of twenty-one years. Any violation of this proviso shall be punishable by revocation of license.

18 An auditor of pari-mutuel pools shall be appointed by
19 the commission and shall be compensated by said commission. He shall be an experienced public accountant. Said auditor shall have free access to the space or enclosure where the pari-mutuel pool system of wagering is conducted or calculated at any race meeting to which he shall be assigned for the purpose of ascertaining whether or not said licensee is retaining only the commission provided for in said section. He shall also, for the same purposes only, have full and free access to all records and papers pertaining to such pari-mutuel pool system of wagering, and shall report to the commission in writing, under oath, whether or not the licensee has retained any commissions in excess of those permitted under this article.

Sec. 10. *Conducting Race Meet without License; Penalty.*—Any person aiding or abetting in the conduct of any meeting in the state of West Virginia at which racing and wagering on the same is permitted, without a license duly issued, not suspended or revoked and unappealed from by the commission, shall be guilty of a

7 misdemeanor, and, upon conviction, shall be punished by
8 a fine of not less than one thousand dollars for each day
9 of such unauthorized meeting, or by imprisonment not
10 exceeding one year, or by both fine and imprisonment,
11 in the discretion of the court: *Provided*, That no punish-
12 ment shall be imposed upon any licensee for conducting
13 a race meeting during the time that an appeal from the
14 action of the commission suspending or revoking his li-
15 cense theretofore is pending.

Sec. 11. *License Tax to Be in Lieu of All Other Taxes.*—

2 The license tax herein imposed shall be in lieu of all
3 other license, income, excise, special or franchise taxes
4 of the state of West Virginia, and no county, city, town
5 or other municipality or other political subdivision of the
6 state of West Virginia shall be empowered to levy or
7 impose any license, income, excise, special or franchise
8 tax on any such person engaged in the business of con-
9 ducting a meeting at which horse races are run for stakes,
10 purses or reward under the jurisdiction of and being li-
11 censed by the commission, or on the operation or main-
12 tenance of the pari-mutuel system, or on the sale of any
13 commodity during a meeting at which horse races are
14 run, or at any such horse race track.

Sec. 12. *Gaming Statutes Not to Apply to Pari-Mutuel*

2 *System of Wagering.*—Section one, article ten, chapter
3 sixty-one of the code of West Virginia, one thousand nine
4 hundred thirty-one, relating to gaming tables and de-
5 vices, shall not apply to the pari-mutuel pool system of
6 wagering in manner and form as provided for in this act
7 at any meeting within the state of West Virginia where-
8 at horse racing shall be permitted for any stake, purse or
9 reward, by any person having license for holding or con-
10 ducting such horse race meeting as provided by this act.

Sec. 13. *Licenses for Jockeys, etc.; Relief Fund for.*—

2 The commission may license jockeys, trainers, and
3 grooms, register colors, assumed names, apprentice con-
4 tracts, authorized agents, and charge a fee therefor.
5 All moneys collected from fees as well as moneys col-
6 lected from fines imposed by the stewards, starter or
7 other racing official shall be paid into a relief fund and

8 paid out on order of the commission for the expenses of
9 hospitalization, medical care and/or funeral expenses of
10 jockeys, grooms or trainers, except members of the com-
11 mission, at said race meeting, who become ill or are in-
12 jured while in the discharge of their duties under the
13 jurisdiction of the commission, and who are not subject
14 to coverage under the workmen's compensation fund of
15 this state. Balances in said fund in excess of five thou-
16 sand dollars, less any relief obligations outstanding, shall
17 be transferred to the general revenue fund of this state.

Sec. 14. *Number of Races Daily.*—The commission
2 shall fix a minimum but not a maximum number of races
3 to be held on any respective racing day.

Sec. 15. *Internal Affairs and Business of Licensee.*—
2 The commission shall not interfere in the internal busi-
3 ness or affairs of any licensee.

