ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

Regular Session, 1957
First Extraordinary Session, 1957
Regular Session, 1958
First Extraordinary Session, 1956
FOREWORD

This volume contains the Acts of the 1957 Regular Session, the First Extraordinary Session of 1957, the Regular Session of 1958 and the First Extraordinary Session of 1956. It also includes resolutions of general interest adopted by the Legislature and the two Houses thereof during the four sessions.

Regular Session, 1957

The regular 60-day session convened on January 9 and adjourned sine die March 11, 1957. There was a total of 832 bills introduced—479 House Bills and 353 Senate Bills. The Legislature passed 105 House Bills and 94 Senate Bills.

Of the 199 enactments of the session, the Governor approved 189, vetoed seven and permitted two to become law without his approval. The Budget Bill does not require executive action. The Acts vetoed were: S. B. 159 (Creating a Civil Service System), S. B. 316 (Limitation on Collection of Taxes), H. B. 110 (Motor Vehicle License Plates for Amateur Radio Operators), H. B. 291 (Program of Advertising, etc., by Director of Conservation), H. B. 292 (Repealing Statute Creating West Virginia Industrial and Publicity Commission), H. B. 293 (Creating West Virginia Business Development Authority), and H. B. 411 (Creating a Legislative Council). The two that became law without approval were H. B. 418 (Abolishing the Board of Control and Creating the Office of Commissioner of Public Institutions) and H. B. 419 (Abolishing the Liquor Control Commission and Creating the Office of Liquor Control Commissioner).

During the Session there were 34 House Concurrent, 16 House Joint and 24 House Resolutions offered, of which 10 House Concurrent, no House Joint and all the House Resolutions were adopted. The Senate had 23 Senate Concurrent, 10 Senate Joint and 15 Senate Resolutions, of which 17 Senate Concurrent, four Senate Joint and all of the Senate Resolutions were adopted.

Four Constitutional amendments were submitted to the voters. The amendments and the resolutions proposing them are as follows: State Superintendent of Free Schools Amend-
ment (SJR 1), Amendment to Exempt Bank Deposits and Money from Taxation (SJR 4), Corporation Stock Voting Amendment (SJR 5) and Better Schools Amendment (SJR 8).

Seventy-six House Bills, passed by the House, failed of passage by the Senate; and 23 Senate Bills, passed by the Senate, failed of passage by the House.

**First Extraordinary Session, 1957**

This session was called by the Governor for the purpose of considering and acting upon “all matters relating to the sale and issuance of the Korean Veterans’ Bonus Bonds,” etc.

The session started on August 5, 1957, and after passing a bill authorizing the sale of the bonus bonds at a higher rate of interest than previously authorized, recessed until January 7, 1958. Reassembling on January 7, 1958, the Legislature adjourned sine die without enacting further legislation.

During the session there were four bills introduced—two House Bills and two Senate Bills. The Legislature passed one bill, H. B. No. 2, which was approved by the Governor.

There were one House Concurrent Resolution and nine House Resolutions, all of which were adopted. The Senate had four Senate Concurrent and Seven Senate Resolutions, of which three Concurrent and all Senate Resolutions were adopted.

**Regular Session, 1958**

The second regular 30-day session of the Legislature, under the Constitutional Amendment approved by the voters in 1954, convened January 8 and adjourned sine die February 6, 1958.

During the session there was a total of 87 bills introduced—46 House Bills and 41 Senate Bills. The Legislature passed seven House Bills and 13 Senate Bills.

Of the 20 enactments of the session the Governor approved 17 and permitted two (S. B. No. 2 and H. B. No. 36) to become law without his approval. The Budget Bill does not require executive action.
FOREWORD

There were 22 House Concurrent, one House Joint and 19 House Resolutions offered, of which 7 House Concurrent, no House Joint and 15 House Resolutions were adopted. The Senate had 10 Senate Concurrent, no Senate Joint and 9 Senate Resolutions, of which 5 Senate Concurrent and 9 Senate Resolutions were adopted.

Eight 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.

First Extraordinary Session, 1956

This session was called by the Governor for the purpose of considering and acting upon (1) “an emergency appropriation to the Board of Governors of West Virginia University for the purpose of securing necessary equipment and supplies with which to conduct the engineering program at the University;” and (2) “zoning legislation to avoid interference caused by emanations of electrical equipment functioning in the area surrounding the proposed site for the installation and operation of a radio astronomy facility in the vicinity of Green Bank, Pocahontas County, West Virginia.”

The session convened on August 9, 1956, and concluded its business on that date.

During the session there were only four bills introduced—two Senate and two House Bills. Two bills were passed—H. B. No. 1 (Appropriation for the School of Engineering) and H. B. No. 2 (Radio Astronomy Zoning Act)—and approved by the Governor.

There were one House Concurrent and seven House Resolutions, and the House Concurrent and all House Resolutions were adopted. The Senate had two Concurrent and five Senate Resolutions, of which all were adopted.

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C. A. BLANKENSHIP, Clerk
House of Delegates
ERRATA

On page 273, section five, line 12, the word “insured” should be “insurer.”

On page 998, the first line of the last section, appearing on this page should read as follows:

“Sec. 79. Provisions of Article Severable.—The various”
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# First Extraordinary Session, 1956

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## SENATE

### OFFICERS

**President**—RALPH J. BEAN, Moorefield  
**President Pro Tempore**—WARD WYLIE, Mullens  
**Clerk**—J. HOWARD MYERS, Martinsburg  
**Sergeant-at-Arms**—GEORGE D. WILLIAMS, Alum Creek  
**Doorkeeper**—JOHN E. HOWELL, Charleston

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<td>*Frank L. Campbell (D)</td>
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(D) Democrats 21  
(R) Republicans 11  
Total 32

*Senators elected in 1954.

1Appointed April 27, 1957, to fill vacancy caused by resignation of Andy Swearingen.  
2Appointed January 31, 1957, to fill vacancy caused by resignation of Brad Sayre.  
3Appointed December 31, 1957, to fill vacancy caused by resignation of Hatfield Brubeck.
# HOUSE OF DELEGATES

## OFFICERS

**Speaker**—W. E. FLANNERY, Man  
**Clerk**—C. A. BLANKENSHIP, Pineville  
**Sergeant-at-Arms**—J. O. TUTWILER, Beckley  
**Doorkeeper**—JAKE NEAL, Tioga

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*Appointed August 3, 1957, to fill vacancy caused by resignation of Elizabeth V. Hallanan.*
**County** | **Name** | **Address**
---|---|---
Marlton | Nicola Fantasia (D) | Kingmont
 | William J. Parker (D) | Fairmont
 | W. R. Wilson (D) | Fairmont
Marshall | James L. Arnold (R) | Moundsville
 | Thomas E. Welch (R) | Moundsville
Mason | Campbell W. Stevens (R) | Apple Grove
McDowell | Vernon Q. Callaway (D) | Welch
 | Mrs. Elizabeth Drewry (D) | Northfork
 | Glen D. Hatcher (D) | War
 | W. L. Mills (D) | Kimball
 | Harry R. Pauley (D) | Iaeger
Mercer | Clarence C. Christian, Jr. (D) | Princeton
 | Andrew L. Clark (D) | Princeton
 | Robert M. Richardson (D) | Bluefield
Mineral | Joseph W. Kessel (R) | Keyser
Mingo | Toney E. Cline (D) | Baisden
 | Noah E. Floyd (D) | Williamson
Monongalia | John E. Crynock (R) | Morgantown
 | William A. Moreland (D) | Morgantown
 | Julius W. Singleton, Jr. (D) | Morgantown
Monroe | Edward T. White (R) | Union
Morgan | C. Clifton Dyche, Jr. (R) | Berkeley Springs
Nicholas | D. R. Frazer (D) | Richwood
Ohio | Charles F. Bachmann (R) | Wheeling
 | Chester R. Hubbard (R) | Wheeling
 | George H. Seibert, Jr. (R) | Wheeling
Pendleton | William McCoy, Jr. (D) | Franklin
Pleasants | J. C. Powell (R) | St. Marys
Pocahontas | Arnold O. Welford (R) | Marlinton
Preston | Richard Whetsell (R) | Kingwood
Putnam | Judson D. McCormick (R) | Red House
Raleigh | Roy Lee Harmon (D) | Beckley
 | Ned H. Ragland (D) | Beckley
 | Everett R. Shaffer (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 | Paul J. Carr, Jr. (D) | Hinton
Taylor | Lloyd E. Sayres (R) | Grafton
Tucker | Joseph R. Gilmore (D) | Parsons
Tyler | Spigg Smith (R) | Sistersville
Upshur | Richard L. Young (R) | Buckhannon
Wayne | Wayne M. Plymale (D) | Huntington
 | Y. Jefferson Rife (D) | Kenova
Webster | Orvan Hammon (D) | Webster Springs
Wetzel | Herbert Schupbach (D) | New Martinsville
Wirt | Raymond F. Morgan (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 58
(R) Republicans 42
Total 100

*Appointed April 26, 1957, to fill vacancy caused by the death of his father, Paul J. Carr, Sr., on March 24, 1957.*
AN ACT to amend chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article seven-a, relating to actions against parent or parents for malicious or wilful destruction of property by a minor under the age of eighteen years.

[Passed February 22, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 7-a. Liability of Parents.

Section 1. Findings and declarations of legislative intent.
   2. Parent liability for damages for wilful or malicious destruction of property by a minor.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Findings and Declaration of Legislative Intent.—It is hereby determined and declared as a matter
of legislative finding that in the state of West Virginia there are now, and have been, acts of widespread vandalism wilfully and maliciously perpetrated by children under the age of eighteen years, the great majority of whom live with a parent or parents; that this vandalism has caused untold loss and damage of property of public agencies, corporations and individuals for which adequate compensation for said victims cannot be realized because of the lack of estate or resources of such children so that judgments against them for their tortious acts would go unsatisfied; that the primary responsibility for the proper training, discipline and upbringing of said children rests with their parent or parents; that there has been a marked and shocking failure on the part of many parents to effect the proper and necessary training, discipline and upbringing of their children; that as a result of this parental negligence, much of said vandalism by said children has occurred, and that because of this failure of parental responsibility, parents of children perpetrating such acts should be liable for the damages to property caused thereby. Therefore, it is the intent of the Legislature so to recognize said responsibility of parents for their children's conduct and to impose on said parent or parents for such acts of their children, who live with them and who commit acts of vandalism wilfully and maliciously, liability in accordance with the provisions hereinafter set forth.

Sec. 2. Parent Liability for Damages for Wilful or Malicious Destruction of Property by a Minor.—The state of West Virginia, any municipal corporation, county, school board, or other political subdivision of the state, or any person or organization of any kind or character, shall be entitled to recover damages in an amount not to exceed three hundred dollars in any justice of the peace or other court of competent jurisdiction from the parent or parents of any minor under the age of eighteen years, living with the parent or parents, who shall maliciously or wilfully destroy property, real, personal or mixed, belonging to the state, any municipal corporation, county, school board, or other political subdivisions of the state, or any person or organization of any kind or
15 character. The recovery hereunder shall be limited to
16 the actual damages in addition to taxable court costs.
17 The form of action hereunder shall be an action for a
18 wrong in justice of the peace court and in trespass on
19 the case in other courts of competent jurisdiction: Pro-
20 vided, however, That the right of action and remedy
21 therefor granted herein shall be in addition to and not
22 exclusive of any rights of action and remedies therefor
23 against a parent or parents for the tortious acts of his
24 or their children heretofore existing under the provisions
25 of any law, statutory or otherwise, or now so existing
26 independently of the provisions of this statute.

CHAPTER 2

(Senate Bill No. 301—By Mr. Martin)

AN ACT to amend and reenact section twenty-eight, article
two, chapter forty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to the time when the right to enforce liens or claims
against decedent's property becomes barred.

[Passed March 5, 1937; in effect ninety days from passage. Approved by the
Governor.]

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

Section 28. When enforcement of lien to secure claim barred.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, 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 28. When Enforcement of Lien to Secure Claim
2 Barred.—When the right to bring action or suit against
AN ACT to amend and reenact section thirty, article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appraisal of diseased animals.

[Passed February 26, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 9. Diseases Among Domestic Animals.
Section 30. Appraisal of diseased animals; amount; arbitration; fees of arbitrators.

Be it enacted by the Legislature of West Virginia:

That section thirty, 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 30. Appraisal of Diseased Animals; Amount; Arbitration; Fees of Arbitrators.—The commissioner or his agent shall act as appraiser and appraise each diseased animal within five days prior to the date of slaughter, basing the amount upon the class and market value of the animal at the time of the appraisal, whether for breeding purposes or for milk or meat production. Animals reacting to any approved test, but not exhibiting any...
physical evidence of disease, shall be appraised without considering the presence of a diseased condition, but animals exhibiting any physical evidence of disease shall be appraised as diseased animals: Provided, however, That where indemnities are claimed for animals slaughtered on account of being infected with rabies, appraisal shall be based on the value of the animal before it became infected. The amount of appraisal for a non-registered equine animal shall not exceed seventy-five dollars, for a registered equine animal one hundred dollars, for a non-registered bovine animal one hundred and fifty dollars, for a registered bovine animal two hundred and fifty dollars, for a non-registered swine twenty-five dollars, for a registered swine forty dollars, for a non-registered sheep ten dollars, and for a registered sheep twenty-five dollars. If the amount of appraisal of any animal, as determined by the appraiser is not satisfactory to the owner of the animal, a written notice of such fact setting forth the reason for complaint shall be made at once to the appraiser. The amount of the appraisal shall then be determined by arbitrators, one to be appointed by the appraiser and one by the owner of the animal. If these arbitrators are not able to agree as to the amount of appraisal, a third arbitrator shall be appointed by them, whose decision shall be final. Each arbitrator shall be paid one dollar for each appraisal of five or less than five animals, and two dollars if more than five animals are appraised. Compensation for the arbitrators appointed by the owner and the appraiser shall be paid by the party appointing such arbitrator, and in case a third arbitrator is chosen, such arbitrator shall be paid by the party against whom the decision is made.

CHAPTER 4
(Senate Bill No. 18—By Mr. Stemple and Mr. Taylor)

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
by amending and reenacting sections two, three and eight, article twenty-one-a thereof, by adding two new sections, designated sections thirteen-a and thirteen-b, to said article, and by adding to said chapter a new article, designated article twenty-one-b, all relating to the conservation of natural resources by providing for the conservation of soil and soil resources, the control and prevention of soil erosion, the prevention of floodwater and sediment damage, and the conservation, development, utilization, and disposal of water.

[Passed March 1, 1957; in effect ninety days from passage. Approved by the Governor.]

Article

21-a. Soil Conservation Districts.
21-b. Watershed Improvement Districts.

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 amending and reenacting sections two, three and eight, article twenty-one-a thereof, by adding two new sections, designated sections thirteen-a and thirteen-b, to said article, and by adding to said chapter a new article, designated article twenty-one-b, all to read as follows:

Article 21-a. Soil Conservation Districts.

Section
2. Legislative determinations and declaration of policy.
3. Definitions.
13-a. Authority of governmental divisions to expend money; levy.
13-b. Assurance of cooperation by governmental division.

Section 2. Legislative Determinations and Declaration of Policy.—It is hereby declared, as a matter of legislative determination:

4 (a) That the farm and grazing lands of the state of West Virginia are among the basic assets of the state
and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state by water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any landowner to conserve the soil and control erosion upon his lands causes a washing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion of such other lands difficult or impossible.

(b) That the consequences of such soil erosion in the form of soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; the washing of soil into streams which silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods;
and losses in navigation, hydro-electric power, municipal
water supply, irrigation developments, farming and graz-
ing.

(c) That to conserve soil resources and control and
prevent soil erosion and prevent floodwater and sediment
damage, and further the conservation, development, utili-
ization, and disposal of water, it is necessary that land-use
practices contributing to soil wastage and soil erosion be
discouraged and discontinued, and appropriate soil-con-
serving land-use practices and works of improvement for
flood prevention or the conservation, development, utili-
ization, and disposal of water be adopted and carried out;
that among the procedures necessary for widespread adop-
tion, are the carrying on of engineering operations such
as the construction of terraces, terrace outlets, dams, de-
silting basins, floodwater retarding structures, channel
improvements, floodways, dikes, ponds, ditches, and the
like; the utilization of strip cropping, lister furrowing,
contour cultivating, and contour furrowing; land drainage;
land irrigation; seeding and planting of waste, sloping,
abandoned, or eroded lands to water-conserving and
erosion-preventing plants, trees, and grasses; forestation
and reforestation; rotation of crops; soil stabilization with
trees, grasses, legumes, and other thick-growing, soil-
holding crops; retardation of run-off by increasing ab-
sorption of rainfall; and retirement from cultivation of
steep, highly erosive areas and areas now badly gullied
or otherwise eroded.

(d) It is hereby declared to be the policy of the Leg-
islature to provide for the conservation of the soil and
soil resources of this state, for the control and prevention
of soil erosion, for the prevention of floodwater and sedi-
ment damage, and for furthering the conservation, devel-
opment, utilization, and disposal of water, and thereby to
preserve natural resources, control floods, prevent im-
pairment of dams and reservoirs, assist in maintaining the
navigability of rivers and harbors, preserve wildlife, pro-
tect the tax base, protect public lands and protect and
promote the health, safety, and general welfare of the
people of this state.
This article contemplates that the incidental cost of organizing soil conservation districts will be borne by the state, while the expense of operating the districts organized, will be provided by donations, gifts, contributions, grants and appropriations, in money, services, materials or otherwise, from the United States or any of its agencies, from the state of West Virginia, or from other sources, with the understanding that the owners or occupiers will contribute funds, labor, materials and equipment to aid the carrying out of erosion control measures on their lands.

Sec. 3. Definitions.—Wherever used or referred to in this article, unless a different meaning clearly appears from the context:

1. “District” or “soil conservation district” means a subdivision of this state, organized in accordance with the provisions of this article, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

2. “Supervisor” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this article.

3. “Committee” or “state soil conservation committee” means the agency created in section four of this article.

4. “Petition” means a petition filed under the provisions of subsection (a) of section five of this article for the creation of a district.

5. “State” means the state of West Virginia.

6. “Agency of this state” includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

7. “United States” or “agencies of the United States” includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.
(8) "Landowners" or "owners of land" includes any person or persons, firm, or corporation who shall hold title to three or more acres of any lands lying within a district organized under the provisions of this article.

(9) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this article, whether as owner, lessee, renter, or tenant.

(10) "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in two newspapers of opposite politics and of general circulation published in the county in which is located the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(11) The terms "soil conservation," "erosion control," or "erosion prevention projects," when used throughout the article, shall denote those projects that have been established by federal agencies in cooperation with state agencies for the purpose of demonstrating soil erosion control and water conservation practices.

(12) The term "governing body" means the supervisors of any soil conservation district, town or city council, city commission, county court, or body acting in lieu of a county court, in this state, and the term "governmental division" means any soil conservation district, town, city, or county in this state.

(13) "Works of improvement" means such structures as may be necessary or convenient for flood prevention or the conservation, development, utilization or disposal of water.

Sec. 8. Powers of Districts and Supervisors.—A soil
conservation district organized under the provisions of this article shall have the following powers, and the supervisor thereof shall have the following powers, in addition to others granted in other sections of this article:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and floodwater and sediment damage, and to the conservation, development, utilization, and disposal of water, and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement: Provided, however, That in order to avoid duplication of research activities, no district shall initiate any research program or publish the results except with the approval of the state committee and in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil washing may be prevented and controlled, and works of improvement may be carried out;

(3) To carry out preventive and control measures and works of improvement within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection (c) of section two of this article, on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands;
(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion-control and prevention operations and works of improvement within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this article;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to institute condemnation proceedings to acquire any property, real or personal, or rights or interests therein, whether or not located in the district, required for works of improvement; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this article; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion and for flood prevention or the conservation, development, utilization, and disposal of water;

(7) To construct, improve, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this article;

(8) To develop with the approval of the state committee comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion and for flood prevention or the conservation, development, utilization, and disposal of water within the district,
which plans shall specify, in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combinations thereof, located within its boundaries, undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combinations thereof, within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control, or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, contributions and grants in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source, and to use or expend such money, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this article, to carry into effect its purposes and powers;
(11) As a condition to this extending of any benefits under this article to, or the performance of work upon, any lands, the supervisors may require contributions in money, services, materials, or otherwise, to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damage thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder in its acquisition, operation and disposition of property unless the legislature shall specifically so state;

(13) To enter into contracts and other arrangements with agencies of the United States, with persons, firms or corporations, including public corporations, with the state government of this state or other states, or any department or agency thereof, with governmental divisions, with soil conservation, drainage, flood control, soil erosion or other improvement districts in this state or other states, for cooperation or assistance in constructing, improving, operating or maintaining works of improvement within the district, or in preventing floods, or in conserving, developing, utilizing and disposing of water in the district, and to obtain options upon and acquire property, real or personal or rights or interests therein, in other districts or states required for flood prevention or the conservation, development, utilization and disposal of water within the district and to construct, improve, operate or maintain thereon or therewith works of improvement.

Sec. 13-a. Authority of Governmental Divisions to Expend Money; Levy.—The governing body of any governmental division which may reasonably be expected to receive a benefit from the construction, improvement, operation or maintenance of any works of improvement may expend money for such construction, improvement, operation or maintenance if this expectation exists as to any part of the governmental division and even though
such works of improvement are not located within the corporate limits of the governmental division or are not within this state: Provided, however, That if the expenditure is not made directly by the governmental division for such purpose, it shall be made only through a soil conservation district or watershed improvement district organized under the laws of this state, but it shall not be necessary that any part of the governmental division be within the limits of the district through which the expenditure is made. Such governing bodies or governmental divisions may set up in their respective budgets funds to be spent for such purposes, and municipalities and counties may levy and collect taxes for such purposes, in the manner provided by law: Provided, however, That in case sufficient funds cannot be raised by ordinary levies, additional funds may be raised by municipalities and counties as provided by section sixteen, article eight, chapter eleven of this code.