Sec. 16. *Definitions.*—Definitions and explanations of
2 certain technical terms and words used in this act are as
3 follows:

4 "Pari-Mutuel" is a French word meaning, "a mutuel
5 or collective pool that can be divided among those who
6 have contributed their wagers to one central agency,
7 the odds to be reckoned in accordance to the collective
8 amounts wagered upon each contestant running in a race
9 upon which the pool is made, but the total to be divided
10 among the first three contestants on the basis of the num-
11 ber of wagers on these." A pool is, "a combination of
12 interests in a joint wagering enterprise, or a stake in such
13 enterprise." In the division of a pool there occurs a per-
14 centage left over. This is known as "legitimate break-
15 age." "To the dime" is defined to mean that wagers shall
16 be figured to and paid to the dime.

Sec. 17. *Inconsistent Laws Repealed.*—All other acts,
2 whether general or local, public or private, inconsistent
3 with the provisions of this act are hereby repealed: *Pro-*
4 *vided*, That nothing herein contained shall in any way
5 affect, abridge or abolish the authority of a municipality
6 to impose a license tax as authorized by section thirteen-c,
7 article four, chapter eight of this code.

CHAPTER 14

(Com. Sub. for Senate Bill No. 18—Originating in the Senate
Committee on Finance)

AN ACT directing the auditor to transfer certain accrued balances now in special revenue accounts of the department of labor, bedding division; department of purchases, printing division; real estate board; West Virginia state aeronautics commission, license fees; department of mines, strip mining permit fees; occupational health (turnpike); West Virginia racing commission; department of agriculture, inspection service; public service commission, public utilities; to the general revenue fund.

[Passed February 9, 1956; in effect from passage. Approved by the Governor.]

Section

1. Transfer of balances in special revenue accounts.

Be it enacted by the Legislature of West Virginia:

Section 1. *Transfer of Balances in Special Revenue Accounts.*—Balances in certain special revenue accounts having been carried for several years on state financial records, and there being no practical reason for carrying said balances upon the state financial records, effective upon passage of this bill the state auditor shall transfer the following sums in special revenue funds to the general revenue fund, as follows: (a) Department of labor, bedding division, the sum of eight thousand dollars; (b) department of purchases, printing division, the sum of one hundred thousand dollars; (c) real estate board, the sum of two hundred ten thousand dollars; (d) West Virginia state aeronautics commission, license fees, the sum of two thousand five hundred dollars; (e) department of mines, strip mining permit fees, the sum of twenty thousand dollars; (f) occupational health (turnpike), the

17 sum of two thousand six hundred twenty-one dollars and
18 seventy-two cents; (g) West Virginia racing commission,
19 the sum of thirty-seven thousand five hundred dollars;
20 (h) department of agriculture, inspection service, the
21 sum of seventy-five thousand dollars; (i) public service
22 commission, public utilities, the sum of one hundred fifty
23 thousand dollars.

CHAPTER 15

(House Bill No. 7—By Mr. Ours)

AN ACT creating a Grant county memorial hospital building fund, authorizing the county court of Grant county to transfer unexpended funds and surpluses in county funds to said building fund, and to transfer all funds in the Grant county courthouse fund to said memorial hospital fund.

[Passed January 26, 1956; in effect from passage. Approved by the Governor.]

Section

1. Grant county memorial hospital building fund; transfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Grant County Memorial Hospital Building Fund; Transfer of Funds.*—The county court of Grant county is hereby authorized and empowered to create a special Grant county memorial hospital building fund. Said county court is also empowered from year to year to transfer unexpended funds and surpluses in the general county fund or any other fund of said county to said hospital building fund and to expend such fund for the purpose of building, equipping, maintaining and operating a Grant county memorial hospital.

Said county court is also authorized and empowered to transfer all funds in the Grant county courthouse fund,

13 created by chapter one hundred fifty-nine, acts of the
14 Legislature, regular session, one thousand nine hundred
15 forty-five, to the hospital building fund hereby created,
16 and expend such amount on the construction and equip-
17 ping of the memorial hospital.

CHAPTER 16

(House Bill No. 4—By Mr. Curtis)

AN ACT to authorize and empower the park board of the city of Wellsburg to use funds levied and collected under authority of a special levy election for the completion of the Wellsburg municipal swimming pool, including grading, fencing, establishing, improving, equipping, developing, operating, maintaining, administering and managing said Wellsburg municipal swimming pool.