Sec. 13-b. Assurance of Cooperation by Governmental Division.—By vote of the governing body, any governmental division authorized to expend money on works of improvement by section thirteen-a of this article may alone, or in combination with any other governmental division or divisions, so authorized to expend money on works of improvement, give assurances, by contract or otherwise, satisfactory to agencies of the United States, congressional committees, or other proper federal authority, and to soil conservation districts or watershed improvement districts organized under the laws of this state, that the governmental division or divisions will construct, improve, operate or maintain works of improvement or will appropriate a sum or sums of money and expend it for such purposes as provided in section thirteen-a of this article.

The assurances, whether by contract or otherwise, shall be reduced to writing and before final approval of the governing bodies involved shall be submitted to the attorney general for approval. After approval by the attorney general and by the governing body or bodies concerned, certified copies of the assurances shall be filed in
the office of the county clerk of the county or counties in which the governmental division is located and in the office of the state tax commissioner.

Any assurance hereunder may be valid and binding for a period of time not to exceed fifty years.

Article 21-b. Watershed Improvement Districts.

Section
1. Definitions.
2. Establishment of watershed improvement districts authorized.
3. Petition for establishment.
4. Public hearing on petition; determination of need for district; defining boundaries.
5. Determination of whether operation of proposed district is feasible.
6. Declaration of organization of district; certification.
7. Establishment of watershed improvement district situated in more than one soil conservation district.
8. Inclusion of additional territory.
9. Governing body of district; trustees.
10. Officers, agents and employees; surety bonds; annual audit.
11. Status and general powers of district; approval of governing body required.
12. Powers granted additional to powers of soil conservation district; soil conservation district to continue to exercise its powers.
13. Discontinuance of watershed improvement districts.

Section 1. Definitions.—The term "landowners" or "owners of land" as used in this article includes any person, firm or corporation, other than a public body corporate, who shall hold title to any lot or tract of land lying within a district organized or to be organized under the provisions of this article, whether or not such land lies within the corporate limits of any town or city.

Sec. 2. Establishment of Watershed Improvement Districts Authorized.—Whenever within a soil conservation district or districts, soil conservation or the conservation, development, utilization, or disposal of water will be promoted by the construction of improvements for such purpose or purposes, a watershed improvement district may be established within such soil conservation district or districts in accordance with the provisions of this article.

Sec. 3. Petition for Establishment.—Any twenty-five owners of land lying within the limits of a proposed watershed improvement district, or a majority of such owners if their number be less than fifty, or any municipality or county any part of which lies within the proposed water-
shed improvement district, may file a petition with the supervisors of the soil conservation district or districts in which the proposed watershed improvement district will be situated asking that a watershed improvement district be organized for the territory described in the petition. The petition shall set forth:

(1) The proposed name of the watershed improvement district;
(2) That there is need, in the interest of the public health, safety, or welfare, for a watershed improvement district for the territory described in the petition;
(3) A description of the territory proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate;
(4) That the territory described in the petition is contiguous and is in the same watershed;
(5) A request that the territory described in the petition be organized as a watershed improvement district.

Land lying within the limits of one watershed improvement district shall not be included in another watershed improvement district.

Sec. 4. Public Hearing on Petition; Determination of Need for District; Defining Boundaries.—Within thirty days after such petition has been filed with the supervisors of the soil conservation district or districts, they shall hold a public hearing or hearings upon the practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed watershed improvement district and all other interested parties shall have the right to attend such a hearing and be heard. The supervisors may prescribe such rules and regulations governing the conduct of such hearings as they deem to be necessary.

The supervisors shall thereafter determine whether there is need, in the interest of the public health, safety, or welfare, for the organization of the proposed watershed improvement district. They shall record such determination and shall define the boundaries of such watershed improvement district.
Sec. 5. Determination of Whether Operation of Proposed District Is Feasible.—If the supervisors determine that need for the proposed watershed improvement district exists and after they define the boundaries of the proposed district, they shall consider the question of whether the operation of the proposed watershed improvement district is administratively practicable and feasible.

Sec. 6. Declaration of Organization of District; Certification.—If the supervisors shall determine that operation of the proposed watershed improvement district is administratively practicable and feasible, they shall so notify the state soil conservation committee which may declare the watershed improvement district to be duly organized and shall record such fact in its official minutes. Following such entry in its official minutes, the committee shall certify the fact of the organization of the watershed improvement district to the secretary of state, and shall furnish a copy of such certification for recordation to the clerk of the county court in each county in which any portion of the watershed improvement district is situated; and the watershed improvement district shall thereupon constitute a governmental division of this state and a public body corporate.

Sec. 7. Establishment of Watershed Improvement District Situated in More Than One Soil Conservation District.—If a proposed watershed improvement district will be situated in more than one soil conservation district, copies of the petition shall be presented to the supervisors of all the soil conservation districts in which any part of such proposed watershed improvement district will be situated, and the supervisors of all such soil conservation districts affected shall act jointly as a board of supervisors with respect to all matters concerning such watershed improvement district, including its organization. Such watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil conservation district.
Sec. 8. Inclusion of Additional Territory.—Petitions for including additional territory within an existing watershed improvement district may be filed with supervisors of the soil conservation district or districts in which the watershed improvement district is situated, and in such cases the provisions hereof with respect to petitions to organize a watershed improvement district shall be observed to the extent deemed practicable by such supervisors. No additional territory shall be included in an existing watershed improvement district without the approval of the state committee and certification of its inclusion to the officers indicated in section six of this article.

Sec. 9. Governing Body of District; Trustees.—The supervisors of the soil conservation district or districts in which the watershed improvement district is situated shall be the governing body of the watershed improvement district. They may appoint three trustees, who shall be owners of land within the watershed improvement district, to carry on the business of the watershed improvement district. The trustees so appointed shall exercise such administrative duties and powers as may be delegated to them by the governing body of the district, and they shall hold office at the will of that body. A trustee shall receive no compensation for his services but may be reimbursed from funds of the district for actual and necessary expenses incurred by him in the performance of his duties. The trustees shall designate a chairman and may, from time to time, change such designation. One of the trustees may be selected as treasurer and shall then be responsible for the safekeeping of all the funds of the watershed improvement district.

When a watershed improvement district lies in more than one soil conservation district, the supervisors of all such districts shall act jointly as the governing body of the watershed improvement district.

Sec. 10. Officers, Agents and Employees; Surety Bonds; Annual Audit.—The trustees may, with the approval of the governing body of the district, employ such officers, agents, and other employees as they may require and shall de-
termine their qualifications, duties and compensation. The compensation of such persons shall be paid out of funds of said district. The governing body shall provide for the execution of surety bonds for the treasurer and such other trustees, officers, agents, and employees as shall be entrusted with funds or property of the watershed improvement district and shall provide for the making and publication of an annual audit of the accounts of receipts and disbursements of the watershed improvement district.

Sec. 11. Status and General Powers of District; Approval of Governing Body Required.—A watershed improvement district organized under the provisions of this article shall constitute a governmental division of this state and a public body corporate, and such watershed improvement district shall have all of the powers of the soil conservation district or districts in which the watershed improvement district is situated. These powers are set forth in article twenty-one-a, chapter nineteen of the code, and any reference therein to a “soil conservation district” shall be deemed for the purposes of this article to include a “watershed improvement district”. The trustees shall exercise only such of the powers of the watershed improvement district as the governing body of the district may designate from time to time.

Sec. 12. Powers Granted Additional to Powers of Soil Conservation District; Soil Conservation District to Continue to Exercise its Powers.—The powers herein granted to watershed improvement districts shall be additional to the powers of the soil conservation district or districts in which the watershed improvement district is situated; and the soil conservation district or districts, and the supervisors thereof, are authorized, notwithstanding the creation of the watershed improvement district, to continue to exercise all of its powers within the watershed improvement district.

Sec. 13. Discontinuance of Watershed Improvement Districts.—At any time after five years from the organization of a watershed improvement district, any twenty-five
owners of land lying within the limits of the district, or a
majority of such owners if their number be less than fifty,
or any municipality or county any part of which lies within
the district, may file a petition with the governing
body of the district, praying that the existence of the dis-

trict be discontinued. The petition shall state the reasons
for discontinuance, and that all obligations of the district
have been met.

The governing body of the district may conduct public
hearings on the petition to assist it in making a determina-

tion.

If it is found that all the obligations of the district have
been met, the governing body shall consider the question
of whether soil conservation or the conservation develop-
ment, utilization, or disposal of water will be promoted
by the continuance of the district. If the governing body
shall determine that none of these objectives will be pro-
moted, it shall so notify the state soil conservation com-
mittee which may declare the district to be discontinued
and shall record such fact in its official minutes. Following
such entry in its official minutes, the committee shall cer-
tify the fact of the discontinuance to the secretary of state
and shall furnish a copy of such certification for recorda-
tion to the clerk of the county court in each county in
which any portion of the district is situated; and the dis-

trict shall thereupon cease to exist.

CHAPTER 5

(House Bill No. 419—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact sections one, two, three and nine,
article two, chapter sixty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, abolishing the West Virginia liquor control commission and creating the office of West Virginia liquor control commissioner in lieu thereof.
Article 2. Liquor Control Commissioner.

Section 1. West Virginia liquor control commissioner; powers.
2. Commissioner; appointment; duties.
3. Term of office; vacancy.
4. Salary and expenses.

Be it enacted by the Legislature of West Virginia:
That sections one, two, three and nine, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. West Virginia Liquor Control Commissioner; Powers.—To accomplish the purposes of this chapter there is hereby created the office of West Virginia liquor control commissioner. The commissioner shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by the West Virginia liquor control commission which is hereby abolished. Wherever in this chapter or elsewhere in law reference is made to the West Virginia liquor control commission such reference shall henceforth be construed and understood to mean the West Virginia liquor control commissioner. All parts and provisions of this chapter rendered meaningless and inapplicable by the provisions hereof are hereby modified and amended so that the provisions of this chapter will be consistent and harmonious in their entirety.

Sec. 2. Commissioner; Appointment; Duties.—The commissioner shall be appointed by the governor, with the advice and consent of the Senate, and shall devote his entire time to the duties of his office.

Sec. 3. Term of Office; Vacancy.—The commissioner shall be appointed for a term of four years and any appointment to fill a vacancy shall be for the unexpired term.
Sec. 9. Salary and Expenses.—The commissioner shall receive a salary of ten thousand dollars per annum, payable monthly, and shall be paid his actual and necessary traveling expenses incurred in performance of his official duties.

CHAPTER 6

( House Bill No. 476—By Mr. Seibert and Mr. Myles)

AN ACT to amend and reenact sections nine and nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend article three of said chapter by adding two new sections, to be designated sections nine-a and nineteen-a, all providing for an increase in the price of alcoholic liquors sold at state stores for the purpose of paying veterans’ bonus bonds and Korean veterans’ bonus bonds and for the payments by the liquor commission into the veterans’ bonus sinking fund.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 3. Sales by Commission.

Section 9. Uniform prices; posting and distribution of price lists; price increase for payment of veterans’ bonus bonds and Korean veterans’ bonus bonds.

9-a. Price increase for payment of Korean veterans’ bonus bonds.

19. Amount of operating fund; payment into veterans’ bonus sinking fund.

19-a. Payment into veterans’ bonus sinking fund for retirement of Korean veterans’ bonus bonds.

Be it enacted by the Legislature of West Virginia:

That sections nine and nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article three of said chapter be further amended by adding
thereto two new sections, designated sections nine-a and nineteen-a, all to read as follows:

Section 9. Uniform Prices; Posting and Distribution of Price Lists; Price Increase for Payment of Veterans’ Bonus Bonds and Korean Veterans’ Bonus Bonds.—The commission shall, from time to time, fix uniform prices for each variety, class and brand of alcoholic liquors offered for sale in state stores. Alcoholic liquors shall be sold in state stores and agencies only at the uniform prices fixed by the commission.

The commission shall prepare price lists showing the price of each variety, class or brand. Price lists shall be posted prominently in each store and shall be available for distribution and inspection in every state store and agency.

For the purpose of providing revenue for the payment of bonds issued under and by virtue of the veterans’ bonus amendment of one thousand nine hundred fifty to the constitution and the Korean veterans’ bonus amendment of one thousand nine hundred fifty-six to the constitution, the commission in the exercise of its authority under this section is hereby directed to continue the increase in the price of alcoholic liquors heretofore effected pursuant to the provisions of this section as amended by chapter six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, in an amount sufficient to produce an additional annual revenue of one million six hundred thousand dollars on an annual volume of business equal to the average for the past three years. Whenever in any fiscal year the amount of money accumulated in the veterans’ bonus sinking fund is sufficient to pay at maturity all of the outstanding bonus bonds issued under said veterans’ bonus amendment of one thousand nine hundred fifty, together with the interest due or payable thereon, and thereafter all of the outstanding bonus bonds issued under said Korean veterans’ bonus amendment of one thousand nine hundred fifty-six, together with the interest due or payable thereon, the provision herein made for such price increase shall become ineffective at the end of such fiscal year.
Sec. 9-a. Price Increase for Payment of Korean Veterans' Bonus Bonds.—For the purpose of providing revenue for the payment of bonds issued under and by virtue of said Korean veterans' bonus amendment of one thousand nine hundred fifty-six the commission in the exercise of its authority under section nine of this article is hereby directed to increase the price of alcoholic liquors in addition to the price increase provided in said section nine hereof, on or before the last day of June, one thousand nine hundred fifty-seven, in an amount sufficient to produce an additional revenue of one million eight hundred thousand dollars on an annual volume of business equal to the average for the last three years. Whenever in any fiscal year the amount of money accumulated in the veterans' bonus sinking fund for the retirement of Korean veterans' bonus bonds shall be sufficient to pay at maturity all outstanding bonus bonds issued under said Korean veterans' bonus amendment of one thousand nine hundred fifty-six, together with the interest due or payable thereon, the provision herein made for such price increase shall become ineffective at the end of such fiscal year.

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

On or after the first day of July, one thousand nine hundred fifty-seven, from receipts in excess of the requirement of the operating fund, the sum of four hundred thousand dollars shall, upon requisition of the governor, be paid each quarter into the veterans' bonus sinking fund. If, in any fiscal year, the amount so paid shall be less than fifteen per cent of such excess, an additional amount sufficient to make the total payments equal to fifteen per cent of such excess shall at the end of the fiscal year be paid into the sinking fund, upon the requisition of the governor. All such funds so paid into the
veterans' bonus sinking fund shall be applied to the retirement of bonds issued under said veterans' bonus amendment of one thousand nine hundred fifty: Provided, however, That when the amount of money accumulated in the veterans' bonus sinking fund for retirement of veterans' bonus bonds issued under said veterans' bonus amendment of one thousand nine hundred fifty shall be sufficient to pay at maturity all outstanding bonus bonds issued under said amendment, together with the interest due or payable thereon, said funds shall thereupon be applied to the retirement of bonds issued under said Korean veterans' bonus amendment of one thousand nine hundred fifty-six.

Whenever in any fiscal year the amount of money accumulated in the veterans' bonus sinking fund shall be sufficient to pay at maturity all outstanding bonus bonds issued under said veterans' bonus amendment of one thousand nine hundred fifty and under said Korean veterans' bonus amendment of one thousand nine hundred fifty-six, together with interest due or payable thereon, no further transfers to such sinking fund shall be made after the end of such fiscal year.

Sec. 19-a. Payment into Veterans' Bonus Sinking Fund For Retirement of Korean Veterans' Bonus Bonds.—On or after the first day of July, one thousand nine hundred fifty-seven, from receipts in excess of the requirements of the operating fund of the commission, the sum of four hundred fifty thousand dollars shall, upon requisition of the governor, be paid each quarter into the veterans' bonus sinking fund to be used for the purpose of retiring bonds issued under said Korean veterans' bonus amendment of one thousand nine hundred fifty-six. Whenever, in any fiscal year, the amount of money accumulated in the veterans' bonus sinking fund for the retirement of said Korean veterans' bonus bonds shall be sufficient to pay at maturity all outstanding bonus bonds issued under the Korean veterans' bonus amendment of one thousand nine hundred fifty-six, together with interest due or payable thereon, no further transfers to such sinking fund shall be made after the end of such fiscal year.
CHAPTER 7

(Senate Bill No. 295—By Mr. Bean, Mr. President)

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

[Passed March 4, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 4. Licenses.
Section
22. Licensing of persons selling to commission; persons eligible; fees; penalties and limitations.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article four, 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 22. Licensing of Persons Selling to Commission; Persons Eligible; Fees, Penalties and Limitations.—

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. Only salaried employees of distilleries, manufacturers, producers or processors of alcoholic liquor may be licensed hereunder, and no person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission on a fee or commission basis. The commission shall be the licensing authority and may grant to persons of good moral character the license herein provided, and may refuse to grant such license to any person heretofore con-
victeed of a felony within ten years prior to his application
for such license; refuse to grant, suspend or revoke
licenses. Licenses shall be on an annual basis for the
period from the first day of July until the thirtieth day of
June next following. New and renewal licenses shall be
granted only upon verified application to the commission
presented on forms provided by the commission. Any
person representing more than one producer, manufactur-
er, or distributor of alcoholic liquors shall file a separate
application and shall obtain a separate license for each
such representation. The annual license fee shall be one
hundred dollars. The fee for any license granted for the
remainder of any license year between the first day of
January and the thirtieth day of June of the same calen-
dar year shall be fifty dollars.

No person who is the father, mother, son, daughter,
brother, sister, uncle, aunt, nephew or niece of a member
of the commission or of any elected or appointed state
official, or who is the spouse of any such person so re-
lated to a member of the commission or to any elected
or appointive state official, may be granted a license
hereunder. No member of the Legislature or the spouse
of any such member may be granted a license hereunder.
Nor shall any member or officer of any political party
executive committee of this state or the spouse of any
such member or officer be granted a license hereunder.

In addition to all other information which the com-
mmission may require to be supplied on the license appli-
cation forms, each applicant shall be required to state
his name and his residence address and the name and
business address of the producer, manufacturer or dis-
tributor he represents; the name and address of each
additional producer, manufacturer or distributor of alco-
holic liquors he represents; the monetary total of all
alcoholic liquor sales, if any, made by him to the com-
mmission during the fiscal year preceding the license year
for which he is seeking a license; the monetary total of
the gross income received by him on such sales, if any,
during such fiscal year; whether he has, during such fiscal
year, made or given, voluntarily or on request, any gift.
contribution of money or property to any member or em-
ployee of the commission or to or for the benefit of any
political party committee or campaign fund; and his re-
lationship, if any, by blood or marriage, to any member
of the commission or to any elected or appointive state
official. All such applications shall be verified by oath of
the applicant and shall be prepared and filed in duplicate.
All such applications and a current list of all licensees
hereunder shall be matters of public record and shall be
available to public inspection at the commission's offices
at the state capitol. Every licensee who ceases to be an
agent, broker or salesman, as herein contemplated, shall
so advise the commission in writing and such person's
name shall be immediately removed from the license list
and his license shall be cancelled and terminated.
All persons licensed hereunder shall be full-time salar-
ied employees of the distilleries, manufacturers, pro-
ducers or processors of alcoholic liquor they represent
and shall devote their full time to the duties of such em-
ployment and shall have and engage in no other remun-
erative occupation or calling at the same time. No such
licensed person shall share, divide or split his salary with
any person, other than his wife, or some legal dependent,
nor shall he make any contribution to any political party
campaign fund in this state.
All licensees hereunder shall be subject to all other
provisions of this chapter and to the lawful rules and
regulations promulgated by the commission. Licenses
may be refused, suspended or revoked by the commission
for cause, including any of the applicable grounds of
revocation specified in section nineteen of this article.
Provisions of this article relating to notice, hearing and
appeals shall, to the extent applicable, govern procedures
on suspension and revocation of licenses hereunder.
-Any person, firm or corporation violating any provision
of this section, including knowingly making of any false
statement in a verified application for a license, shall be
guilty of a misdemeanor offense and shall, upon convic-
tion thereof, be fined not exceeding one thousand dollars
or imprisoned in jail not exceeding twelve months, or be
subject to both such fine and imprisonment in the discretion of the court.

CHAPTER 8

(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 11, 1957; in effect from passage.]

Title
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section
1. General policy.
2. Definitions.
3. Classification of appropriations.

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-eight.

Sec. 2. Definitions.—For the purpose of this act:
2 “Board” shall mean the board of public works;
3 “Spending Unit” shall mean the department, agency, or institution to which an appropriation is made;
5 The “fiscal year one thousand nine hundred fifty-eight” shall mean the period from July first, one thousand nine
7 hundred fifty-seven, through June thirtieth, one thousand
8 nine hundred fifty-eight.
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 improvements of lands, sewer and
18 water improvements, and shall include shelter, support,
19 storage, protection, or the improvement of a natural con-
20 dition;
21 "Lands" shall be expended only for the purchase of lands
22 or interest in lands.
23 Appropriations otherwise classified shall be expended
24 only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit freedom to spend an appropriation for more than one of the above purposes.

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

Title 2. Appropriations.

Section

1. Appropriations from general revenue.

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**HEALTH AND WELFARE**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
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<tbody>
<tr>
<td>Barboursville state hospital</td>
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<tr>
<td>Berkeley Springs sanitarium</td>
<td>436</td>
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<tr>
<td>Denmar state hospital</td>
<td>432</td>
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<tr>
<td>Department of mental health</td>
<td>410</td>
</tr>
<tr>
<td>Department of public assistance</td>
<td>405</td>
</tr>
<tr>
<td>Department of public assistance (commodity distribution)</td>
<td>406</td>
</tr>
<tr>
<td>Fairmont emergency hospital</td>
<td>425</td>
</tr>
<tr>
<td>Health department</td>
<td>400</td>
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<tr>
<td>Hopemont sanitarium</td>
<td>430</td>
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<tr>
<td>Huntington state hospital</td>
<td>422</td>
</tr>
<tr>
<td>Lakin state hospital</td>
<td>423</td>
</tr>
<tr>
<td>Marmet memorial hospital</td>
<td>437</td>
</tr>
<tr>
<td>Morris memorial hospital</td>
<td>437</td>
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<tr>
<td>Pinecrest sanitarium</td>
<td>431</td>
</tr>
<tr>
<td>Spencer state hospital</td>
<td>421</td>
</tr>
<tr>
<td>State board of education (rehabilitation division)</td>
<td>440</td>
</tr>
<tr>
<td>Water commission</td>
<td>401</td>
</tr>
<tr>
<td>Welch emergency hospital</td>
<td>426</td>
</tr>
<tr>
<td>West Virginia department of veterans' affairs</td>
<td>404</td>
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<tr>
<td>Weston state hospital</td>
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**JUDICIAL**

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<tr>
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<tbody>
<tr>
<td>Circuit courts</td>
<td>111</td>
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<tr>
<td>Criminal charges</td>
<td>119</td>
</tr>
<tr>
<td>Judges' retirement system</td>
<td>112</td>
</tr>
<tr>
<td>Judicial council</td>
<td>118</td>
</tr>
<tr>
<td>State law library</td>
<td>114</td>
</tr>
<tr>
<td>Supreme court of appeals</td>
<td>110</td>
</tr>
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</table>

**LEGISLATURE**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
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<tbody>
<tr>
<td>House of Delegates</td>
<td>102</td>
</tr>
<tr>
<td>Joint expenses</td>
<td>103</td>
</tr>
<tr>
<td>Senate</td>
<td>101</td>
</tr>
</tbody>
</table>

**MISCELLANEOUS BOARDS**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
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<tbody>
<tr>
<td>Board of architects</td>
<td>595</td>
</tr>
<tr>
<td>Board of certified public accountants</td>
<td>586</td>
</tr>
<tr>
<td>Board of dental examiners</td>
<td>589</td>
</tr>
<tr>
<td>Board of embalmers and funeral directors</td>
<td>593</td>
</tr>
<tr>
<td>Board of examiners for practical nurses</td>
<td>587</td>
</tr>
<tr>
<td>Board of examiners of registered nurses</td>
<td>588</td>
</tr>
<tr>
<td>Board of law examiners</td>
<td>597</td>
</tr>
<tr>
<td>Board of optometry</td>
<td>592</td>
</tr>
<tr>
<td>Board of osteopathy</td>
<td>591</td>
</tr>
<tr>
<td>Board of pharmacy</td>
<td>590</td>
</tr>
<tr>
<td>Board of registration for professional engineers</td>
<td>594</td>
</tr>
<tr>
<td>Board of veterinarians</td>
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**PROTECTION**

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<thead>
<tr>
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<tbody>
<tr>
<td>Adjutant general (state militia)</td>
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<tr>
<td>Civilian defense</td>
<td>581</td>
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<tr>
<td>Department of public safety</td>
<td>570</td>
</tr>
<tr>
<td>State armory board</td>
<td>582</td>
</tr>
<tr>
<td>State board of education (insurance)</td>
<td>584</td>
</tr>
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</table>
2. Appropriations from other funds.

**PAYABLE FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Account No.</th>
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<tbody>
<tr>
<td>Auditor's office (land department operating fund)</td>
<td>812</td>
</tr>
<tr>
<td>Conservation commission</td>
<td>830</td>
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<tr>
<td>Department of agriculture</td>
<td>818</td>
</tr>
<tr>
<td>Department of labor (bedding division)</td>
<td>843</td>
</tr>
<tr>
<td>Department of public safety (inspection fees)</td>
<td>835</td>
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<tr>
<td>Department of public safety (instruction permit fees)</td>
<td>856</td>
</tr>
<tr>
<td>Department of purchases (revolving fund)</td>
<td>814</td>
</tr>
<tr>
<td>Insurance commissioner</td>
<td>826</td>
</tr>
<tr>
<td>Insurance commissioner (fire marshal)</td>
<td>827</td>
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<tr>
<td>Public land corporation</td>
<td>802</td>
</tr>
<tr>
<td>Public service commission</td>
<td>828</td>
</tr>
<tr>
<td>Public service commission (motor carrier division)</td>
<td>829</td>
</tr>
<tr>
<td>Real estate commission</td>
<td>801</td>
</tr>
<tr>
<td>State committee of barbers and beauticians</td>
<td>822</td>
</tr>
<tr>
<td>West Virginia liquor control commission</td>
<td>837</td>
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<tr>
<td>West Virginia merit system council</td>
<td>840</td>
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<tr>
<td>West Virginia racing commission</td>
<td>808</td>
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</table>

**PAYABLE FROM STATE ROAD FUND**

<table>
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<tr>
<th>Agency</th>
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<tbody>
<tr>
<td>Department of motor vehicles</td>
<td>671</td>
</tr>
<tr>
<td>State road commission (general administration and engineering)</td>
<td>670</td>
</tr>
<tr>
<td>Tax commissioner (gasoline tax division)</td>
<td>672</td>
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</table>

**PAYABLE FROM GENERAL SCHOOL FUND**

<table>
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<th>Agency</th>
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<tbody>
<tr>
<td>Auditor's office (land department)</td>
<td>709</td>
</tr>
<tr>
<td>Auditor's office (premiums on bonds of county clerks)</td>
<td>708</td>
</tr>
<tr>
<td>Department of education</td>
<td>703</td>
</tr>
<tr>
<td>Department of education (hot lunches)</td>
<td>705</td>
</tr>
<tr>
<td>Department of education (salaries of county superintendents)</td>
<td>706</td>
</tr>
<tr>
<td>Department of education (scholarships for teacher training)</td>
<td>715</td>
</tr>
<tr>
<td>Department of education (state aid to children's homes)</td>
<td>707</td>
</tr>
<tr>
<td>Department of education (veterans' education)</td>
<td>702</td>
</tr>
<tr>
<td>State board of education</td>
<td>700</td>
</tr>
<tr>
<td>State board of education (vocational division)</td>
<td>701</td>
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<tr>
<td>State board of school finance</td>
<td>704</td>
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</table>

**PAYABLE FROM WORKMEN'S COMPENSATION FUND**

<table>
<thead>
<tr>
<th>Agency</th>
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<tbody>
<tr>
<td>Workmen's compensation commission</td>
<td>900</td>
</tr>
</tbody>
</table>

3. Supplemental and deficiency appropriations.
4. Awards for claims against the state.
5. Appropriations from surplus revenues.
6. Reappropriations.
7. Special revenue appropriations.
8. Specific funds and collection accounts.
10. Sinking fund deficiencies.
11. Appropriations from taxes and license fees.
12. Appropriations to pay costs of publication of delinquent corporations.
13. Appropriations for local governments.
14. Total appropriation.
15. 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.

**LEGISLATIVE**

1—Senate

<table>
<thead>
<tr>
<th>Acct. No. 101</th>
<th>Fiscal Year</th>
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<tbody>
<tr>
<td></td>
<td>1956-57</td>
</tr>
<tr>
<td>1 Salaries of Members</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Compensation and per diem of officers and attaches</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>4 Mileage of Members</td>
<td>$2,400.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957-58</td>
</tr>
<tr>
<td>7 Salaries of Members</td>
</tr>
<tr>
<td>8 Compensation and per diem of officers and attaches</td>
</tr>
<tr>
<td>10 Mileage of Members</td>
</tr>
<tr>
<td>11 Current Expenses and Contingent Fund</td>
</tr>
<tr>
<td>12 To pay Clerk of the Senate for compiling and publishing the West Virginia Blue Book, the distribution of which shall be made by the Office of the Clerk of the Senate and shall include seventy-five copies for each member of the Legislature and two copies to each classified and approved High and Junior High School and one to each Elementary School within the state</td>
</tr>
<tr>
<td>22 To pay the cost of printing the 1957 edition of Blue Book</td>
</tr>
<tr>
<td>24 To establish bill drafting service and expenses connected therewith</td>
</tr>
</tbody>
</table>

The appropriations for the Senate for the fiscal year 1956-57 are to remain in full
force and effect until the convening of the session of the Legislature for 1958.

Upon the written request of the Clerk of the Senate the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate is authorized to draw his requisitions upon the Auditor, payable out of the contingent fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, and for bills for supplies and services incurred after adjournment, and for the necessary operation of the Senate offices, the requisition for same to be accompanied by the bills to be filed with the Auditor.

2—House of Delegates

<table>
<thead>
<tr>
<th>Acct. No. 102</th>
<th>Fiscal Year</th>
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<tbody>
<tr>
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<td>1956-57</td>
</tr>
<tr>
<td>1 Salaries of Members</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Compensation and per diem of officers and attaches</td>
<td>$45,000.00</td>
</tr>
<tr>
<td>4 Mileage of Members</td>
<td>$500.00</td>
</tr>
<tr>
<td></td>
<td>Fiscal Year 1957-58</td>
</tr>
<tr>
<td>7 Salaries of Members</td>
<td>$160,000.00</td>
</tr>
<tr>
<td>8 Compensation and per diem of officers and attaches</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>10 Mileage of Members</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>11 Current Expenses and Contingent Fund</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>12 Drafting Service</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

An amount, not to exceed $3,600.00 per year, is hereby authorized to be expended from the contingent fund of the House of Delegates for janitor services, etc.
17 The appropriations for the House of Delegates for the fiscal year 1956-57 are to remain in full force and effect until the convening of the session of the Legislature for 1958.

22 Upon the written request of the Clerk of the House of Delegates, the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

27 The Clerk of the House of Delegates, with approval of the Speaker, is authorized to draw his requisitions upon the Auditor, payable out of the contingent fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates, and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisition for same to be accompanied by bills to be filed with the Auditor.

41 For duties imposed by law and by the House of Delegates, including the salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a salary of $750.00 per month, payable from the contingent fund of the House of Delegates, and the Clerk may employ a secretary at a salary not to exceed $300.00 per month, payable monthly from the same fund.

3—Joint Expenses
Acct. No. 103

Fiscal Year 1956-57

1 Joint Committee on Government and Finance $ 20,000.00
3 Other Authorized Legislative Committees 20,000.00
4 Legislative Council 10,000.00

Fiscal Year 1957-58

7 To pay the cost of legislative printing and stationery $ 50,000.00
9 Commission on Interstate Cooperation 18,000.00
10 Joint Committee on Government and Finance 300,000.00
12 Other Authorized Legislative Committees 60,000.00
13 Legislative Council 20,000.00
14 Contingent Fund 10,000.00

The above contingent fund is made available for the Joint Committee on Government and Finance to meet any unforeseen obligations of the Legislature arising during the appropriation period.

The appropriations for Joint Expenses for the fiscal year 1956-57 are to remain in full force and effect until the convening of the session of the Legislature for 1958.

Upon the written request of the Clerk of the Senate and the Clerk of the House of Delegates, the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL

4—Supreme Court of Appeals

Acct. No. 110

1 Salaries of Judges $ 87,500.00
2 Other Personal Services 101,000.00
3 Current Expenses 20,000.00
4 Equipment 2,000.00

5 Total $ 210,500.00
APPROPRIATIONS

5—Circuit Courts
   Acct. No. 111
1 Salaries of Judges $ 324,600.00
2 Current Expenses $ 68,500.00
3 Total $ 393,100.00

6—Judges’ Retirement System
   Acct. No. 112
1 To be transferred to the Judges’ Retirement Fund, in accordance with the law relating thereto, upon requisition of the State $ 25,000.00

7—State Law Library
   Acct. No. 114
1 Personal Services $ 15,580.00
2 Current Expenses $ 1,000.00
3 Equipment $ 14,500.00
4 Total $ 31,080.00

8—Judicial Council
   Acct. No. 118
1 To pay the mileage and traveling expenses of members $ 500.00

9—Auditor’s Office—Criminal Charges
   Acct. No. 119
1 Criminal Charges $ 180,000.00

EXECUTIVE

10—Governor’s Office
   Acct. No. 120
1 Salary of Governor $ 17,500.00
2 Other Personal Services $ 32,230.00
3 Current Expenses $ 9,500.00
4 Equipment $ 1,500.00
5 Civil Contingent Fund $ 125,000.00
6 Of this appropriation there may be expended an amount not to exceed $5,000.00 to provide instruction, care and maintenance for persons who are deaf and blind, and for whom the state provides no facilities.

12 Of this appropriation there may be expended, at the discretion of the Governor, an amount not to exceed $1,000.00 as West Virginia's contribution to the Interstate Oil Compact Commission.

17 Custodial Fund ........................................... $ 45,000.00

18 To be used for current general expenses, including compensation of servants and employees, household maintenance, cost of official functions, and any additional household expenses occasioned by such official functions.

24 Total .......................................................... $ 230,730.00

11—Board of Probation and Parole

Acct. No. 123

1 Personal Services ........................................... $ 150,800.00
2 Current Expenses ........................................... 40,200.00
3 Equipment ..................................................... 2,000.00

4 Total .......................................................... $ 193,000.00

FISCAL

12—Auditor's Office—General Administration

Acct. No. 150

1 Salary of State Auditor ....................................... $ 11,000.00
2 Other Personal Services ..................................... 151,700.00
3 Current Expenses ........................................... 10,800.00
4 Equipment ..................................................... 5,000.00

5 Total .......................................................... $ 178,500.00
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<thead>
<tr>
<th>Account</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>13—Treasurer’s Office</strong></td>
<td></td>
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</tr>
<tr>
<td>Acct. No. 160</td>
<td>1 Salary of State Treasurer</td>
<td>$11,000.00</td>
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<tr>
<td></td>
<td>2 Other Personal Services</td>
<td>$81,900.00</td>
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<td></td>
<td>3 Current Expenses</td>
<td>$13,800.00</td>
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<td>4 Equipment</td>
<td>$7,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$113,700.00</strong></td>
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<td><strong>14—Sinking Fund Commission</strong></td>
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<tr>
<td>Acct. No. 170</td>
<td>1 Personal Services</td>
<td>$15,640.00</td>
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<td>2 Current Expenses</td>
<td>$750.00</td>
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<td></td>
<td><strong>Total</strong></td>
<td><strong>$16,390.00</strong></td>
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<td><strong>15—State Tax Commissioner</strong></td>
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<tr>
<td>Acct. No. 180</td>
<td>1 Personal Services</td>
<td>$640,060.00</td>
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<td>2 Current Expenses</td>
<td>$184,500.00</td>
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<td></td>
<td>3 Equipment</td>
<td>$22,500.00</td>
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<td>4 Property Evaluation</td>
<td>$140,000.00</td>
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<td></td>
<td><strong>Total</strong></td>
<td><strong>$987,060.00</strong></td>
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<td><strong>16—West Virginia Board of Control</strong></td>
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<tr>
<td>Acct. No. 190</td>
<td>1 Salaries of Members</td>
<td>$10,000.00</td>
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<td></td>
<td>2 Other Personal Services</td>
<td>$37,900.00</td>
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<td></td>
<td>3 Current Expenses</td>
<td>$9,725.00</td>
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<tr>
<td></td>
<td>4 Equipment</td>
<td>$450.00</td>
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<td></td>
<td><strong>Total</strong></td>
<td><strong>$58,075.00</strong></td>
</tr>
<tr>
<td><strong>17—Department of Finance and Administration</strong></td>
<td></td>
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<tr>
<td>Acct. No. 210</td>
<td>1 Personal Services</td>
<td>$151,360.00</td>
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<td>2 Current Expenses</td>
<td>$19,400.00</td>
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<td>3 Equipment</td>
<td>$1,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$171,760.00</strong></td>
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### APPROPRIATIONS

18—Department of Purchases—Inventory Control

<table>
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<tr>
<th>Account No. 211</th>
<th>Item</th>
<th>Amount</th>
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<tr>
<td>1</td>
<td>Personal Services</td>
<td>$17,580.00</td>
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<td>2</td>
<td>Current Expenses</td>
<td>$4,500.00</td>
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<td>3</td>
<td>Total</td>
<td>$22,080.00</td>
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### LEGAL

19—Attorney General

<table>
<thead>
<tr>
<th>Account No. 240</th>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Attorney General</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$116,320.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$8,500.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>5</td>
<td>To protect the resources or tax structure of the State in controversies or legal proceedings affecting same</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
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<tr>
<td>8</td>
<td>Total</td>
<td>$148,320.00</td>
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</table>

20—Commission on Uniform State Laws

<table>
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<tr>
<td>1</td>
<td>Total</td>
<td>$650.00</td>
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### INCORPORATING AND RECORDING

21—Secretary of State

<table>
<thead>
<tr>
<th>Account No. 250</th>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Salary of Secretary of State</td>
<td>$11,000.00</td>
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<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$35,890.00</td>
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<td>3</td>
<td>Current Expenses</td>
<td>$5,500.00</td>
</tr>
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<td>4</td>
<td>Equipment</td>
<td>$2,000.00</td>
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<tr>
<td>5</td>
<td>Total</td>
<td>$54,390.00</td>
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### CUSTODIAL AND SERVICE

22—Capitol Building and Grounds

<table>
<thead>
<tr>
<th>Account No. 270</th>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$165,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$95,000.00</td>
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</table>
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Repairs and Alterations</td>
<td>33,000.00</td>
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<tr>
<td>4 Equipment</td>
<td>2,700.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>295,700.00</td>
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</table>

#### 23—Central Mailing Office

Acct. No. 280

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>13,160.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>2,000.00</td>
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<tr>
<td>3 Postage</td>
<td>50,000.00</td>
</tr>
<tr>
<td>4 Total</td>
<td>65,160.00</td>
</tr>
</tbody>
</table>

The Workmen's Compensation Commission, Department of Public Assistance, Public Service Commission, Conservation Commission, Department of Motor Vehicles, State Road Commission and State Health Department shall reimburse the Postage appropriation of the Central Mailing Office monthly for all meter service. Any spending unit receiving reimbursement for postage costs from the Federal Government shall refund to the Postage account of the Central Mailing Office such amounts. Should this appropriation for Postage be insufficient to meet the mailing requirements of the state spending units as set out above, any excess postage meter service requirements shall be a proper charge against the units, and each spending unit shall refund to the Postage appropriation of the Central Mailing Office any amounts required for that department for postage in excess of this appropriation.

#### 24—Department of Purchases

Acct. No. 290

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>75,000.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>16,000.00</td>
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<td>3 Equipment</td>
<td>4,500.00</td>
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<td>4 Total</td>
<td>95,500.00</td>
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</tbody>
</table>
EDUCATIONAL

25—Department of Education—State Aid to Schools

Acct. No. 295

1 State aid to supplement the General School Fund _______________________________ $ 51,180,220.00

2 To be transferred to the general school fund upon the requisition of the Governor. To be distributed according to law except an amount not to exceed $174,000.00, which sum shall be available to the Department of Education to aid counties in providing instruction for physically and mentally handicapped children: Provided, however, that from the amount appropriated herein to the Department of Education to aid counties in providing instruction for the physically and mentally handicapped children, an amount not to exceed $14,000.00 may be used to pay the salary of a director and other administrative expenses for the physically and mentally handicapped children's program.

20 In making distribution of state aid to counties as provided by law, the State Board of School Finance shall allocate to each county, state aid of not less than fifty dollars for each weighted pupil in the county.

26—Department of Education—Textbook Aid

Acct. No. 297

1 Textbooks for Schools______________________________ $ 150,000.00

2 To be distributed according to chapter fifty-one, acts of the Legislature, regular session, 1939.
27—Teachers Retirement Board
Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers $ 2,165,353.00
2 Employers’ Accumulation Fund—To match contributions of members 2,632,149.00
3 Expense Fund 6,020.00

Total $ 4,803,522.00

28—West Virginia University
Acct. No. 300

1 Personal Services $ 4,968,750.00
2 Current Expenses 743,600.00
3 Repairs and Alterations 238,000.00
4 Equipment 247,000.00
5 Oak Wilt Control Research 10,000.00
6 State aid to students of Veterinary Medicine 28,000.00
7 State aid to Medical Students 62,500.00

Total $ 6,297,850.00

9 Out of the above appropriation for Personal Services the sum of $7,500.00 shall be used only for the employment of a Spray Specialist who shall be stationed only at West Virginia University Farm at Kearneysville.