[Passed January 26, 1956; in effect from passage. Approved by the Governor.]

Section

1. Wellsburg municipal swimming pool.

WHEREAS, Under authority of a special levy election held in the year one thousand nine hundred fifty-three, the city of Wellsburg, county of Brooke, laid a special levy for the years one thousand nine hundred fifty-four, one thousand nine hundred fifty-five and one thousand nine hundred fifty-six; and

WHEREAS, Some doubt has arisen as to the propriety of using the special levy funds for the completion of the Wellsburg municipal swimming pool at the fourth ward playground site; and

WHEREAS, The park board of the city of Wellsburg now has a sum of money on hand collected under authority of said special levy, and additional funds will come into its hands under authority of said special levy; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Wellsburg Municipal Swimming Pool.*—The
2 park board of the city of Wellsburg is hereby authorized
3 and empowered to use and expend the funds now on
4 hand and to be collected in the future under authority
5 of a special election held in the year one thousand nine
6 hundred fifty-three, for the purpose of the completion
7 of the Wellsburg municipal swimming pool, including
8 grading, fencing, establishing, improving, equipping, de-
9 veloping, operating, maintaining, administering and man-
10 aging said Wellsburg municipal swimming pool situate
11 at the fourth ward playground site.

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Davis)

[Adopted January 16, 1956.]

Amending and adopting Joint Rules of the Senate and House of Delegates.

Resolved by the House of Delegates, the Senate concurring therein:

(1) That Joint Rule No. 5 of the Senate and House of Delegates for the last regular session of the Legislature be amended and adopted to read as follows:

5. *Introduction of Bills.*—No bill, other than an appropriation bill, shall be introduced in either House after the fiftieth day of a regular session held in odd-numbered years unless permission to introduce the bill be given by a concurrent resolution, setting out the title of the bill, and adopted by a two-thirds vote of all the members of each House present and voting.

During regular sessions held in even-numbered years, no bill, other than the annual budget bill and bills coming within the purview of a proclamation issued by the Governor in accordance with the provisions of section twenty-two, article six, of the State Constitution, shall be filed for introduction or be introduced in either House unless permission to introduce the bill be given by a concurrent resolution, setting out the title of the bill and adopted by a two-thirds vote of all the members elected to each House.

When permission is requested to introduce a bill under the provisions hereof, triplicate copies of such bill shall accompany the resolution when filed for introduction or introduced.

(2) That all other Joint Rules of the Senate and House of Delegates as adopted by the regular session of the Legislature of one thousand nine hundred fifty-five are hereby adopted and shall govern the proceedings of this regular session of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 12

(By Mr. Bowles and Mr. Chilton)

[Adopted February 9, 1956.]

Providing for studies, surveys and investigations of the various proposals to extend the West Virginia Turnpike and to make reports thereon.

WHEREAS, Extensions of the West Virginia Turnpike is a matter of great importance to the welfare and development of this State and of interest to all the people of West Virginia; and

WHEREAS, Various plans for obtaining turnpike extensions have been embodied in the several bills and resolutions which have been before the Legislature at this session; and public and other hearings have been held by the Judiciary Committees of both Houses on said bills and resolutions at which testimony was given by the West Virginia Turnpike Commission, the West Virginia State Road Commission and banking and engineering firms; and

WHEREAS, No surveys have been made nor reports furnished the Legislature showing estimated or anticipated vehicular traffic, income, maintenance and operation costs, costs of construction, length of time required for construction, location and other facts or estimates necessary for a decision in the matter; and

WHEREAS, The lack of such reports and surveys has resulted in a reluctance on the part of members of the Legislature to support bills or joint resolutions providing a financial plan for turnpike extensions; and

WHEREAS, A minimum period of at least three months is needed for making preliminary surveys and reports to supply such facts and information; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

The President of the Senate and the Speaker of the House and the members of the Rules Committees of the Senate and House of Delegates, and one additional member of the Senate to be designated by the President thereof, are hereby appointed a committee of twenty to be known as the "Interim Committee

on Turnpike Extensions", and the President of the Senate and the Speaker of the House of Delegates with the prior approval of said Committee are authorized, empowered and directed to:

(a) Employ competent and recognized traffic, consulting and construction engineers and other competent and qualified persons to make a preliminary survey, study and report showing estimated or anticipated traffic volumes, revenues, cost of operation and maintenance, recommended location and description of type and cost of construction to determine the desirability, feasibility or nonfeasibility of:

1. An extension of the West Virginia Turnpike from Reed, West Virginia, northward to the Parkersburg area and the Ohio state line;
2. An extension of the West Virginia Turnpike from Reed, West Virginia, northward to the Pennsylvania line;
3. An extension of the West Virginia Turnpike from its southern terminus southward to the Virginia line;
4. Such other matters concerning said proposed extensions of said West Virginia Turnpike as are necessary or incidental to determine the desirability, feasibility, method of construction and financing said extensions.

The preliminary surveys, reports and study herein required to be made shall include all of the information necessary and shall be of a quality and in such detail as to establish the feasibility or nonfeasibility of said extensions under both a revenue bond and a general obligation bond plan of financing.

The President of the Senate and the Speaker of the House, with the approval of said Committee had prior thereto, are hereby authorized to enter into contracts with the persons, firms or associations so employed pertaining to the work to be done or services to be performed, fixing compensation therefor and time and method of payment. Any contract or agreement so entered into shall contain the express provision that the work to be done or services to be performed shall be reported on as hereinafter provided for on or before July 1, 1956.

The State Road Commission and the West Virginia Turnpike Commission shall make available to the engineers or persons

so employed pursuant hereto such maps, aerial surveys, traffic counts and other data and information in its possession or accessible to it as may be necessary, useful or helpful in preparing the study, report and survey contemplated in this resolution, and said commissions shall cooperate and assist in every practical way and manner in making and completing said study, report and survey. The engineers and other persons so employed shall make a report to said committee on or before July 1, 1956. The meeting of said committee at which said report, study and survey are received shall be open to the public and press. Copies of any and all reports shall be made available to the Governor and all members of the Legislature at least ten days prior to the convening of any session of the Legislature. If a majority of the committee is of the opinion that an extension, or extensions, of said turnpike is feasible, under a revenue bond plan of financing or a general obligation bond plan of financing, or a combination thereof, or by any other reasonable means, the Governor shall be requested to call a special or extraordinary session of the Legislature to consider legislation pertaining to turnpike extensions, it being the intent of the Legislature that any special or extraordinary session will be called in ample time to submit any constitutional question to a vote of the people at the General Election on November 6, 1956.

After said study, report and survey have been made, as herein provided, and after the same have been heard and reported on to the committee, said committee may, by a majority vote, provide for further and additional study, report and survey and for extensions and modifications of contracts with engineers and other persons, firms or associations employed pursuant hereto, and shall report thereon to the next session of the Legislature.

The sum of Sixty Thousand Dollars (\$60,000.00) or so much thereof as may be needed, is hereby appropriated for the expenses of the Committee, one-half thereof to be paid from the contingent fund of the Senate and one-half thereof from the contingent fund of the House of Delegates, upon proper requisitions of the Clerks of the two Houses.

The Clerk of the Senate and the Clerk of the House of Dele-

gates, upon the approval of the President of the Senate and the Speaker of the House, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the House of Delegates and the contingent fund of the Senate for such expenditures and expenses of said Committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said Committee shall be accompanied by the approval of said expenses, signed by the President of the Senate and the Speaker of the House.

HOUSE CONCURRENT RESOLUTION NO. 13

(By Mr. Bowles)

[Adopted February 9, 1956.]

Continuing the Commission on Education.

Resolved by the House of Delegates, the Senate concurring therein:

That the Commission on Education, established by Senate Concurrent Resolution No. 3, adopted May 13, 1955, is hereby continued with all power and authority heretofore granted by Senate Concurrent Resolution No. 3.

The Commission shall report recommendations and findings from time to time and shall make a complete report to the 1957 regular session of the Legislature.

The expenses of the Commission shall be paid from the appropriations for legislative committees and from the appropriations for the Joint Committee on Government and Finance made by this session of the Legislature.

DISPOSITION OF BILLS ENACTED

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The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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