29—Potomac State College of West Virginia University
Acct. No. 315

1 Personal Services $ 260,195.00
2 Current Expenses 38,400.00
3 Repairs and Alterations 20,000.00
4 Equipment 13,000.00

Total $ 331,595.00

30—Marshall College
Acct. No. 320

1 Personal Services $ 1,565,630.00
2 Current Expenses 134,000.00
3 Repairs and Alterations ........................................ 51,000.00
4 Equipment .......................................................... 54,000.00
5 Flood Wall Assessment ............................................. 3,200.00

6 Total ........................................................................ $ 1,807,830.00

31—Fairmont State College
Acct. No. 321

1 Personal Services ................................................... $ 509,610.00
2 Current Expenses ..................................................... 49,000.00
3 Repairs and Alterations ............................................. 25,000.00
4 Equipment ............................................................... 21,000.00

5 Total ........................................................................ $ 604,610.00

32—Glenville State College
Acct. No. 322

1 Personal Services ................................................... $ 328,375.00
2 Current Expenses ..................................................... 40,000.00
3 Repairs and Alterations ............................................. 19,000.00
4 Equipment ............................................................... 17,000.00

5 Total ........................................................................ $ 404,375.00

33—West Liberty State College
Acct. No. 323

1 Personal Services ................................................... $ 349,645.00
2 Current Expenses ..................................................... 37,500.00
3 Repairs and Alterations ............................................. 20,000.00
4 Equipment ............................................................... 16,400.00

5 Total ........................................................................ $ 423,545.00

34—Shepherd College
Acct. No. 324

1 Personal Services ................................................... $ 320,725.00
2 Current Expenses ..................................................... 38,000.00
3 Repairs and Alterations ............................................. 20,000.00
4 Equipment ............................................................... 13,300.00

5 Total ........................................................................ $ 392,025.00
### Appropriations

#### 35—Concord College

<table>
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<tr>
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<tbody>
<tr>
<td>Personal Services</td>
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<tr>
<td>Current Expenses</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$25,000.00</td>
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<td>Equipment</td>
<td>$21,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$628,805.00</strong></td>
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#### 36—West Virginia Institute of Technology

<table>
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<th>Category</th>
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<tbody>
<tr>
<td>Personal Services</td>
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<td>Current Expenses</td>
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<td>Repairs and Alterations</td>
<td>$22,000.00</td>
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<td>Equipment</td>
<td>$45,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$528,405.00</strong></td>
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#### 37—West Virginia State College

<table>
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<tbody>
<tr>
<td>Personal Services</td>
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<td>Current Expenses</td>
<td>$103,600.00</td>
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<td>Repairs and Alterations</td>
<td>$42,000.00</td>
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<td>Equipment</td>
<td>$30,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$941,595.00</strong></td>
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#### 38—Bluefield State College

<table>
<thead>
<tr>
<th>Category</th>
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<tbody>
<tr>
<td>Personal Services</td>
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<tr>
<td>Current Expenses</td>
<td>$42,000.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$18,000.00</td>
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<td>Equipment</td>
<td>$15,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$380,970.00</strong></td>
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### 39—West Virginia State College—4-H Camp

**Acct. No. 330**

<table>
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<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,720.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$4,500.00</td>
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<td>3 Repairs and Alterations</td>
<td>$2,900.00</td>
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<td>4 Equipment</td>
<td>$2,100.00</td>
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**Total** $22,220.00

### 40—West Virginia Schools for the Deaf and Blind

**Acct. No. 333**

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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>4 Equipment</td>
<td>$17,500.00</td>
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**Total** $536,500.00

### 41—State FFA-FHA Camp and Conference Center

**Acct. No. 336**

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<td>3 Repairs and Alterations</td>
<td>$5,300.00</td>
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<tr>
<td>4 Equipment</td>
<td>$5,900.00</td>
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**Total** $29,840.00

### 42—Department of Archives and History

**Acct. No. 340**

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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>$4,150.00</td>
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<td>3 Equipment</td>
<td>$5,000.00</td>
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**Total** $30,910.00

### 43—West Virginia Library Commission

**Acct. No. 350**

<table>
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<td>3</td>
<td>Equipment</td>
</tr>
<tr>
<td>4</td>
<td>Books and Periodicals</td>
</tr>
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<td>5</td>
<td>Total</td>
</tr>
</tbody>
</table>

**CHARITIES AND CORRECTION**

44—*West Virginia Industrial School for Boys*

Acct. No. 370

| 1                             | Personal Services                                     | $163,820.00|
| 2                             | Current Expenses                                      | 80,700.00  |
| 3                             | Repairs and Alterations                               | 13,000.00  |
| 4                             | Equipment                                             | 5,700.00   |
| 5                             | Total                                                 | $263,220.00|

45—*Forestry Camp for Boys*

Acct. No. 371

| 1                             | Personal Services                                     | $45,240.00 |
| 2                             | Current Expenses                                      | 43,950.00  |
| 3                             | Repairs and Alterations                               | 2,500.00   |
| 4                             | Equipment                                             | 3,000.00   |
| 5                             | Total                                                 | $94,690.00 |

46—*West Virginia Industrial Home for Girls*

Acct. No. 372

| 1                             | Personal Services                                     | $89,100.00 |
| 2                             | Current Expenses                                      | 64,600.00  |
| 3                             | Repairs and Alterations                               | 10,000.00  |
| 4                             | Equipment                                             | 10,000.00  |
| 5                             | Total                                                 | $173,700.00|

47—*West Virginia State Prison for Women*

Acct. No. 374

| 1                             | Personal Services                                     | $32,870.00 |
| 2                             | Current Expenses                                      | 39,800.00  |
3 Repairs and Alterations .................. 7,000.00
4 Equipment .................................. 2,550.00

5 Total ........................................ $ 82,220.00

48—West Virginia Penitentiary
Acct. No. 375

1 Personal Services ....................... $ 550,080.00
2 Current Expenses ........................... 469,000.00
3 Repairs and Alterations ............... 29,500.00
4 Equipment ................................. 17,000.00

5 Total ........................................ $ 1,065,580.00

6 Any unexpended balances remaining in the
7 "Rebuild Sewerage System" and the
8 "Complete New Cell Block" accounts at
9 the close of the fiscal year 1956-57 are
10 hereby reappropriated for expenditures
11 during the fiscal year 1957-58.

49—Medium Security Prison
Acct. No. 376

1 Personal Services ....................... $ 195,600.00
2 Current Expenses ........................... 160,000.00
3 Repairs and Alterations ............... 23,000.00
4 Equipment ................................. 21,940.00

5 Total ........................................ $ 400,540.00

50—West Virginia Children's Home
Acct. No. 380

1 Personal Services ....................... $ 43,530.00
2 Current Expenses ........................... 30,400.00
3 Repairs and Alterations ............... 10,400.00
4 Equipment ................................. 3,600.00

5 Total ........................................ $ 87,930.00
51—West Virginia Home for Aged and Infirm Colored Men and Women

Acct. No. 382

<table>
<thead>
<tr>
<th>Account Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$43,480.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$9,700.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$8,500.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$103,680.00</strong></td>
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</table>

52—West Virginia Training School

Acct. No. 383

<table>
<thead>
<tr>
<th>Account Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$248,260.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$145,500.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$11,000.00</td>
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<tr>
<td>Equipment</td>
<td>$13,400.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$418,160.00</strong></td>
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</table>

53—Andrew S. Rowan Memorial Home

Acct. No. 384

<table>
<thead>
<tr>
<th>Account Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$187,680.00</td>
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<tr>
<td>Current Expenses</td>
<td>$154,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$11,000.00</td>
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<tr>
<td>Equipment</td>
<td>$6,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$358,680.00</strong></td>
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HEALTH AND WELFARE

54—State Health Department

Acct. No. 400

<table>
<thead>
<tr>
<th>Account Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$590,720.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$58,560.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Cancer Control and Treatment</td>
<td>$93,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>652,300.00</strong></td>
</tr>
</tbody>
</table>
Ch. 8]

APPROPRIATIONS

5 Tuberculosis Field Clinical and Nursing .......................... 8,480.00
6 Service .................................................. 20,000.00
7 Out-Patient Pneumothorax Treatment .........................

8 Total........................................................................ $ 774,760.00

9 From the above appropriation for personal services there shall be paid a salary of $15,000.00 for the Director of the Health Department.

55—State Water Commission

Acct. No. 401

1 Personal Services.............................................. $ 37,960.00
2 Current Expenses.............................................. 10,000.00
3 Equipment ...................................................... 1,475.00
4 For cooperation with the U. S. Geological Survey for a program of stream gauging 17,500.00

5 Total........................................................................ $ 66,935.00

56—Department of Veterans Affairs

Acct. No. 404

1 Personal Services .............................................. $ 155,000.00
2 Current Expenses .............................................. 43,000.00
3 Equipment ...................................................... 2,500.00
4 To provide Educational Opportunities for Children of War Veterans as provided by Chapter thirty-nine, Acts of the Legislature, 1943 15,000.00

5 Total........................................................................ $ 215,500.00

9 Any unexpended balance remaining in the appropriation “To Provide Educational Opportunities for Children of War Veterans” at the close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.
### Appropriations

#### 57—Department of Public Assistance

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,091,100.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$225,800.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>4 Public Assistance Grants (Classified Aid)</td>
<td>$7,500,000.00</td>
</tr>
<tr>
<td>5 Aid to Crippled Children</td>
<td>$300,000.00</td>
</tr>
<tr>
<td>6 Medical Services</td>
<td>$850,000.00</td>
</tr>
<tr>
<td>7 Conservation of Vision and Prevention of</td>
<td></td>
</tr>
<tr>
<td>8 Blindness</td>
<td>$34,000.00</td>
</tr>
<tr>
<td>9 Child Welfare Services</td>
<td>$83,700.00</td>
</tr>
<tr>
<td>10 General Relief</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>11 Boarding Care</td>
<td>$340,000.00</td>
</tr>
<tr>
<td>12 Social Security Matching Funds</td>
<td>$23,600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$10,583,200.00</strong></td>
</tr>
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</table>

#### 58—Department of Public Assistance—Commodity Distribution

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$133,000.00</strong></td>
</tr>
</tbody>
</table>

#### 59—Department of Mental Health

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$161,640.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$196,640.00</strong></td>
</tr>
</tbody>
</table>

#### 60—Weston State Hospital

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,094,400.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$727,800.00</td>
</tr>
</tbody>
</table>

Ch. 8] Appropriations

3 Repairs and Alterations ................................................. 60,000.00
4 Equipment ..................................................................... 28,600.00

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td>Total ............................................................... $ 1,910,800.00</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the “Water Supply Account” at the close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.

61—Spencer State Hospital

Acct. No. 421

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services ................................................. $ 505,010.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses .................................................. 347,000.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations .......................................... 32,450.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Equipment .................................................................. 51,000.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|   |   |   |   | Total ............................................................... $ 935,460.00 |

All revenue collected by the above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund-General Revenue.

62—Huntington State Hospital

Acct. No. 422

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services ................................................. $ 705,400.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses .................................................. 530,390.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations .......................................... 42,000.00</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4</td>
<td>Equipment .................................................................. 23,250.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|   |   |   |   | Total ............................................................... $ 1,301,040.00 |

All revenue collected by the above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund-General Revenue.
## Appropriations

### 63—Lakin State Hospital

**Acct. No. 423**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$282,030.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$177,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$31,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$13,650.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$504,180.00</strong></td>
</tr>
</tbody>
</table>

### 64—Barboursville State Hospital

**Acct. No. 424**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$192,080.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$127,990.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$19,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$344,670.00</strong></td>
</tr>
</tbody>
</table>

### 65—Fairmont Emergency Hospital

**Acct. No. 425**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$106,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$70,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$6,800.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$188,850.00</strong></td>
</tr>
</tbody>
</table>

### 66—Welch Emergency Hospital

**Acct. No. 426**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$122,300.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$122,300.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$12,500.00</td>
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<tr>
<td>4 Equipment</td>
<td>$6,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$263,100.00</strong></td>
</tr>
</tbody>
</table>
## Appropriations

### 67—Hopemont Sanitarium

**Acct. No. 430**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Personal Services</td>
<td>$452,880.00</td>
</tr>
<tr>
<td>2) Current Expenses</td>
<td>$325,000.00</td>
</tr>
<tr>
<td>3) Repairs and Alterations</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>4) Equipment</td>
<td>$13,500.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$809,380.00</strong></td>
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### 68—Pinecrest Sanitarium

**Acct. No. 431**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Personal Services</td>
<td>$603,480.00</td>
</tr>
<tr>
<td>2) Current Expenses</td>
<td>$515,240.00</td>
</tr>
<tr>
<td>3) Repairs and Alterations</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>4) Equipment</td>
<td>$16,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,162,720.00</strong></td>
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</table>

### 69—Denmar State Hospital

**Acct. No. 432**

<table>
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<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1) Personal Services</td>
<td>$184,140.00</td>
</tr>
<tr>
<td>2) Current Expenses</td>
<td>$137,400.00</td>
</tr>
<tr>
<td>3) Repairs and Alterations</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>4) Equipment</td>
<td>$6,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$338,040.00</strong></td>
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</table>

### 70—Berkeley Springs Sanitarium

**Acct. No. 436**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Personal Services</td>
<td>$27,800.00</td>
</tr>
<tr>
<td>2) Current Expenses</td>
<td>$6,800.00</td>
</tr>
<tr>
<td>3) Repairs and Alterations</td>
<td>$1,700.00</td>
</tr>
<tr>
<td>4) Equipment</td>
<td>$1,600.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$37,900.00</strong></td>
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</table>
### Appropriations

#### 71—Non-State Institutions
Acct. No. 437

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Morris Memorial Hospital</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>2 Marmet Hospital, Inc.</td>
<td>$7,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$17,500.00</strong></td>
</tr>
</tbody>
</table>

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

#### 72—State Board of Education—Rehabilitation Division
Acct. No. 440

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$158,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$36,000.00</td>
</tr>
<tr>
<td>3 Rehabilitation Center</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>4 Case Services</td>
<td>$226,100.00</td>
</tr>
<tr>
<td>5 Supervisory Service for Vending Stand Program for the Blind</td>
<td>$8,120.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$529,020.00</strong></td>
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#### Business and Industrial Relations

#### 73—Bureau of Labor and Department of Weights and Measures
Acct. No. 450

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$196,650.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$59,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$260,650.00</strong></td>
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#### 74—Department of Mines
Acct. No. 460

<table>
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<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$574,540.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$141,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$726,040.00</strong></td>
</tr>
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</table>
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 ....................................... $ 71,660.00
2 Current Expenses ........................................ 27,980.00
3 Equipment ................................................. 1,000.00
4 Total ....................................................... $ 100,640.00
### Appropriations

#### 80—West Virginia State Aeronautics Commission

**Acct. No. 485**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$8,820.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,750.00</td>
</tr>
<tr>
<td>4 Aerial Markers</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$16,070.00</td>
</tr>
</tbody>
</table>

#### 81—West Virginia Industrial and Publicity Commission

**Acct. No. 486**

1 For Administration, Investigation and Research $100,000.00

In the event House Bill No. 293, creating the West Virginia Business Development Authority becomes law, this appropriation shall be available to that authority.

#### 82—West Virginia Centennial Commission

**Acct. No. 487**

1 Expenses for Planning 1963 Centennial Celebration $10,000.00

#### 83—West Virginia Non-Intoxicating Beer Commissioner

**Acct. No. 490**

1 Personal Services $81,650.00

2 Current Expenses $41,500.00

3 Equipment $800.00

4 Total $123,950.00

#### 84—West Virginia Racing Commission

**Acct. No. 495**

1 Personal Services $48,900.00

2 Current Expenses $8,400.00

3 Total $57,300.00
AGRICULTURE

85—Department of Agriculture

Acct. No. 510

1 Salary of Commissioner ........................................ $11,000.00
2 Other Personal Services ........................................... 134,100.00
3 Current Expenses .................................................. 63,600.00
4 Equipment .................................................................. 8,000.00
5 Eradication and Control of White Pine ....................... 15,000.00
6 Blister ........................................................................ 145,000.00
7 Eradication and Prevention of Livestock Diseases .......... 14,880.00
8 Eradication and Control of Japanese beetle and other plant pests ........................................ 51,820.00
9 Eradication and Control of Oak Wilt .......................... 40,000.00

10 Total ........................................................................... $483,400.00

86—Department of Agriculture—Soil Conservation Committee

Acct. No. 512

1 Personal Services ...................................................... $48,100.00
2 Current Expenses ...................................................... 22,250.00

3 Total ........................................................................... $70,350.00

87—Department of Agriculture—Marketing and Research

Acct. No. 513

1 For cooperation with the Federal Government in a program of marketing and research ........................................ $59,000.00

4 Any part or all of this appropriation may be transferred to Special Revenue Fund for the purpose of matching federal funds for the above named program.

8 Any unexpended balance remaining in the Farm Market Facilities Account at the
Appropiations

close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.

88—Department of Agriculture—Agricultural Awards
Acct. No. 515

1 Agricultural Awards........................................ $46,500.00
2 West Virginia State Fair.................................. $22,500.00

3 Total........................................................................ $69,000.00

4 To be expended at the discretion of the Commissioner of Agriculture in accordance with law.

CONSERVATION AND DEVELOPMENT
89—Geological and Economic Survey Commission
Acct. No. 520

1 Personal Services................................................ $72,570.00
2 Current Expenses................................................ $27,800.00
3 Equipment.......................................................... $6,500.00
4 Cooperative Mapping Program............................... $60,000.00

5 Total........................................................................ $166,870.00

6 Of the above appropriation for Current Expenses, the sum of $15,000.00 may be used to cooperate with the United States Geological Survey in Ground Waters Resources Study.

11 Of the above appropriation for Cooperative Mapping Program, the sum of $18,000.00 may be used for preparation of accurate geographic and political maps of West Virginia.

90—Conservation Commission
Acct. No. 521

1 Personal Services................................................ $327,740.00
2 Current Expenses................................................ 16,000.00
Out of the above appropriation, the sum of $80,000.00 under Personal Services and $16,000.00 Current Expenses shall be used to match federal funds under the Pittman-Robertson and Dingell-Johnson programs.

91—Conservation Commission—Division of State Parks

Acct. No. 522

1 Personal Services .................................. $ 98,790.00
2 Current Expenses .................................. 61,000.00
3 Repairs and Alterations .......................... 42,700.00
4 Equipment ........................................ 3,900.00
5 Forestry Camp Expense .......................... 20,000.00

6 Total ............................................. $ 226,390.00

92—Conservation Commission—Clarke-McNary

Acct. No. 523

1 For cooperation with the United States Department of Agriculture in Fire Prevention and Control .................................. $ 75,000.00
4 Any unexpended balance remaining in this account at the close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.

93—Conservation Commission—Historical Monuments and Parks

Acct. No. 561

1 Care and Maintenance of:
2 Point Pleasant Battle Monument and Park .................................. $ 4,000.00
### Appropriations

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Rumsey Monument and Park</td>
<td>400.00</td>
</tr>
<tr>
<td>5</td>
<td>Morgan Morgan Memorial</td>
<td>500.00</td>
</tr>
<tr>
<td>6</td>
<td>Fairfax Stone</td>
<td>400.00</td>
</tr>
<tr>
<td>7</td>
<td>Booker T. Washington Park</td>
<td>500.00</td>
</tr>
<tr>
<td>8</td>
<td>Cathedral Park</td>
<td>2,000.00</td>
</tr>
<tr>
<td>9</td>
<td>Pinnacle Rock Park</td>
<td>2,500.00</td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td>$10,300.00</td>
</tr>
</tbody>
</table>

#### 94—Department of Veterans' Affairs

Acct. No. 564

1. In aid of Memorial Day Patriotic Exercises $2,000.00
2. To be expended subject to the approval of the Department of Veterans Affairs upon presentation of satisfactory plans by the Grafton G.A.R. Post, American Legion, Veterans of Foreign Wars and Sons of Veterans.

#### Protection

##### 95—Department of Public Safety

Acct. No. 570

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$1,053,780.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>614,120.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>21,960.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>112,500.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$1,802,360.00</td>
</tr>
</tbody>
</table>

#### 96—Adjutant General—State Militia

Acct. No. 580

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$54,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>151,620.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>7,900.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>8,460.00</td>
</tr>
<tr>
<td>5</td>
<td>Compensation of Commanding Officers,</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Clerical Allowances and Uniform Allowances</td>
<td>70,760.00</td>
</tr>
</tbody>
</table>
8 Property Maintenance .................................................. 47,240.00

9 Total ........................................................................... $ 339,980.00

97—Division of Civilian Defense
Acct. No. 581

1 Personal Services ....................................................... $ 19,770.00
2 Current Expenses ....................................................... 6,000.00
3 Equipment ................................................................. 3,700.00

4 Total ........................................................................... $ 29,470.00

98—State Armory Board
Acct. No. 582

1 For insurance, maintenance, repair and $ 40,000.00
2 equipment for state-owned armories

99—State Board of Education—Insurance
Acct. No. 584

1 Fire Insurance Premiums ............................................. $ 4,400.00
2 To pay extended coverage on buildings at
3 state colleges and institutions under the
4 supervision of the State Board of Edu-
5 cation.
6 To insure contents of non-revenue producing
7 buildings .................................................................... 8,000.00
8 This appropriation is for premiums for a
9 one-year period.

10 Total ........................................................................... $ 12,400.00

100—State Board of Certified Public Accountants
Acct. No. 586

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

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>West Virginia State Board of Examiners for Practical Nurses&lt;br&gt;Acct. No. 587&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>10,000.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>10,000.00</td>
</tr>
<tr>
<td>102</td>
<td>State Board of Examiners of Registered Nurses&lt;br&gt;Acct. No. 588&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>27,750.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>27,750.00</td>
</tr>
<tr>
<td>103</td>
<td>State Board of Dental Examiners&lt;br&gt;Acct. No. 589&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>5,000.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>5,000.00</td>
</tr>
<tr>
<td>104</td>
<td>State Board of Pharmacy&lt;br&gt;Acct. No. 590&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>12,000.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>12,000.00</td>
</tr>
<tr>
<td>105</td>
<td>State Board of Osteopathy&lt;br&gt;Acct. No. 591&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>1,500.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>1,500.00</td>
</tr>
<tr>
<td>106</td>
<td>State Board of Optometry&lt;br&gt;Acct. No. 592&lt;br&gt;1 To pay the per diem of members and other general expenses $</td>
<td>2,500.00</td>
</tr>
<tr>
<td></td>
<td>From Collections</td>
<td>2,500.00</td>
</tr>
</tbody>
</table>
107—State Board of Embalmers and Funeral Directors
Acct. No. 593
1 To pay the per diem of members and other
2 general expenses............................ $ 10,000.00
3 From Collections................................ 10,000.00

108—State Board of Registration for Professional Engineers
Acct. No. 594
1 To pay the per diem of members and other
2 general expenses............................ $ 15,000.00
3 From Collections................................ 15,000.00

109—State Board of Architects
Acct. No. 595
1 To pay the per diem of members and other
2 general expenses............................ $ 3,000.00
3 From Collections................................ 3,000.00

110—State Veterinary Board
Acct. No. 596
1 To pay the per diem of members and other
2 general expenses............................ $ 500.00
3 From Collections................................ 500.00

111—State Board of Law Examiners
Acct. No. 597
1 To pay the per diem of members and other
2 general expenses............................ $ 2,400.00

112—Auditor’s Office—Social Security
Acct. No. 598
1 To match contributions of state employees
2 for social security................................ $ 475,000.00
3 The above appropriation is intended to cover the state's share of social security costs for those spending units operating from General Revenue Fund and General School Fund appropriations. The State Road Commission, Department of Motor Vehicles, Workmen's Compensation Commission, Public Service Commission, and other departments operating from Special Revenue Funds and/or Federal Funds shall pay their proportionate share of the social security cost for their respective divisions.

Any unexpended balance remaining in the appropriation "To match contributions of state employees for social security" at the close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.

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-eight.

113—State Road Commission—General Administration and Engineering

Acct. No. 670

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$425,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$8,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$523,000.00</strong></td>
</tr>
</tbody>
</table>

5 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.

114—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$550,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$185,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>4 Purchase of License Plates</td>
<td>$120,000.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$12,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$876,500.00</strong></td>
</tr>
</tbody>
</table>

115—State Tax Commissioner—Gasoline Tax Division

Acct. No. 672

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$74,520.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$21,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$1,600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$98,620.00</strong></td>
</tr>
</tbody>
</table>

116—State Board of Education

Acct. No. 700

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$25,700.00</td>
</tr>
</tbody>
</table>
## Appropriations

### 117—State Board of Education—Vocational Division

Acct. No. 701

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$23,310.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$6,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Vocational Aid</td>
<td>$300,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$330,810.00</strong></td>
</tr>
</tbody>
</table>

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

### 118—Department of Education—Veterans Education

Acct. No. 702

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$51,020.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$11,610.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$62,630.00</strong></td>
</tr>
</tbody>
</table>

### 119—Department of Education

Acct. No. 703

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Superintendent</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$185,980.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$71,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$275,080.00</strong></td>
</tr>
</tbody>
</table>
### Ch. 8] APPROPRIATIONS

#### 120—State Board of School Finance

Acct. No. 704

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,800.00</td>
</tr>
<tr>
<td><strong>3 Total</strong></td>
<td><strong>$16,760.00</strong></td>
</tr>
</tbody>
</table>

#### 121—Department of Education—School Lunch Program

Acct. No. 705

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$46,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,300.00</td>
</tr>
<tr>
<td>3 Aid to Counties—Includes hot lunches and canning for hot lunches</td>
<td>$125,000.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$181,300.00</strong></td>
</tr>
</tbody>
</table>

#### 122—Department of Education

Acct. No. 706

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of County Superintendents</td>
<td>$64,000.00</td>
</tr>
</tbody>
</table>

#### 123—Department of Education

Acct. No. 707

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 State Aid to Children’s Homes</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

#### 124—Auditor’s Office

Acct. No. 708

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Premiums on Bonds of County Clerks</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>
### Appropriations

#### 125—Auditor’s Office—Land Department

**Acct. No. 709**

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$87,980.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$4,300.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$18,900.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$111,180.00</strong></td>
</tr>
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</table>

#### 126—Department of Education

**Acct. No. 715**

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Scholarships for Teacher Training</td>
<td>$50,000.00</td>
</tr>
</tbody>
</table>

#### 127—Real Estate Commission

**Acct. No. 801**

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$27,300.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of license fees as provided by law.

#### 128—Public Land Corporation

**Acct. No. 802**

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$9,750.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$4,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,750.00</strong></td>
</tr>
</tbody>
</table>
4 The total amount of this appropriation shall be paid from Special Revenue Fund out of income received by the corporation as provided by law.

129—West Virginia Racing Commission
Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

1 Medical Expenses........................................ $ 5,000.00

2 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of license fees and fines as provided by law.

6 No expenditures shall be made from this account except for hospitalization, medical care, and/or funeral expenses for persons contributing to this fund.

130—Auditor's Office—Land Department Operating Fund
Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

1 To pay deficits for publications and to deputize commissioners in connection with delinquent land suits........................................ $ 12,500.00

4 The total amount of this appropriation shall be paid from Special Revenue Fund out of fees and collections as provided by law.

131—Department of Purchases—Revolving Fund
Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services........................................ $ 74,460.00
2 Current Expenses........................................ 17,700.00
3 Equipment ............................................. 5,500.00
4 Social Security Matching Fund ....................... 1,600.00
5 Total .................................................. $ 99,260.00
6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund as
8 provided by Chapter 25-A, Article 2, Code
9 of West Virginia.

10 The above appropriation includes salaries
11 and operating expenses.

12 There is hereby appropriated from this
13 fund, in addition to the above appropria-
14 tion, the necessary amount for the pur-
15 chase of supplies for resale.

132—Department of Agriculture
Acct. No. 818
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$135,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$2,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$187,300.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund out
8 of collections made by the Department
9 of Agriculture as provided by law. It is
10 the intention that special funds in excess
11 of the amounts hereby appropriated shall
12 be made available by budget amend-
13 ments upon request of the Commissioner
14 of Agriculture.

133—State Committee of Barbers and Beauticians
Acct. No. 822
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$17,300.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,400.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$350.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,050.00</strong></td>
</tr>
</tbody>
</table>
5 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections made by the State Committee of Barbers and Beauticians as provided by law.

134—Insurance Commissioner

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$1,860.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$115,860.00</td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for license and report fees as provided by law.

135—Insurance Commissioner—Fire Marshal

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$81,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$26,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>4 Building Repair and Maintenance</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>5 Social Security Repair and Maintenance</td>
<td>$1,650.00</td>
</tr>
<tr>
<td>6 Total</td>
<td>$117,650.00</td>
</tr>
</tbody>
</table>

7 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of the special tax of one-half of one per cent of premium receipts of fire insurance companies as provided by law.
### 136—Public Service Commission

**Acct. No. 828**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$24,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$245,390.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$32,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$4,600.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$4,560.00</td>
</tr>
</tbody>
</table>

**Total** | **$311,050.00**

7 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for special license fees from public service corporations as provided by law. Out of the above appropriation, $5,000.00 may be transferred to the State Water Commission for use in cooperation with the U. S. Geological Survey in a program of stream gauging.

### 137—Public Service Commission—Motor Carrier Division

**Acct. No. 829**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$140,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,800.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$2,960.00</td>
</tr>
</tbody>
</table>

**Total** | **$190,560.00**

6 The total amount of this appropriation shall be paid from Special Revenue Fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as authorized by law.
138—Conservation Commission  
Acct. No. 830  
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$525,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$354,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$62,000.00</td>
</tr>
<tr>
<td>5 Buildings, Land and Improvements</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>6 Land Purchase</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>7 National Forests</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>8 White Pine Blister Rust Control</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>9 Oak Wilt Control</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>10 For payment of bounties</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>11 For construction of ponds and small lakes</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>12 For restocking of game</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>13 Social Security Matching Fund</td>
<td>$12,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,176,000.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected by the Conservation Commission. Expenditures shall be limited to the amounts appropriated except for Federal Funds received and Special Funds collected at state parks. Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Conservation Commission and approval of The Board of Public Works for any emergency which might arise in the operation of this division during the fiscal year.

139—Department of Public Safety—Inspection Fees

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$79,020.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$72,470.00</td>
</tr>
</tbody>
</table>
3 Repairs and Alterations ........................................ 6,000.00
4 Equipment .......................................................... 12,000.00
5 Social Security Matching Fund .................................... 325.00

6 Total ................................................................. $ 169,815.00

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

140—Department of Public Safety—Instruction Permit Fees

Acct No. 836

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services ................................................. $ 41,340.00
2 Current Expenses .................................................. 26,830.00
3 Total ................................................................. $ 68,170.00

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected for instruction permits as provided by law.

141—West Virginia Liquor Control Commission

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salaries of Members ................................................ $ 10,000.00
2 Other Personal Services ........................................ 2,700,000.00
3 Current Expenses ................................................ 720,000.00
4 Repairs and Alterations ........................................ 20,000.00
5 Equipment ........................................................ 30,000.00
6 Social Security Matching Fund ................................... 64,000.00

7 Total ................................................................. $ 3,544,000.00

The total amount of this appropriation shall be paid from Special Revenue Fund out of liquor revenues.
The above appropriation includes the salaries of store personnel, store inspectors, store operating expenses and equipment; and salaries, expenses and equipment for administration offices.

There is hereby appropriated from liquor revenues, in addition to the above appropriation, the necessary amount for the purchase of liquor, as provided by law.

**142—West Virginia Merit System Council**

Acct. No. 840

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$37,250.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,450.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$550.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$48,250.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund supported by participating agencies as provided by law.

**143—Department of Labor—Bedding Division**

Acct. No. 843

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$7,980.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,080.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees, fines and penalties as provided by law.
### 144—Workmen’s Compensation Commission

**Acct. No. 900**

**TO BE PAID FROM WORKMEN’S COMPENSATION FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$605,325.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$247,360.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Social Security Matching Fund</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td><strong>$876,685.00</strong></td>
</tr>
</tbody>
</table>

6. There is hereby authorized to be paid out of the above appropriation for Current Expenses the amount necessary for the premiums on bonds given by the State Treasurer and bond custodian for the protection of the Workmen’s Compensation Fund.

#### Sec. 3—Supplemental and Deficiency Appropriations.—

2. From the State Fund, General Revenue, except as otherwise provided, there are hereby appropriated the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred fifty-seven to supplement the 1956-57 appropriations, and to be available for expenditure upon date of passage.

#### 145—Board of Probation and Parole

**Acct. No. 123**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

#### 146—Auditor’s Office—General Administration

**Acct. No. 150**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Auditor</td>
<td>$1,738.91</td>
</tr>
</tbody>
</table>

#### 147—Treasurer’s Office

**Acct. No. 160**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Treasurer</td>
<td>$1,738.91</td>
</tr>
</tbody>
</table>
148—Attorney General  
Acct. No. 240  
1 Salary of Attorney General $ 2,086.70

149—Secretary of State  
Acct. No. 250  
1 Salary of Secretary of State $ 1,738.91

150—Department of Education—State Aid to Schools  
Acct. No. 295  
1 Any unexpended balance remaining in the appropriation for “State Aid for School Building Program” at the close of the fiscal year 1956-57 is hereby reappropriated for expenditure during the fiscal year 1957-58.  
7 State Aid to supplement the general school fund $ 26,562.00  
9 To be transferred to the general school fund upon the requisition of the Governor.  
11 The purpose of this request is to appropriate an amount, not to exceed $26,562.00, as a supplement to cover the portion or loss of state aid which Morgan County suffered as the result of an error in the original appraisal report of the Tax Commissioner for the year 1955.

151—West Virginia Home for Aged and Infirm Colored Men and Women  
Acct. No. 382  
1 Personal Services $ 5,000.00

152—Department of Veterans Affairs  
Acct. No. 404  
1 Korean Bonus—Administration $ 60,000.00
2 The General Revenue Fund is to be reimbursed this amount from the proceeds of
the sale of bonds. The above appropriation
for the fiscal year 1956-57 is to remain in
effect until the date bonds are sold.

153—Spencer State Hospital
Acct. No. 421
1 Architect Fees ________________________________ $ 2,711.73

154—Lakin State Hospital
Acct. No. 423
1 Reimburse Governor's Contingent Fund $ 21,067.00

155—West Virginia Racing Commission
Acct. No. 495
1 Personal Services ________________________________ $ 5,170.00
2 Current Expenses ________________________________ 2,450.00
3 Total ________________________________ $ 7,620.00

156—Department of Agriculture
Acct. No. 510
1 Salary of Commissioner ________________________________ $ 1,738.91

157—Conservation Commission—State Parks
Acct. No. 522
1 Forestry Camp Expense ________________________________ $ 16,000.00

158—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 ________________________________ $ 40,000.00
Sec. 4.—Awards for Claims Against the State—From the fund designated there is hereby appropriated for the remainder of the fiscal year 1956-57, and to remain in effect until June 30, 1958, for payment of claims against the state the following amounts, as itemized.

Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

1 Reid-Boyce Tire & Tread Company $ 598.89

Claims Versus West Virginia Board of Education

TO BE PAID FROM GENERAL REVENUE FUND

1 Eastern Greyhound Lines $ 881.20

Claims Versus State Road Commission

TO BE PAID FROM STATE ROAD FUND

1 Automobile Ins. Co. of Hartford, Connecticut $ 12.24
2 Virginia Electric and Power Company 129.00
3 Freedom-Valvoline Oil Company 128.46
4 Security Trust Company 280.00
5 Martha S. Painter, Admx. estate of Anna B. Summers, deceased 1,600.00
6 Dorr Summers 8,400.00
7 D. C. Summers 4,300.00
8 A. M. Mays 1,500.00

Sec. 5. Appropriations from Surplus Revenues.—The following items are appropriated from the General Revenue Fund, subject to the following terms and conditions:

(a) The following items are hereby appropriated and are to be available for expenditure only out of the surplus in the Treasury on the first day of July, 1957, or at the time
release or encumbrance of any such items is made, subject
8 to the conditions and limitations hereinafter expressed.

(b) The Board of Public Works, at its discretion, may
release a part or all of any of the items hereinafter set forth
in this section at any time after date of passage of this act,
provided, that the total of such releases made prior to July
1, 1957, shall not exceed the actual surplus in the treasury
as of July 1, 1956, which is reported at approximately
$2,200,000.00.

(c) Expenditures authorized, which are for construction
purposes, shall be for a complete and usable unit or project
including necessary equipment, and in any case where ad-
ditional funds are available, by aid from a federal agency
or other source, such fact may be considered by the board
in determining what items should at any time be encum-
bered or released for expenditure: Provided, That in mak-
ing such release the board shall first determine that all
funds available will be provided for completion of a com-
plete and usable unit or project, including necessary
equipment.

(d) Any of the items under this section may be released
or encumbrances made therefor at any time after the first
day of July, 1957, as the board may deem proper, subject
to the limitations herein.

Subject to the foregoing conditions, the following appro-
priations are made for the purposes named in this section:

<table>
<thead>
<tr>
<th>Item 1: The Board of Public Works—</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Repairs, Alterations and Furnishings for Governor's Mansion</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>

No part of the above appropriation shall be released until complete plans and specifica-
tions have been submitted to and approved by the Board of Public Works.

Item 2: West Virginia University: (a) to complete Chemistry Laboratories, $45,000.00;
(b) for purchase of land, $70,000.00; (c) to construct Barns and Stalls at Jackson’s Mill,
$50,000.00 $165,000.00
Item 3: Potomac State College, to renovate Davis Hall $105,000.00

Item 4: Marshall College: (a) to repair third floor of Old Main Building, $20,000.00; (b) to repair and renovate Gymnasium, $25,000.00; (c) for alterations and equipment for College Library, $32,000.00 $77,000.00

Item 5: Fairmont State College: (a) to purchase air-cooling equipment for Library Building, $20,000.00; (b) to purchase gas furnace for Gymnasium, $3,000.00 $23,000.00

Item 6: Glenville State College, to renovate and fireproof Administration Building $250,000.00

Item 7: West Liberty State College, for additional classrooms for Health and Physical Education Building $100,000.00

Item 8: Shepherd College: (a) to purchase Shepherdstown Grade School, $40,000.00; (b) to complete Athletic Field, $30,000.00 $70,000.00

Item 9: West Virginia Institute of Technology, for renovation of Main Building $200,000.00

Item 10: West Virginia Schools for the Deaf and Blind, to construct Dining Room and Kitchen $190,000.00

Item 11: West Virginia Industrial School for Boys: (a) to complete Swimming Pool and purchase equipment for Gymnasium, $25,000.00; (b) for rewiring of Administration Building, $5,000.00 $30,000.00

Item 12: Forestry Camp for Boys: (a) to construct Recreation Building, $5,450.00; (b) to construct Laundry Building, $2,180.00 $7,630.00

The foregoing amount to be expended provided a new site is selected in the immediate vicinity of the present site.
81 Item 13: West Virginia Industrial Home for Girls: (a) to construct and equip two (2) Cottages, $425,000.00; (b) to install sprinkler system and rewire Jones Cottage, $23,000.00 $448,000.00

86 Item 14: West Virginia Penitentiary: (a) to resurface floor Main Dining Hall, $17,000.00; (b) to reroof and rewire Main Dining Room and Kitchen, $10,000.00; (c) to replace Walls, Stairways and rewire Administration Building, $8,000.00; (d) to install one hundred (100) Maximum Security Cells in New Cell Block, $80,000.00; (e) for general repair to old cell blocks, $25,000.00 $140,000.00

95 Item 15: Andrew S. Rowan Memorial Home: (a) to construct building to replace Ball Building and to equip building, $488,750.00; (b) to purchase and install New Boiler, $12,000.00; (c) for extension of Water Mains, $6,000.00 $506,750.00

101 Item 16: Weston State Hospital: (a) to purchase and install Elevator in L, M, N and O Buildings, $25,000.00; (b) to install fireproof floors in wards 1 and 4, and first floor of Administration Building, $30,000.00; (c) to construct addition to Laundry, $30,000.00; (d) to install new floor in Patient’s Dining Room, $16,500.00; (e) for overhauling and reinforcing Main Building steam distribution system, $25,000.00 $126,500.00

111 Item 17: Spencer State Hospital: (a) to renovate, fireproof and equip Main Wards 1, 2, 3, 4, 5, and 6, $850,000.00; (b) to construct settling basin for Water Treatment Plant, $17,500.00; (c) to reroof Power Plant Building, $12,500.00; (d) for addition to and repair Laundry Building, $10,000.00; (e) to reroof and rewire Administration Building,
119 $40,000.00; (f) to purchase and install two
120 (2) Fire Escapes, $20,000.00..................$ 950,000.00

121 Item 18: Huntington State Hospital: (a)
122 for such building or buildings or fireproofing
123 and major repairs and equipment of present
124 buildings, as may be designated by the
125 Board of Public Works upon recommenda-
126 tion of the Board of Control, $1,625,000.00;
127 (b) to install ventilation in Building 1-A,
128 $32,000.00; (c) to purchase and install High
129 Pressure Boiler, $30,000.00; (d) to construct
130 and equip West Wing on Building No. 7,
131 $200,000.00 ...........................................$ 1,887,000.00

132 Item 19: Lakin State Hospital: (a) to
133 provide Water System, $60,000.00; (b) to
134 renovate Ward Buildings, Administration
135 Building, and Ground Improvements, $500,-
136 000.00; (c) to construct Laundry and Shop
137 Building, $100,000.00; (d) Kitchen and Din-
138 ing Center, $135,000.00 .........................$ 795,000.00

139 Item 20: Barboursville State Hospital: (a)
140 to construct Men's Dormitory, $100,000.00;
141 (b) to replace windows in Male Patients'
142 Building, $25,000.00..............................$ 125,000.00

143 Item 21: Welch Emergency Hospital, to
144 purchase and install two (2) Boilers ........$ 34,700.00

145 Item 22: State Armory Board, to match
146 Federal Funds for construction of new
147 Armories ............................................$ 95,650.00

148 Item 23: Conservation Commission—Di-
149 vision of State Parks: (a) Cedar Creek
150 State Park for park improvements, $25,-
151 000.00; (b) Construction of recreational
152 facilities in area of Logan, Mingo, Boone,
153 Lincoln counties, $50,000.00; (c) North Bend
154 State Park for improvement, $25,000.00; (d)
155 Sutton Reservoir for survey of park develop-
156 ment, $3,000.00; (e) War Creek Recreation
157 Development for improvements, $20,000.00;
158 (f) Audra State Park; for blacktop parking
159 areas, $4,000.00; for picnic areas expansion
160 (75 tables), $2,100.00; for new trails, roads,
161 water and toilets, $7,000.00; (g) Blackwater
162 Falls State Park: for tenting area water
163 system, $4,000.00; for public toilets, $8,000.00;
164 (h) Cathedral State Park, for land purchase,
165 $2,500.00; (i) Tygart Lake State Park: for
166 tenting, water, sewage and toilets, $8,000.00;
167 for game court expansion, $3,000.00; for
168 electric line installation to new cabins,
169 $2,800.00; (j) Spring Run Hatchery, for
170 water and ponds addition, $10,000.00; (k)
171 construction of recreational facilities in Han-
172 cock, Brooke and Ohio counties area, $50,-
173 000.00; (l) construction of recreational facil-
174 ities in Marshall, Wetzel, Tyler and Dodd-
175 ridge Counties area, $50,000.00; (m) Lost
176 River State Park: for public toilet, $5,000.00;
177 for recreational building, $16,800.00 .......... $ 296,200.00
178 Item 24: Department of Education, for
179 Stonewall Jackson Memorial Fund .......... $ 20,000.00
180 In the event that the amount of surplus
181 shall exceed the estimated $6,742,430.00 em-
182 bracing items 1 to 24, inclusive, the Board
183 of Public Works shall from any excess over
184 such estimated amount first release to Mar-
185 shall College a sum not to exceed $600,-
186 000.00 for the purchase of land and improve-
187 ments thereon; and, from any such excess
188 still remaining, shall release an amount not
189 to exceed $250,000.00 to the State Tax Com-
190 missioner for the purpose of Property Eval-
191 uation; and, from such excess still remain-
192 ing, shall release an amount not to exceed
193 $100,000.00 to the Department of Public
194 Safety for construction of headquarters
195 buildings in the Fourth and Fifth districts.
Sec. 6. Reappropriations.—The date for expiring the un-
2 expended balance, if any, in item 1 in the appropriations
3 made by and under authority of Sec. 4-A of the 1956
4 Budget Act, is extended to June 30, 1958 and is hereby
5 reappropriated to June 30, 1958. The sub-item (h) as
6 herein reappropriated may be expended for grading, bas-
7 ing, and paving of roads and parking area at Tomlinson
8 Run State Park.
9 The date for expiring the unexpended balance, if any,
10 in item 42, in the reappropriation made by and under au-
11 thority of Sec. 5 of the 1956 Budget Act is extended to
12 June 30, 1958 and is hereby reappropriated to June 30, 1958.

Sec. 7. Special Revenue Appropriations.—There is here-
2 by appropriated for expenditure during the fiscal year one
3 thousand nine hundred fifty-eight, appropriations made by
4 general law from special revenue which are not paid into
5 the state fund as general revenue under the provisions of
6 section two, article two, chapter twelve of the code of West
7 Virginia, one thousand nine hundred thirty-one: Provided,
8 however, That none of the moneys so appropriated by this
9 section shall be available for expenditure except in com-
10 pliance with and in conformity to the provisions of articles
11 two and three, of chapter twelve, code of West Virginia,
12 and chapter thirty-nine, acts of the Legislature, regular
13 session, one thousand nine hundred thirty-nine, and unless
14 the spending unit has filed with the state director of the
15 budget and the state auditor prior to the beginning of each
16 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. 8. 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 Virginia, one thousand nine hundred thirty-one.

Sec. 9. 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.

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

Sec. 10. Sinking Fund Deficiencies.—There is hereby appropriated to the board of public works a sufficient 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.

12 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. 11. Appropriations from Taxes and License Fees.—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
9 collected. All such salaries and expenses, authorized by
10 law as aforesaid, shall be paid by the tax commissioner
11 through the state treasurer out of gross collections.

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

Sec. 13. Appropriations for Local Governments.—There
2 is hereby appropriated for payment to counties, districts,
3 and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and which have been paid into the treasury:
6 (a) For the redemption of lands;
7 (b) By public service corporations;
8 (c) For tax forfeitures.

Sec. 14. Total 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. 15. General School Fund.—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropri-
4 ated for expenditure in accordance with section six, ar-
5 ticle nine, chapter eighteen of the code of West Virginia,
6 one 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 9
(House Bill No. 285—By Mr. Myles)

AN ACT to amend and reenact section three, article three, chap-
ter five of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, providing for the salaries
of assistant attorneys general.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 3. Attorney General.
Section
3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Assistants to Attorney General.—The attor-
2 ney general may appoint such assistant attorneys general
3 as may be necessary to properly perform the duties of his
office. One of such assistants shall be designated the first assistant attorney general and shall receive a salary not in excess of nine thousand dollars per annum, and each of the other assistant attorneys general, including the assistant attorney general appointed pursuant to section one, article one, chapter eleven of this code, shall receive a salary not in excess of eight thousand dollars per annum. The total compensation of all such assistants shall be within the limits of the amounts appropriated by the Legislature for personal services. All assistant attorneys general so appointed shall serve at the pleasure of the attorney general and shall perform such duties as he may require of them.

All laws or parts of laws inconsistent with the provisions hereof are hereby amended to be in harmony with the provisions of this section.

CHAPTER 10
(Senate Bill No. 255—By Mr. Traubert)

AN ACT to authorize the state auditor to transfer certain obsolete balances now in four special revenue accounts into the general fund.

(Passed March 1, 1957; in effect from passage. Approved by the Governor.)

Section
1. Authorized transfer of obsolete balances.

Be it enacted by the Legislature of West Virginia:

Section 1. Authorized Transfer of Obsolete Balances.—The following balances of special revenue accounts are carried on the state financial records as of December thirty-one, one thousand nine hundred fifty-six; and, since the following named institutions have been integrated with other institutions, the state auditor is hereby
authorized and directed to transfer these balances, as
follows: (a) student activities fund, school for colored
deaf and blind, one thousand one hundred twenty-five
dollars and thirteen cents, (b) farm sales account, indus-
trial school for colored boys, fifty-five dollars and sixty-
five cents, (c) farm sales account, industrial home for
colored girls, three hundred sixteen dollars and ninety-
three cents, and (d) farm sales account, West Virginia
colored children’s home, eighteen dollars and seventy-
nine cents, into the general revenue fund.

CHAPTER 11

(Senate Bill No. 153—By Mr. Campbell and Mr. Carrigan)

AN ACT to amend and reenact sections seven and fourteen,
article one-a, chapter forty-seven of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
relating to regulation and control of bedding and uphol-
stery businesses.

(Passed February 28, 1957; in effect July 1, 1957. Approved by the Governor.)

Article 1-a. Regulation and Control of Bedding and Upholstery Businesses.

Section
7. Requirements for Registration.
14. Registration; yearly fee.

Be it enacted by the Legislature of West Virginia:

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

Section 7. Registration Required.—No person, firm
2 or corporation shall sell or offer for sale any article of
3 bedding or filling material, as defined in this article, in
the state of West Virginia, unless the person, firm or cor-
poration is registered and paid the registration fee as
defined in section fourteen of this article.

Sec. 14. Annual Registration Fee.—The annual regis-
tration fee for all manufacturers shipping or selling ar-
ticles of bedding, as defined in this article, in the state of
West Virginia, shall be fifty dollars, payable on the first
day of the fiscal year.

The annual registration fee for an upholsterer or reno-
vator of articles of bedding, as defined in this article, in
the state of West Virginia, shall be ten dollars, payable
on the first day of the fiscal year.

The annual registration fee for all dealers and retailers
of articles of bedding, as defined in this article, in the
state of West Virginia, shall be one dollar, payable on the
first day of the fiscal year.

CHAPTER 12

(Senate Bill No. 184—By Mr. Bean, Mr. President)

AN ACT to amend and reenact sections three, six, seven and
eleven, article one, chapter twenty-five of the code of West
Virginia, one thousand nine hundred thirty-one, as amend-
ed, relating to the powers and duties of the board of con-
trol as to state institutions.

[Passed March 6, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 1. Organization; General Powers and Duties; Super-
vision of State Institutions.

Section
3. Institutions managed by board of control.
6. Title to property of state institutions; custody of deeds and other
muniments of title.
7. Condemnation or sale of property.
11. Officers and employees of certain state institutions.
Be it enacted by the Legislature of West Virginia:

That sections three, six, seven and eleven, article one, 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 3. Institutions Managed by Board of Control.—
2 The state board of control shall manage, direct, control
3 and govern the West Virginia children's home, West Vir-
4 ginia home for aged and infirm colored men and women,
5 Andrew S. Rowan home, Hopemont sanitarium, Pinecrest
6 sanitarium, Rutherford sanitarium, Denmar sanitarium,
7 Berkeley Springs sanitarium, Welch emergency hospital,
8 Fairmont emergency hospital, West Virginia industrial
9 school for boys, West Virginia industrial home for girls,
10 West Virginia penitentiary, and such other state institu-
11 tions, other than mental or educational, as now are or
12 may hereafter be created by law.

Sec. 6. Title to Property of State Institutions; Custody
2 of Deeds and Other Muniments of Title.—The title to all
3 property constituting or belonging to the several institu-
4 tions named in sections three and four of this article shall
5 be vested in the state board of control. The board of control
6 shall be custodian of all deeds and other muniments of
7 title to all property owned by the state and shall cause
8 such as are susceptible of recordation to be recorded in
9 the proper offices.

Sec. 7. Condemnation or Sale of Property.—The state
2 board of control shall have power to acquire by condem-
3 nation land or buildings for the use and benefit of any of
4 the state institutions subject to its control and manage-
5 ment, and, by and with the consent of the governor, to
6 sell or exchange any property held by or for such institu-
7 tions. All condemnation proceedings had hereunder shall
8 be governed by chapter fifty-four of this code.

Sec. 11. Officers and Employees of Certain State In-
2 stitutions.—The governor shall, by and with the advice and
3 consent of the Senate, appoint a superintendent for the
4 West Virginia children's home, a superintendent for the
West Virginia home for aged and infirm colored men and women, a superintendent for Hopemont sanitarium, a superintendent for Denmar sanitarium, a superintendent for Pinecrest sanitarium, a superintendent for Berkeley Springs sanitarium, a superintendent for Welch emergency hospital, a superintendent for Fairmont emergency hospital, a superintendent for the West Virginia industrial school for boys, a superintendent for the West Virginia industrial home for girls, and a warden for the West Virginia penitentiary: Provided, however, That, as to the institutions named in this section which are maintained solely for members of the negro race, the executive officer of such institutions, respectively, shall be a member of such race. In the case of a hospital or sanitarium, or of any institution the superintendent of which is required by law to be a physician, the governor, before making such appointment, shall request the public health council to furnish a full and complete report concerning the qualifications and suitability of the proposed appointee for this position, and it shall be the duty of the public health council to furnish such report.

The warden of the penitentiary and the superintendent of each institution named in this section shall have the power to appoint all assistants and employees required for the management of the institution in his charge; but the number of such assistants and employees, and their compensation, shall first be fixed by the state board of control. The warden of the penitentiary and the superintendent of any institution may, at his pleasure, discharge any person therein employed. It shall be the duty of the board of control to investigate any complaint made against the chief executive officer of any institution, and also against any other officer or employee thereof, if the same has not been investigated. The board shall have the power to recommend to the governor the removal of any such chief executive officer, or other officer or employee, setting forth in such recommendation the reasons for the same.

The board shall fix the salaries or compensation of the
officers and employees of the institutions named in section three of this article. The salaries or compensation of all officers and employees of the several institutions named in sections three and four of this article shall be paid monthly, to include the last day of each month. The chief officer of each of the institutions named in section three shall be furnished living quarters, household furniture, board, fuel and light for himself and his family. Living quarters, household furniture, board, fuel and light shall be furnished to such other officers as is made necessary by the character of their service, and the board of control shall designate those who shall receive the foregoing in addition to their salary.

CHAPTER 13

(House Bill No. 20—By Mr. Callaway)

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 March 9, 1957; in effect July 1, 1957. Approved by the Governor.]

Section 1. Finding and declaring certain claims against the West Virginia board of education, state tax commissioner and state road commission 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 West Virginia Board of Education, State Tax Commissioner and State Road Commission 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 West Virginia Board of Education.
   (1) Eastern Greyhound Lines,$ 881.20

(b) Claims versus State Road Commission.
   (1) Automobile Insurance Company of Hartford, Connecticut, 12.24
   (2) Virginia Electric and Power Company, 129.00
   (3) Freedom-Valvoline Oil Company, 128.46
   (4) Security Trust Company, 280.00
   (5) A. M. Mays, 1,500.00

(c) Claims versus State Tax Commissioner.
   (1) Reid-Boyce Tire and Tread Company, 598.89

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CHAPTER 14

(House Bill No. 418—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact section one, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, abolishing the West Virginia board of control and creating the office of state commissioner of public institutions in lieu thereof.

[Passed March 9, 1957; in effect July 1, 1957. Became a law without the approval of the Governor.]

Article 1. Supervision and Control of State Institutions.

Section
1. Commissioner of public institutions; term, salary, bond, duties and functions.
Be it enacted by the Legislature of West Virginia:

That section one, article one, 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. Commissioner of Public Institutions; Term, Salary, Bond, Duties and Functions.—The office of state commissioner of public institutions is hereby created. The commissioner shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services vested in and performed by the West Virginia board of control which is hereby abolished. Wherever in this chapter or elsewhere in law reference is made to the West Virginia board of control such reference shall henceforth be construed and understood to mean the state commissioner of public institutions.

The commissioner shall be appointed by the governor, with the advice and consent of the Senate, for a term of six years. Any appointment to fill a vacancy shall be for the unexpired term. The commissioner shall devote his entire time to the duties of his office. He shall be paid a salary of ten thousand dollars per annum, payable monthly, and shall be paid actual traveling and other necessary expenses when absent from the capitol on official business. Offices and facilities for the commissioner shall be provided and maintained at the capitol.

The commissioner shall take and subscribe to the oath prescribed by the constitution for public officials and shall execute an official bond in a penalty of fifteen thousand dollars, conditioned as required by law. Premiums on such bond shall be paid from appropriations made for the commissioner's office. Such bond shall be approved as to form by the attorney general and as to sufficiency by the governor and, when fully executed and approved, shall be filed in the office of the secretary of state.

Nothing herein contained shall be construed so as to give the commissioner of public institutions any authority in the administration, management or control of mental institutions, heretofore transferred to the department of mental health by an act of the Legislature, regular session, one thousand nine hundred fifty-seven.
CHAPTER 15

(House Bill No. 314—By Mr. Moreland and Mr. Bachmann)

AN ACT to amend and reenact section fifteen, article three, chapter forty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conditional sales contracts.

[Passed February 20, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 3. Conditional Sales.

Section 15. Injury, destruction, concealment, removal, encumbrance or sale.

Be it enacted by the Legislature of West Virginia:

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

Section 15. Injury, Destruction, Concealment, Removal, Encumbrance or Sale.—When, prior to the performance of the condition, the buyer, maliciously or with intent to defraud, shall injure, destroy or conceal the goods, or shall sell, mortgage or otherwise dispose of them under claim of full ownership, or maliciously or with intent to defraud shall remove them to another state or to a county in this state where the contract or a copy thereof is not filed, he shall be guilty of a misdemeanor, if the amount due on the goods so injured, destroyed, concealed, removed, mortgaged, sold or otherwise disposed of is less than fifty dollars, and, upon conviction thereof, shall be imprisoned in the county jail for not more than one year, or be fined not more than five hundred dollars, or both. Where the amount due on the goods thus injured, destroyed, concealed, removed, mortgaged, sold or otherwise disposed of is greater than fifty dollars, the buyer
18 shall be guilty of a felony and, upon conviction thereof,
19 shall be fined not less than one hundred nor more than
20 one thousand dollars, or be imprisoned in the penitentiary
21 for not less than one year nor more than five years, or
22 both, in the discretion of the court. When, prior to the
23 performance of the condition, the buyer, without having
24 given the notice required by section thirteen of this ar-
25 ticle, but without malice and without intent to defraud,
26 shall remove such goods to another state or to a county
27 in this state where the contract or a copy thereof is not
28 filed, he shall be guilty of a misdemeanor, and, upon con-
29 viction thereof, shall be imprisoned in the county jail for
30 not more than one year, or be fined not more than five
31 hundred dollars, or both. Any such removal without such
32 notice having been given shall be deemed prima facie
33 fraudulent.

CHAPTER 16
(Senate Bill No. 253—By Mr. Carrigan and Mr. Martin)

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state, amending
article ten thereof by adding thereto a new section, design-
nated section one-a, relating to exemption of bank de-
posits and money from taxation.

[Passed March 5, 1957; in effect ninety days from passage. Approved by the
Governor.]

Amendment to Exempt Bank Deposits and Money from Taxa-
tion.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “amendment to Exempt Bank De-
posits and Money from Taxation.”
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-eight, which proposed amendment is as follows:

That article ten of the constitution be amended by adding thereto a new section, designated section one-a, to read as follows:

"Section 1-a. Notwithstanding the provisions of the preceding section, bank deposits and money shall not be subject to ad valorem property taxation."

Sec. 2. Amendment to Be Known as the “amendment to Exempt Bank Deposits and Money from Taxation”.—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the “Amendment to Exempt Bank Deposits and Money from Taxation”.

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-eight, 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 'Amendment to Exempt Bank Deposits and Money from Taxation'.

☐ For ratification of Amendment to Exempt Bank Deposits and Money from Taxation.

☐ Against ratification of Amendment to Exempt Bank Deposits and Money from Taxation."

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
18 officers and in the same manner as the election of officers
19 to be voted for at said election, and all the provisions of
20 the law relating to general elections, including all duties
21 to be performed by any officer or board, as far as practi-
22 cable, and not inconsistent with anything herein con-
23 tained, shall apply to the election held under the provi-
24 sions of this act, except when it is herein otherwise pro-
25 vided. The ballots cast on the question of said proposed
26 amendment shall be counted as other ballots cast at said
27 election.

Sec. 4. Certificates of Election Commissioners; Canvass
2 of Vote; Certifying Result.—As soon as the result is
3 ascertained, the commissioners, or a majority of them,
4 and the canvassers (if there be any), or a majority of
5 them, at each place of voting, shall make and sign two
6 certificates thereof in the following form or to the follow-
7 ing effect:
8 “We, the undersigned, who acted as commissioners (or
9 canvassers, as the case may be) of the election held at
10 Precinct No. ........., in the district of .........................,
11 in the county of ........................................., on the
12 day of ........................., one thousand nine hundred
13 fifty-eight, upon the question of the ratification or rejec-
14 tion of the proposed constitutional amendment, do hereby
15 certify that the result of said election is as follows:
16 “For ratification of Amendment to Exempt Bank
17 Deposits and Money from Taxation ............. votes.
18 “Against ratification of Amendment to Exempt Bank
19 Deposits and Money from Taxation ............. votes.
20 “Given under our hands this ......................... day of
21 ........................., one thousand nine hundred fifty-eight.”
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
The certificates, together with the ballots cast on the question of said proposed amendment, shall be laid before the commissioners of the county court at the courthouse at the same time the ballots, poll books, and the certificates of election of the members of the Legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out and signed by said commissioners as a board of canvassers, in the form or to the following effect:

“We, the board of canvassers of the county of __________, having carefully and impartially examined the returns of the election held in said county, in each district thereof, on the __________ day of November, one thousand nine hundred fifty-eight, do certify that the results of the election in said county, on the question of the ratification or rejection of the proposed amendment, is as follows:

“For ratification of Amendment to Exempt Bank Deposits and Money from Taxation __________ votes.

“Against ratification of Amendment to Exempt Bank Deposits and Money from Taxation __________ votes.

“Given under our hands this __________ day of __________

______________, one thousand nine hundred fifty-eight.”

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

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

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

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising in the first instance, if found necessary by him, be paid out of the governor’s contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

CHAPTER 17

(Senate Bill No. 312—By Mr. Traubert)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending article ten thereof, by adding thereto a new section, designated section ten, relating to tax levies on property.

[Passed March 7, 1917; in effect ninety days from passage. Approved by the Governor.]

Better Schools Amendment.

Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “Better Schools Amendment.”
3. Form of ballot election.
4. Certificates of election commissioners; canvass of votes; 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 rejec-
tion 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-eight, which proposed amendment is as follows:

"Sec. 10. Better Schools Amendment.—Notwithstanding any other provision of the constitution to the contrary, the maximum rates authorized and allocated by law for tax levies on the several classes of property for the support of public schools may be increased in any school district for a period not to exceed five years, and in an amount not to exceed one hundred per cent of such maximum rates, if such increase is approved, in the manner provided by law, by at least sixty per cent of the qualified voters of the school district.

"Notwithstanding any other provision of the constitution to the contrary, the maximum rates provided for tax levies by school districts on the several classes of property may be used entirely for current expense purposes; and all levies required for principal and interest payments on any bonded indebtedness, now or hereafter contracted, not to exceed five per centum on the value of the taxable property therein, the value to be ascertained in accordance with section eight of this article, shall be laid separate and apart and in addition to such maximum rates, but in the same proportions as such maximum rates are levied on the several classes of property."

Sec. 2. Amendment to Be Known as the "Better Schools Amendment".—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the "Better Schools 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-eight, 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 the election, the following:

"Ballot on 'Better Schools Amendment'.

"☐ For ratification of Better Schools Amendment.

"☐ Against ratification of Better Schools 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 officer 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 to the following effect:

"We, the undersigned, who acted as commissioners (or canvassers, as the case may be) of the election held at Precinct No. ........ in the district of ........., in the county of .............., on the fourth day of November, one thousand nine hundred fifty-eight, upon the question of the ratification or rejection of the proposed constitutional amendment, do hereby certify that the result of said election is as follows:

"For ratification of Better Schools Amendment ........ votes.

"Against ratification of Better Schools Amendment ........ votes."
"Given under our hands this .......... day of November, one thousand nine hundred fifty-eight."

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

The said certificates, together with the ballots cast on the question of said proposed amendment, shall be laid before the commissioners of the county court at the courthouse at the same time the ballots, poll books, and the certificates of election of the members of the Legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out and signed by said commissioners as a board of canvassers, in the form or to the following effect:

"We, the board of canvassers of the county of .........., having carefully and impartially examined the returns of the election held in said county, in each district thereof, on the fourth day of November, one thousand nine hundred fifty-eight, do certify that the results of the election in said county, on the question of the ratification or rejection of the proposed amendment is as follows:

"For ratification of Better Schools Amendment .......... votes.

"Against ratification of Better Schools Amendment ...... votes.

"Given under our hands this .......... day of November, one thousand nine hundred fifty-eight."

One of the certificates shall be filed in the office of the clerk of the county court, and the other forwarded by mail to the secretary of state, who shall file and preserve
Sec. 5. Proclamation of Result of Election by Governor.—On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the said certificates shall be laid before the governor, whose duty it shall be to ascertain therefrom the result of said election in the state, and declare the same by proclamation published in one or more newspapers printed at the seat of government. If a majority of the votes cast at said election upon said question be for ratification of said amendment, the proposed amendment so ratified shall be in force and effect, from and after the time of such ratification, as part of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor’s contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

CHAPTER 18
(Senate Bill No. 251—By Mr. Martin)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending section four of article eleven thereof, relating to corporate stock and the rights of stockholders of corporations to vote for directors or managers.

[Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.]
Corporation Stock Voting Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "Corporation Stock Voting 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-eight, which proposed amendment is as follows:


"Section 4. Rights of Stockholders.—The Legislature shall provide by law that every corporation, other than a banking institution, shall have power to issue one or more classes and series within classes of stock, with or without par value, with full, limited or no voting powers, and with preferences and special rights and qualifications, and that in all elections for directors or managers of incorporated companies, every stockholder holding stock having the right to vote for directors, shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner."

Sec. 2. Amendment to Be Known as the "Corporation Stock Voting Amendment".—For convenience in referring to said proposed amendment, and in the prepara-
tion of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the “Corporation Stock Voting 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-eight, 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 the election, the following:

“Ballot on ‘Corporation Stock Voting Amendment’.

For ratification of Corporation Stock Voting Amendment.

Against ratification of Corporation Stock Voting 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 officer 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 to the following effect:

“We, the undersigned, who acted as commissioners (or canvassers, as the case may be) of the election held at Precinct No. ......, in the district of ........................., in the county of .............................., on the fourth day
of November, one thousand nine hundred fifty-eight,
upon the question of the ratification or rejection of the
proposed constitutional amendment, do hereby certify
that the result of said election is as follows:
“For ratification of Corporation Stock Voting Amend-
ment ........................ votes.
“Against ratification of Corporation Stock Voting
Amendment ...................... votes.
“Given under our hands this ................ day of November,
one thousand nine hundred fifty-eight.”

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

The said certificates, together with the ballots cast on
the question of said proposed amendment, shall be laid
before the commissioners of the county court at the court-
house at the same time the ballots, poll books, and the
certificates of election of the members of the Legislature
are laid before them; and as soon as the result of said
election in the county upon the question of such ratifica-
tion or rejection is ascertained, two certificates of such
result shall be made out and signed by said commission-
ers as a board of canvassers, in the form or to the follow-
ing effect:
“We, the board of canvassers of the county of ..............
........................ , having carefully and impartially examined
the returns of the election held in said county, in each
district thereof, on the fourth day of November, one
thousand nine hundred fifty-eight, do certify that the re-
results of the election in said county, on the question of the
ratification or rejection of the proposed amendment is as
follows:
“For ratification of Corporation Stock Voting Amend-
ment ........................ votes.
“Against ratification of Corporation Stock Voting Amendment ............... votes.

“Given under our hands this ............... day of November, one thousand nine hundred fifty-eight.”

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

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

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

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor’s contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

CHAPTER 19

(Senate Bill No. 252—By Mr. Taylor and Mr. Bowers)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending
sections one, two and seventeen of article seven thereof, and section two of article twelve thereof, all relating to the state superintendent of free schools.

[Passed March 6, 1957; in effect ninety days from passage. Approved by the Governor.]

State Superintendent of Free Schools Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "State Superintendent of Free Schools Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

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-eight, which proposed amendment is as follows:

Article 7. Executive Department.

"Section 1. Executive Department.—The executive department shall consist of a governor, secretary of state, auditor, treasurer, commissioner of agriculture and attorney general, who shall be, ex officio, reporter of the court of appeals. Their terms of office shall be four years and shall commence on the first Monday after the second Wednesday of January next after their election. They shall reside at the seat of government during their terms of office, keep there the public records, books and papers pertaining to their respective offices and shall perform such duties as may be prescribed by law."
"Sec. 2. Election.—An election for governor, secretary of state, auditor, treasurer, commissioner of agriculture and attorney general shall be held at such times and places as may be prescribed by law.

"Sec. 17. Vacancies in Other Executive Departments.—If the office of secretary of state, auditor, treasurer, commissioner of agriculture or attorney general shall become vacant by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be prescribed by law. The subordinate officers of the executive department and the officers of all public institutions of the state shall keep an account of all moneys received or disbursed by them, respectively, from all sources and for every service performed, and make a semi-annual report thereof to the governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

Article 12. Education.

"Section 2. Supervision of Free Schools.—The general supervision of the free schools of the state shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law. The board shall consist of nine members to be appointed by the governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight and nine years, respectively. No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the governor of state elective officers.
The West Virginia board of education shall, in the manner prescribed by law, select the state superintendent of free schools who shall serve at its will and pleasure. He shall be the chief school officer of the state and shall have such powers and shall perform such duties as may be prescribed by law.

"The state superintendent of free schools shall be a member of the board of public works as provided by subsection B, section fifty-one, article six of this constitution."

Sec. 2. Amendment to Be Known as the "State Superintendent of Free Schools Amendment".—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the "State Superintendent of Free Schools 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-eight, 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 'State Superintendent of Free Schools Amendment'.

[ ] For ratification of 'State Superintendent of Free Schools Amendment'.

[ ] Against ratification of 'State Superintendent of Free Schools 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 officer 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 as-
certained, 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 cer-
tificates thereof in the following form or the following
effect:

“We, the undersigned, who acted as commissioners (or
canvassers, as the case may be) of the election held at
Precinct No.__________, in the district of______________,
in the county of____________________, on the fourth day
of November, one thousand nine hundred fifty-eight, upon
the question of the ratification or rejection of the pro-
posed constitutional amendment, do hereby certify that
the result of said election is as follows:

“For ratification of State Superintendent of Free
Schools Amendment____________________ votes.

“Against ratification of State Superintendent of Free
Schools Amendment____________________ votes.

“Given under our hands this______________ day of
November, one thousand nine hundred fifty-eight.”

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

The said certificates, together with the ballots cast on
the question of said proposed amendment, shall be laid
before the commissioners of the county court at the court-
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 commission- 41 ers as a board of canvassers, in the form or to the fol- 42 lowing 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, in 46 each district thereof, on the fourth day of November, 47 one thousand nine hundred fifty-eight, 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 State Superintendent of Free 52 Schools Amendment ______________ votes.

53 "Against ratification of State Superintendent of Free 54 Schools Amendment ______________ votes.

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

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

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

Sec. 6. Publication of Proposed Amendment by Gov-
2 **error.**—The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

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**CHAPTER 20**

(Senate Bill No. 179—By Mr. Martin)

AN ACT to amend and reenact section seventy-one, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the designation of a state official, in some cases the auditor and in other cases the secretary of state, as attorney in fact for all corporations created by virtue of the laws of the state of West Virginia and for all foreign corporations doing business in the state of West Virginia, whether or not authorized to do business herein, with authority to accept service of notices and process on behalf of such corporations and upon whom service of notice and process may be made in this state for and upon every such corporation in suits or proceedings instituted against such corporations; and prescribing what constitutes doing business by a non-authorized foreign corporation for purposes of serving notices and process upon the auditor and the acceptance thereof by the auditor on behalf of such corporation.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

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**Article 1. Provisions Relating to Corporations Generally.**

**Section 71.** Auditor attorney in fact for all corporations; manner of service of notices and process upon auditor and the acceptance thereof;
what constitutes doing business in this state for purposes of this section; purposes for which secretary of state constituted such attorney in fact.

Be it enacted by the Legislature of West Virginia:

That section seventy-one, 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 71. Auditor Attorney in Fact for All Corporations; Manner of Service of Notices and Process Upon Auditor and the Acceptance Thereof; What Constitutes Doing Business in This State for Purposes of This Section; Purposes for Which Secretary of State Constituted Such Attorney in Fact.—The auditor of this state is hereby constituted the attorney in fact for and on behalf of every corporation created by virtue of the laws of this state and every foreign corporation authorized to do business herein pursuant to the provisions of section seventy-nine of this article, with authority to accept service of notice and process on behalf of and upon whom service of notice and process may be made in this state for and upon every such corporation. No act of such corporation appointing the auditor such attorney in fact shall be necessary. Immediately after being served with or accepting any such process or notice, of which process or notice two copies for each defendant shall be furnished the auditor with the original notice or process, the auditor shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service, or acceptance, as the case may be, and transmit one copy of such process or notice by registered mail to such corporation at the address last furnished by it, as required by law. But no process or notice shall be served on the auditor or accepted by him less than ten days before the return day thereof. Such corporation shall pay the annual fee prescribed in article twelve, chapter eleven of this code for the services of the auditor as its attorney in fact.

Any foreign corporation which shall do any business in this state without having been authorized so to do pursuant to the provisions of section seventy-nine
34 of this article shall be conclusively presumed to have
35 appointed the auditor of the state as its attorney in fact
36 with authority to accept service of notice and process on
37 behalf of and upon whom service of notice and process
38 may be made in this state for and upon every such cor-
39 poration in any action or proceeding described in the
40 next following paragraph of this section. No act of such
41 corporation appointing the auditor such attorney in fact
42 shall be necessary. Immediately after being served with
43 or accepting any such process or notice, of which process
44 or notice two copies for each defendant shall be furnished
45 the auditor with the original notice or process, together
46 with a fee of two dollars, the auditor shall file in his
47 office a copy of such process or notice, with a note thereon
48 endorsed of the time of service or acceptance, as the case
49 may be, and transmit one copy of such process or notice
50 by registered mail, return receipt requested, to such cor-
51 poration at the address of its principal place of business,
52 which address shall be stated in such process or notice.
53 Such service or acceptance of such process or notice shall
54 be sufficient: Provided, That such return receipt shall be
55 signed by an agent or employee of such corporation, or
56 the registered mail so sent by said auditor is refused by
57 the addressee and the registered mail is returned to said
58 auditor, or to his office, showing thereon the stamp of the
59 post office department that delivery thereof has been re-
60 fused, and such return receipt or registered mail is ap-
61 pended to the original process or notice and filed there-
62 with in the clerk’s office of the court from which such
63 process or notice was issued. But no such process or no-
64 tice shall be served on the auditor or accepted by him
65 less than ten days before the return date thereof. The
66 court may order such continuances as may be reasonable
67 to afford each defendant opportunity to defend the action
68 or proceeding.
69 For the purposes of this section, a foreign corporation
70 not authorized to do business in this state pursuant to
71 the provisions of section seventy-nine of this article shall
72 nevertheless be deemed to be doing business herein if
73 such corporation makes a contract to be performed, in
74 whole or in part, by any party thereto, in this state, or
if such corporation commits a tort in whole or in part in this state. The making of such contract or the committing of such tort shall be deemed to be the agreement of such corporation that any notice or process served upon, or accepted by, the auditor pursuant to the next preceding paragraph of this section in any action or proceeding against such corporation arising from, or growing out of, such contract or such tort shall be of the same legal force and validity as process duly served on such corporation in this state.

For the purpose of all suits or proceedings instituted for the collection of license taxes due the state, pursuant to the provisions of section eighty-six, article twelve, chapter eleven of this code, as amended, and for the purpose of all other cases where it is the duty of the auditor to collect a debt or claim due the state from corporations, the secretary of state, in lieu of the auditor, is hereby constituted the attorney in fact for such corporations. No act of any such corporation appointing the secretary of state such attorney in fact shall be necessary. All provisions in this section relating to the service of process on, or acceptance of process by, the auditor, and the duties imposed upon the auditor, shall apply to the secretary of state in such cases.

CHAPTER 21

(Senate Bill No. 142—By Mr. Martin)

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventy-nine-a, providing for special conditions to be met by foreign corporations whose sole activities within this state are the acquisition by purchase of loans secured by liens on real estate located within this state, and all acts incidental and necessary thereto.

[Passed February 25, 1957; in effect July 1, 1957. Approved by the Governor.]

Section
79-a. Foreign corporations; activities permitted, filing and fees.

Be it enacted by the Legislature of West Virginia:

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

Section 79-a. Foreign Corporations; Activities Permitted, Filing and Fees.—The provisions of section seventy-nine of this article shall not be applicable to, nor affect, any foreign corporation heretofore, or hereafter doing business in this state within the meaning of this section or any other statute, including but not limited to, chapter thirty-three of this code, by reason of carrying on in this state any one or more of the following activities: (a) The acquisition by purchase of loans secured by mortgages or deeds of trust, drawn and executed in compliance with chapter thirty-eight, article one-a, section two, of this code on property situated in West Virginia pursuant to commitment agreements or arrangements made prior to or following the origination or creation of said loans; (b) the ownership, modification, renewal, extension, transfer or foreclosure of such loans, or the acceptance of substitute or additional obligors thereon; (c) the maintaining or defending of any actions or suits relative to such loans, mortgages or deeds of trust; (d) the maintenance of bank accounts in West Virginia banks in connection with the collection or servicing of such loans; (e) the making, collection and servicing of such loans through a West Virginia concern engaged in the business of servicing real estate loans for the investors; (f) the taking of deeds to the mortgaged property either in lieu of foreclosure or for the purpose of transferring title either to the federal housing administration or to the veterans administration as the insuror or guarantor; (g) the acquisition of title to property under foreclosure sale or from the owner in lieu of foreclosure; (h) the management, rental, maintenance and
32 sale, or the operating, maintaining, renting or otherwise 
33 dealing with, selling or disposing of real property ac-
34 quired under foreclosure sale or by agreement in lieu 
35 thereof; and (i) the physical inspection and appraisal of 
36 property in West Virginia as security for deeds of trust 
37 or mortgages and negotiations for the purchase of such 
38 loans: Provided, however, That if property acquired in 
39 or by reason of any of the activities defined in the pro-
40 visions of (f), (g) and (h) hereof shall be held longer 
41 than a period of one year, the provisions of this section 
42 shall be inapplicable. Such foreign corporations shall file 
43 with the secretary of state a certificate showing the name 
44 and address of the corporation, the name of the state 
45 wherein the corporation was chartered and including 
46 therewith a certified copy of its articles of association or 
47 incorporation, including all amendments thereto, and 
48 shall pay a filing fee of fifty dollars. The corporation 
49 shall likewise file with the secretary of state a certified 
50 copy of all amendments subsequently made to its articles 
51 of association or incorporation within six months from the 
52 date of any such amendment, and failure to file any such 
53 amendment shall subject such corporation to a fine of not 
54 more than one thousand dollars. The provisions of section 
55 seventy-one of this article relating to service of process 
56 on foreign corporations shall be applicable to the foreign 
57 corporations mentioned in this section.

CHAPTER 22

(House Bill No. 377—By Mr. Lile, by request)

AN ACT to amend and reenact section eighty-three, article one, 
chapter thirty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the 
effect of dissolution or expirations of corporations.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the 
Governor.]

Section 83. Effect of dissolution or expiration.

Be it enacted by the Legislature of West Virginia:

That section eighty-three, 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 83. Effect of Dissolution or Expiration.—When a corporation shall expire or be dissolved as prescribed in this article, (or its charter be forfeited pursuant to section eighty-six, article twelve, chapter eleven of this code), its property and assets shall be subject to the payment of the corporate obligations and the expenses of winding up its affairs, and the surplus, if any, to distribution among the stockholders according to their respective rights. The board of directors and the executive officers in office at the date of such expiration or dissolution, and their successors in office, shall have the right to fill any vacancy in any executive office and of the board of directors by appointment; and they and their successors in office may cause suits to be brought, conducted, prosecuted or defended, the real and personal property of the corporation to be conveyed or transferred under the common seal or otherwise, further assurances of previous conveyances to be made, and all lawful acts to be done, in the corporate name, in like manner and with like effect as before such dissolution or expiration; but so far only as shall be necessary or proper to do and perform every act and thing which should have been or should be done and performed by the corporation, and for collecting the debts and claims due to the corporation, converting its property and assets into money, prosecuting, defending and protecting its rights, enforcing all claims in its favor, and paying over and distributing its property and assets, or the proceeds thereof, to those entitled thereto.
AN ACT to amend article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-five-a, relating to the closing of banking institutions on any one fixed week-day or portion thereof at the discretion of the board of directors; prescribing procedure to be followed in fixing such day; and declaring such day a legal holiday for such banks and bank transactions.

(Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.)

Article 8. Business Operations and Supervision of Banking Institutions, Industrial Loan Companies and Building and Loan Associations.

Section 25-a. Permissive closing on fixed week-day; procedure.

Be it enacted by the Legislature of West Virginia:

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

Section 25-a. Permissive Closing on Fixed Week-Day; Procedure.—Any banking institution or trust company in this state, or combined banking institution and trust company, including national banking associations, may remain closed on any one fixed week-day or portion of such day in each calendar week, other than Sunday, which may be designated by the adoption of a resolution by the board of directors thereof. Not less than fifteen nor more than thirty days in advance of closing of any such week-day or portion thereof, such banking institution shall post
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11 a notice in a conspicuous place in its banking room stating
12 that on or after a day certain and until further notice
13 given in like manner, such banking institution will re-
14 main closed on a fixed week-day or portion thereof. Con- 
15 currently with the posting of such notice, such banking   
16 institution shall cause a notice to be published once each  
17 week for two successive weeks in a newspaper of general  
18 circulation in the county in which the principal office of  
19 such bank is located, which notice shall set forth the  
20 week-day or portion thereof on which said bank will re-
21 main closed and the date when such closing becomes effec-
22 tive. A certified copy of such resolution certified by the
23 cashier or secretary of such banking institution, together 
24 with an affidavit of posting and proof of publication of  
25 the notice herein required shall be filed with the com-
26 missioner of banking.  
27 Any fixed week-day or portion thereof on which any 
28 banking institution shall elect to close pursuant to the 
29 authority of this section shall constitute a legal holiday  
30 or partial legal holiday with respect to such banking insti-
31 tution and not a business day for the purposes of the law 
32 relating to negotiable instruments, and any act or contract 
33 authorized, required or permitted to be carried out or 
34 performed at, by or with respect to such banking institu-
35 tion may be performed on the next business day, and no 
36 liability or loss of rights on the part of any person or 
37 banking institution shall result therefrom.  

CHAPTER 24  
(Senate Bill No. 208—By Mr. Martin)  

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

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That section ten, article two, 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 10. Of County Officers.—Every commissioner of a county court and every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and every sheriff, surveyor of lands, clerk of a county court, assessor, county superintendent of schools, notary public, justice of the peace and constable shall give bond with good security, to be approved, unless otherwise provided by law, by the county court of the county in which such officer is to act. The penalty of the bond of each commissioner of a county court shall be not less than five thousand dollars nor more than ten thousand dollars, the amount to be fixed by the circuit court of the county, or the judge thereof in vacation, by order entered of record on the proper order books of both the county and circuit courts; of the clerk of the circuit court, not less than three thousand nor more than twenty-five thousand dollars; of the sheriff, not less than twenty-five thousand dollars nor more than the aggregate amount of all state, county, district, school, municipal and other moneys which will probably come into his hands during any one year of his term of office; of the surveyor of lands, not less than one thousand nor more than three thousand dollars; of the clerk of the county court not less than three thousand nor more than ten thousand dollars; of the assessor, not less than two thousand nor more than five thousand dollars; of the county superintendent of schools, not less than one thousand nor more than three thousand dollars; of a notary public, not less than two hundred and fifty nor more than one thousand dollars; of a justice of the peace and of a constable, not less than two thousand nor more than fifteen thousand dollars: Provided, however, That the bond herein required to be given by a
notary public may be given before the clerk of the county court, in the vacation of said court, and approved by it at its next regular session.

CHAPTER 25
(Senate Bill No. 317—By Mr. Mitchell)

AN ACT to amend and reenact section three-c, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to powers of county courts with respect to the purchase, installation and maintenance of photo copying, microphotographic or other miniature photographic processes, appliances and supplies.

[Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 3-c. Powers with respect to the purchase, installation and maintenance of photo copying equipment, microphotographic or other miniature photographic processes, appliances and supplies.

Be it enacted by the Legislature of West Virginia:

That section three-c, article one, 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 3-c. Powers with Respect to the Purchase, Installation and Maintenance of Photo Copying Equipment, Microphotographic or Other Miniature Photographic Processes, Appliances and Supplies.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to purchase, install and maintain photo copying equipment, microphotographic, or other miniature photographic processes, appliances and supplies desig-
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CHAPTER 26
(Senate Bill No. 190—By Mr. Martin)

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 a new section, designated section three-h, relating to county court authority and procedure for closing and vacating unused roads, streets and other designated travel ways in subdivisions of land and elsewhere outside of municipalities.

[Passed March 4, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 3-h. Authority and procedure for closing unused streets and travel ways; notice; rights of landowners.

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 a new section, designated section three-h, to read as follows:

Section 3-h. Authority and Procedure for Closing Unused Streets and Travel Ways; Notice; Rights of Landowners.—The county court of any county, upon the veri-
fled application of any landowner whose land abuts on any unused road, street or other travel way designated on any map or plat of a subdivision of land or otherwise within such county but outside of incorporated towns or cities thereof, is hereby authorized to close and vacate any part or all of any such unused road, street or other designated travel way by order entered of record after hearing as hereinafter provided. Before acting to close and vacate any such road, street or travel way, the county court shall consider the application and shall fix a time and place for hearing on such application. Such hearing shall be held not less than fifteen days after the hearing date and place have been so fixed. The applicant shall cause to be published one time, in a newspaper of general circulation in the county, at least fifteen days before such hearing, notice of the time and place of such hearing and the purpose thereof, and shall cause to be served, at least fifteen days before such hearing, in the manner provided by law for the service of notices and process, a notice showing the time, place and purpose of such hearing, upon every owner of property, and every person holding a lien thereon, abutting on such unused road, street or other travel way. The certificate of publication of such notice shall be filed with the county court at or before the hearing as a part of the record in the proceedings.

At the time and place fixed for the hearing, the county court shall hear any evidence relating to the use of and rights or claims in or to any such road, street or other designated travel way sought to be closed and vacated. If the county court concludes and finds upon the record and evidence in the proceedings that the use and rights of no person or persons in such road, street or other travel way will be impaired or lost by the closing and vacation thereof, the county court shall proceed to enter an order closing and vacating such road, street or other travel way and shall cause a copy of said order to be prepared and certified for entry of record in the office of the clerk of such county court. The applicant shall pay the recording fee thereon.
Any person aggrieved by the action of the county court in any such case may seek review thereof in the circuit court of the county as provided in article three of chapter fifty-eight of this code.

CHAPTER 27

(Com. Sub. for Senate Bill No. 28—Originating in the Senate Committee on the Judiciary)

AN ACT to amend chapter seven, article three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-a, relating to display of flags from county courthouses and in circuit courtrooms.

[Passed February 5, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 3. County Property.

Section 2-a. County courts to purchase and display flags; when and where to display.

Be it enacted by the Legislature of West Virginia:

That chapter seven, article three of the code of West Virginia, as amended, be amended by adding thereto a new section, designated section two-a, to read as follows:

Section 2-a. County Courts to Purchase and Display Flags; When and Where to Display.—The county court of every county of the state shall, out of its general revenue fund, cause to be purchased a United States flag and a flag of the state of West Virginia, four feet by six feet in dimensions and of regulation bunting, or of other appropriate size and quality, for its courthouse, and shall require the same to be displayed from such courthouse, or from an appropriate staff or pole near thereto, every day between the hours of sunrise and sunset, except in inclem-
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CHAPTER 28

(AN ACT to amend and reenact section three, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the employment of counsel by county courts.

[Passed March 2, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 4. Prosecuting Attorney, Rewards and Legal Advice.

Section 3. Employment of counsel.

Be it enacted by the Legislature of West Virginia:

That section three, 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 3. Employment of Counsel.—The county court of any county, having a population, according to the last official census, of eighty thousand or more, together with the judge of the circuit court of such county, shall have authority to employ such legal counsel as they may deem necessary for the purpose of advising such county court touching all matters of a civil character and to conduct any litigation of a civil character to which the county is a party. The county court shall also have authority to fix the compensation of any counsel so employed, which

ent weather. Each county court shall likewise cause to be purchased a United States flag and a flag of the state of West Virginia, and require same to be displayed at all times in the circuit courtroom of such county. It shall be the duty of the custodian or other person in charge of such courthouse to see that the flags are displayed as herein provided.

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shall not exceed the sum of six thousand dollars annually, and to pay the same out of the county treasury. Any such counsel so employed may be removed at the pleasure of the county court.

CHAPTER 29

AN ACT to amend and reenact section two, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to bonds of banking institutions designated as county depositories.

[Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 6. County Depositories.

Section 2. Bond of depositories.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Bond of Depositories.—No such designation shall be binding on such county, nor shall any public money be deposited thereunder, until the banking institution designated shall execute bond with good and sufficient sureties, to be accepted and approved by the county court, payable to the state of West Virginia, in such sum as the county court shall direct, and which shall not be less than the maximum sum that shall be deposited in the depository at any one time. Such bond shall be executed by at least four resident freeholders as sureties owning in the aggregate unencumbered real estate having an assessed valuation thereon equal to the
penalty of the bond, or by a fidelity or indemnity com-
pany authorized to do such business within the state,
satisfactory to and acceptable by the county court, and
having not less than six hundred thousand dollars capital;
and such bond shall be conditioned for the receipt, safe-
keeping and payment over of all money which may be
deposited in or come under the custody of the banking
institution designated a county depository under the pro-
visions hereof, together with the interest thereon at the
rate specified by this article; and such bond shall be fur-
ther conditioned for the faithful performance, by the
banking institution so designated, of all the duties im-
posed by this article upon a depository of public moneys:
Provided, however, That the clerk of the county court
shall keep a record of each surety on all personal bonds
given as hereinbefore provided for, and the clerk shall
notify the county court of every recorded conveyance of
real estate made by any surety on said personal bond.

An action shall lie on such bond at the instance of the
county court, or the sheriff, for the recovery of any money
deposited in the depository, upon failure or default of the
depository to fully and faithfully account for and pay
over any and all public moneys deposited by the sheriff
and of all interests earned and accrued thereon as re-
quired by this article. Such bond shall not be accepted
by the county court until it shall have been submitted to
the prosecuting attorney, and certified by him to be in
due and legal form, and conformable to the provisions of
this article, which certificate shall be indorsed thereon:
Provided, however, That the county court may, in lieu of
the bond provided for hereinbefore, accept as security for
money deposited as aforesaid, interest-bearing securities
of the United States, or of a state, county, district or mu-
icipal corporation, or of the federal land banks, or in-
dorsed county and district warrants of the county in
which the depository is located; the face value of which
securities shall not be less than the sum hereinbefore
specified as the amount to be named in the bond in lieu
of which such securities are accepted; or the county court
may accept such securities as partial security to the
extent of their face value for the money so deposited, and
54 require bond for the remainder of the full amount herein-
55 before specified, to be named in the bond, and in the bond
56 so required, such acceptance of securities as partial se-
57 curity, and the extent thereof, shall be set forth. The
58 hypothecation of such securities shall be by proper legal
59 transfer as collateral security to protect and indemnify
60 by trust any and all loss in case of any default on the part
61 of the banking institution in its capacity as depository as
62 aforesaid. All such securities shall be delivered to or
63 deposited for the account of the county court, and with-
64 drawal or substitution thereof may be permitted from
65 time to time upon approval by the county court by order
66 of record, but such collateral security shall be released
67 only by order of record of the county court when satisfied
68 that full and faithful accounting and payment of all the
69 moneys has been made under the provisions hereof. In
70 the event actual possession of such hypothecated securi-
71 ties are delivered to the county court, it shall make ample
72 provision for the safekeeping thereof, and the interest
73 thereon when paid shall be turned over to the banking
74 institution, so long as it is not in default as aforesaid.
75 The county court may permit the deposit under proper
76 receipt of such securities with one or more banking in-
77 stitutions within or without the state of West Virginia
78 and may contract with any such institution for safekeep-
79 ing and exchange of any such hypothecated securities,
80 and may prescribe the rules and regulations for handling
81 and protecting the same.

CHAPTER 30

(Com. Sub. for Senate Bill No. 55—Originating in the Senate
Committee on Counties and Municipal Corporations)

AN ACT to amend and reenact section six, article seven, chap-
ter seven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, and to amend said article
seven by adding thereto fifty-five new sections, designated
sections six-(one) through six-(fifty-five), inclusive, all
relating to the employment, duties and compensation of
assistants, stenographers and clerks for prosecuting attorneys.

[Passed March 9, 1957; in effect July 1, 1957. Approved by the Governor.]

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

Section 6. Assistants, stenographers and clerks for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

(1) to (55). Salaries of assistants, stenographers and clerks for prosecuting attorney of the various counties of the state.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seven be amended by adding thereto fifty-five new sections, designated sections six-(one) through six-(fifty-five), inclusive, all to read as follows:

Section 6. Assistants, Stenographers and Clerks for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute.—The prosecuting attorneys of the several counties of the state may, with the assent of the county courts of their respective counties, entered of record, appoint to assist them in the discharge of their official duties for and during their respective terms of office, the number of practicing attorneys, stenographers and clerks set forth in sections six-(one) through six-(fifty-five), inclusive, of this article. Each such assistant prosecuting attorney shall take the same oath and may perform the same duties as his principal. Each assistant shall serve at the will and pleasure of his principal and he may be removed from office by the circuit court of the county in which he is appointed for any cause for which his principal might be removed.

If in any case the prosecuting attorney and his assistant be unable to act, or if in the opinion of the court it would be improper for him or his assistant to act, the court shall appoint some competent practicing attorney to act
in such case. The court shall certify to the county court the performance of such service when completed and recommend to the county court a reasonable allowance for such attorney for such service, and such sum, when allowed by the county court, shall be paid out of the county treasury. No provision of this section shall be construed to prohibit the employment by any person of a competent attorney or attorneys to assist in the prosecution of any person or corporation charged with crime.

The county courts of the several counties shall compensate the assistant prosecuting attorneys, stenographers and clerks of their respective counties in accordance with the following annual salary provisions:

(1) In counties for which definite salaries are fixed by provisions of sections six-(one) through six-(fifty-five), inclusive, of this article, such definite salaries shall be paid.

(2) In counties for which minimum and maximum salary limits are fixed by provisions of sections six-(one) through six-(fifty-five), inclusive, of this article, the salaries shall be fixed and paid within such limits.

(3) In the counties for which salaries are not fixed and limited by provisions of sections six-(one) through six-(fifty-five), inclusive, of this article, reasonable salaries shall be fixed and paid by the respective county courts.

Such salaries and compensation shall be paid monthly, semi-monthly or otherwise as provided by law. In any case wherein provision is not made in this article for payment of the salary of an assistant prosecuting attorney, the principal shall pay and compensate such assistant for services rendered. The compensation and salaries to be paid assistant attorneys as provided in this article shall include compensation provided by law for such assistant's services as attorney for the county board of education and other administrative boards and officers of his county.

Sec. 6-(1). Barbour County.—For the county of Barbour, one assistant attorney, one thousand dollars; one
3 stenographer, not less than one thousand two hundred
4 nor more than one thousand eight hundred dollars.

Sec. 6-(2). Berkeley County.—For the county of Berke-
2 ley, one assistant attorney, not more than two thousand
3 four hundred dollars; one stenographer, not more than
4 two thousand four hundred dollars.

Sec. 6-(3). Boone County.—For the county of Boone,
2 one assistant attorney, not less than two thousand nor
3 more than three thousand dollars; one stenographer at
4 two thousand four hundred dollars.

Sec. 6-(4). Braxton County.—For the county of Brax-
2 ton, one assistant attorney; one stenographer at one thou-
3 sand four hundred dollars.

Sec. 6-(5). Brooke County.—For the county of Brooke,
2 one assistant attorney; one stenographer, not less than
3 nine hundred nor more than two thousand five hundred
4 dollars.

Sec. 6-(6). Cabell County.—For the county of Cabell,
2 two assistant attorneys, six thousand five hundred dol-
3 lars each; two stenographers, not more than four thous-
4 and dollars each.

Sec. 6-(7). Calhoun County.—For the county of Cal-
2 houn, one assistant attorney, three hundred dollars; one
3 stenographer, at not more than twelve hundred dollars.

Sec. 6-(8). Clay County.—For the county of Clay, one
2 assistant attorney; one clerk or stenographer or in lieu
3 thereof one practicing attorney, not less than one thou-
4 sand nor more than one thousand eight hundred dollars.

Sec. 6-(9). Dodridge County.—For the county of Dod-
2 dridge, one assistant attorney; one stenographer, not more
3 than one thousand eight hundred dollars.

Sec. 6-(10). Fayette County.—For the county of Fay-
2 ette, first assistant attorney, five thousand dollars; second
3 assistant attorney, four thousand four hundred dollars;
4 one stenographer three thousand dollars.

Sec. 6-(11). Gilmer County.—For the county of Gilmer,
2 one assistant attorney; one stenographer, not more than
3 one thousand two hundred dollars.
Sec. 6-(12). Grant County.—For the county of Grant, one assistant attorney; one stenographer or clerk, not more than one thousand two hundred dollars.

Sec. 6-(13). Greenbrier County.—For the county of Greenbrier, one assistant attorney; one stenographer, not more than two thousand nine hundred forty dollars.

Sec. 6-(14). Hampshire County.—For the county of Hampshire, one assistant attorney; one stenographer, not less than one thousand two hundred nor more than two thousand dollars.

Sec. 6-(15). Hancock County.—For the county of Hancock, one assistant attorney, not less than one thousand eight hundred nor more than three thousand dollars; one stenographer, not more than two thousand eight hundred dollars.

Sec. 6-(16). Hardy County.—For the county of Hardy, one assistant attorney; one stenographer or one clerk at salary fixed by prosecuting attorney, not to exceed one thousand twenty dollars.

Sec. 6-(17). Harrison County.—For the county of Harrison, first assistant attorney, six thousand five hundred dollars; second assistant attorney, five thousand five hundred dollars; two stenographers, not less than nine hundred dollars nor more than three thousand six hundred dollars for each.

Sec. 6-(18). Jackson County.—For the county of Jackson, one assistant attorney; one stenographer, not more than one thousand eight hundred dollars and not less than one thousand two hundred dollars.

Sec. 6-(19). Jefferson County.—For the county of Jefferson, the prosecuting attorney may employ a stenographer for his office at a salary of not less than one thousand five hundred dollars nor more than two thousand one hundred dollars per annum, payable out of the county treasury to be fixed by the said prosecuting attorney of said county of Jefferson.

Sec. 6-(20). Kanawha County.—For the county of Kanawha, three assistant attorneys, not less than six thousand
nor more than seven thousand six hundred dollars each; three stenographers, at a salary not to exceed three thousand and six hundred dollars each.

Sec. 6-(21). Lewis County.—For the county of Lewis, one assistant attorney, not more than one thousand two hundred dollars; one stenographer, not less than six hundred nor more than one thousand eight hundred dollars.

Sec. 6-(22). Lincoln County.—For the county of Lincoln, one assistant attorney, not more than three thousand six hundred dollars; one stenographer or clerk, not more than three thousand dollars.

Sec. 6-(23). Logan County.—For the county of Logan, one assistant attorney, at five thousand five hundred dollars; one stenographer, not more than three thousand nine hundred dollars; second stenographer, not more than three thousand three hundred dollars.

Sec. 6-(24). Marion County.—For the county of Marion, two assistant attorneys, not less than four thousand two hundred nor more than four thousand eight hundred dollars for each; one stenographer, not more than two thousand eight hundred dollars.

Sec. 6-(25). Marshall County.—For the county of Marshall, one assistant attorney at two thousand four hundred dollars; one stenographer or clerk, not less than two thousand eight hundred nor more than three thousand dollars.

Sec. 6-(26). Mason County.—For the county of Mason, one assistant attorney; one stenographer, not less than one thousand one hundred nor more than one thousand five hundred dollars.

Sec. 6-(27). McDowell County.—For the county of McDowell, two assistant attorneys, not less than three thousand nor more than four thousand eight hundred dollars for each; one stenographer, not less than one thousand five hundred nor more than three thousand dollars.

Sec. 6-(28). Mercer County.—For the county of Mercer, one assistant attorney, at five thousand dollars; one stenographer or clerk, not more than three thousand dollars.
Sec. 6-(29). Mineral County.—For the county of Mineral, one assistant attorney, not more than one thousand two hundred dollars; one stenographer, not less than three thousand dollars.

Sec. 6-(30). Mingo County.—For the county of Mingo, one assistant attorney, not more than four thousand dollars; one stenographer, not more than three thousand six hundred dollars.

Sec. 6-(31). Monongalia County.—For the county of Monongalia, one assistant attorney, at four thousand dollars; one stenographer, not less than two thousand four hundred nor more than three thousand six hundred dollars.

Sec. 6-(32). Monroe County.—For the county of Monroe, one assistant attorney; one stenographer, not more than six hundred dollars.

Sec. 6-(33). Morgan County.—For the county of Morgan, one assistant attorney.

Sec. 6-(34). Nicholas County.—For the county of Nicholas, one assistant attorney, not more than one thousand two hundred dollars.

Sec. 6-(35). Ohio County.—For the county of Ohio, first assistant attorney, at four thousand five hundred dollars; second assistant attorney, at four thousand dollars; third assistant attorney, at three thousand five hundred dollars; one stenographer, not more than two thousand seven hundred dollars; second stenographer, not more than one thousand two hundred dollars.

Sec. 6-(36). Pendleton County.—For the county of Pendleton, one assistant attorney; one stenographer or clerk, not more than one thousand eighty dollars.

Sec. 6-(37). Pleasants County.—For the county of Pleasants, one stenographer, not more than one thousand dollars.

Sec. 6-(38). Pocahontas County.—For the county of Pocahontas, one assistant attorney; one stenographer, not more than one thousand eight hundred dollars.
Sec. 6-(39). *Preston County.*—For the county of Preston, one assistant attorney at a salary not exceeding two thousand seven hundred dollars; one stenographer, not more than two thousand seven hundred dollars.

Sec. 6-(40). *Putnam County.*—For the county of Putnam, one assistant attorney, not more than two thousand dollars; one stenographer, not more than two thousand four hundred dollars.

Sec. 6-(41). *Raleigh County.*—For the county of Raleigh, one assistant attorney, at five thousand dollars; one stenographer, not more than three thousand three hundred dollars.

Sec. 6-(42). *Randolph County.*—For the county of Randolph, one assistant attorney, not more than two thousand seven hundred dollars; one stenographer, not less than one thousand five hundred dollars.

Sec. 6-(43). *Ritchie County.*—For the county of Ritchie, one assistant attorney; one stenographer, not less than one thousand nor more than one thousand five hundred dollars.

Sec. 6-(44). *Roane County.*—For the county of Roane, one assistant attorney; one stenographer, not less than one thousand five hundred nor more than two thousand four hundred dollars.

Sec. 6-(45). *Summers County.*—For the county of Summers, one assistant attorney, not less than one thousand nor more than two thousand dollars; one stenographer, not less than one thousand five hundred nor more than two thousand four hundred dollars.

Sec. 6-(46). *Taylor County.*—For the county of Taylor, one assistant attorney; one stenographer, not less than one thousand two hundred nor more than three thousand dollars.

Sec. 6-(47). *Tucker County.*—For the county of Tucker, one assistant attorney.

Sec. 6-(48). *Tyler County.*—For the county of Tyler, one assistant attorney; one stenographer, not more than one thousand eight hundred dollars.
Sec. 6-(49). Upshur County.—For the county of Upshur,  
2 one assistant attorney, not more than one thousand two  
3 hundred dollars; one stenographer, not more than nine  
4 hundred dollars.

Sec. 6-(50). Wayne County.—For the county of Wayne,  
2 one assistant attorney, at three thousand six hundred dol-  
3 lars; one stenographer, not less than two thousand seven  
4 hundred nor more than three thousand dollars.

Sec. 6-(51). Webster County.—For the county of Web-  
2 ster, one assistant attorney, not less than six hundred nor  
3 more than nine hundred dollars; one stenographer, one  
4 thousand five hundred dollars.

Sec. 6-(52). Wetzel County.—For the county of Wetzel,  
2 one assistant attorney, not less than nine hundred dollars  
3 nor more than one thousand two hundred dollars; one  
4 stenographer, not more than two thousand eight hundred  
5 dollars.

Sec. 6-(53). Wirt County.—For the county of Wirt, one  
2 assistant attorney.

Sec. 6-(54). Wood County.—For the county of Wood,  
2 one assistant attorney, at two thousand five hundred  
3 dollars; one stenographer, not less than nine hundred nor  
4 more than two thousand dollars.

Sec. 6-(55). Wyoming County.—For the county of  
2 Wyoming, one assistant attorney, not less than one thou-  
3 sand five hundred nor more than two thousand seven  
4 hundred dollars; one stenographer at salary fixed by  
5 county court.

CHAPTER 31

(House Bill No. 284—By Mr. Brotherton and Mr. Charnock)

AN ACT to amend and reenact sections one, two, three, four  
and five, article eleven, chapter seven of the code of West  
Virginia, one thousand nine hundred thirty-one, as  
amended, relating to creation of a board of park commis-  
sioners by county courts in counties having a population
in excess of two hundred thousand persons, to establish, maintain, develop and operate a park and recreation system for the county, providing its name, defining its powers, providing for the appointment and qualification of its members; the term of office of the members and their qualifications; and the powers and authority of such board of commissioners.

[Passed March 6, 1957; in effect from passage. Approved by the Governor.]

Article 11. Board of Park and Recreation Commissioners.

Section
1. County courts authorized to create a board of park and recreation commissioners.
2. Board, a body corporate; perpetual existence; name; powers.
3. Members; qualifications; appointment; term; disqualifications.
4. Oath of members; organization of board; secretary.
5. General powers of the board.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four and five, article eleven, 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. County Courts Authorized to Create a Board of Park and Recreation Commissioners.—The county court of any county in the state of West Virginia having a population in excess of two hundred thousand persons is hereby authorized and empowered by order entered of record, to create a board of park and recreation commissioners for the purpose of establishing, improving, developing, operating and maintaining a county public park and recreation system.

Sec. 2. Board, a Body Corporate; Perpetual Existence; Name; Powers.—The board of park and recreation commissioners created by the county court, enacted pursuant to the authority of this article, shall be a public corporate board, with perpetual existence and a corporate seal. It shall be known as the board of park and recreation commissioners of such county. It shall have the power to
receive any gift, grant, donation and bequest or devise; sue and be sued; contract and be contracted with and to do any and all things which may be necessary or convenient to carry out and effectuate the purposes and provisions of this article.

Sec. 3. Members; Qualifications; Appointment; Term; Disqualifications.—The board shall consist of eleven members, a majority of whom shall constitute a quorum for the transaction of business. Each member of said board shall be a bona fide resident of the county and shall own real estate within such county. The term of the board membership shall be for three years and until their successors have been appointed and qualified: Provided, however, That the county court in appointing the members of the first board shall appoint three members for a term of one year; four members for a term of two years and four members for a term of three years. The order of the county court shall fix the date on which the term of such board members shall begin. Any member of the board, who shall cease to be a bona fide resident of the county or a freeholder thereof, shall thereby be disqualified as a member of said board and his office shall become vacant. When a vacancy occurs on said board by reason of death, resignation, change of residence from the county or expiration of term, the county court shall appoint a successor or successors who shall fill out the unexpired term of such member of the board whose term has been vacated.

Sec. 4. Oath of Members; Organization of Board; Secretary.—After appointment, the members of the board shall qualify by taking and filing with the clerk of the county court the oath prescribed by law of public officials; one of the members of said board shall be elected as president, another as vice president, and a secretary shall be elected who need not be a member of the board. Said board of park and recreation commissioners shall maintain an office at any place they may designate in the county and have control of the management and operation of all properties which shall be operated in connec-
tion with the public park and recreation system of such county and shall have power to employ such persons as, in its opinion, may be necessary for the construction, operation, and maintenance of the property under its control, subject, however, to the appropriation of money for such purpose by the county court of such county and its written approval thereof.

Sec. 5. General Powers of the Board.—The board of park and recreation commissioners of any county shall have the necessary powers and authority to manage and control all public parks, and recreation facilities owned by the county and used as a part of such public park and recreation system, including the right to make rules and regulations concerning the management and control of such parks and to enforce any such rules and regulations so promulgated.

CHAPTER 32
(Com. Sub. for House Bill No. 99—Originating in the House Committee on Finance)

AN ACT to amend and reenact section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of judges of circuit courts.

[Passed March 6, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section 4. Salaries of judges of circuit courts; additional compensation from counties.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
Section 4. Salaries of Judges of Circuit Courts; Additional Compensation from Counties.—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:

1. In circuits having more than one hundred thousand population, twelve thousand two hundred dollars;
2. In circuits having more than eighty thousand and less than one hundred thousand population, eleven thousand two hundred dollars;
3. In circuits having more than sixty thousand and less than eighty thousand population, ten thousand seven hundred dollars;
4. In circuits having less than sixty thousand population, ten thousand two hundred dollars.

Any county court or the board of county commissioners of Ohio county may pay the judge of the circuit court additional compensation, but the salary and additional compensation or combined contribution of the several county courts and board of commissioners shall not exceed eighteen thousand two hundred dollars.

The population shall be according to the United States census, or the estimate of the United States bureau of census, as certified to the state auditor by the United States director of the census last preceding the beginning of the calendar year in which the salary is payable.

CHAPTER 33

(Senate Bill No. 86—By Mr. Stemple)

AN ACT to amend and reenact section six, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allowances to circuit judges for stationery, postage and stenographic help, and to payments therefor.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]
Article 7. Compensation and Allowances.

Section 6. Allowances to circuit judges for stationery, postage and stenographic help; payments therefor.

Be it enacted by the Legislature of West Virginia:

That section six, 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 6. Allowances to Circuit Judges for Stationery, Postage and Stenographic Help; Payments Therefor.—Each judge of the circuit court shall be allowed an amount not to exceed two hundred twenty-five dollars per month for the payment of stenographic help necessary in the discharge of the duties of his office, and each judge shall be allowed an amount not to exceed twenty-five dollars per month for the procurement of necessary stationery, payment of postage, and necessary supplies for his office. The judge shall be reimbursed for the actual amounts expended by him for stationery, supplies and postage. Payment for stenographic help shall be made directly to the person performing the stenographic work. Such amounts shall be paid monthly out of the state treasury, but not until the judge submits an itemized statement covering the same.

CHAPTER 34

(House Bill No. 34—By Mr. Morford and Mr. Taylor)

AN ACT to amend and reenact section one-e, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of court in the fifth judicial circuit.

[Passed January 24, 1957; in effect from passage. Approved by the Governor.]
Chapter 35

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Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section 1-e. Fifth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-e, 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-e. Fifth Circuit.—For the county of Calhoun, on the third Monday in February, June and October.
For the county of Jackson, on the first Monday in March, July and November.
For the county of Mason, on the first Monday in January, May and September.
For the county of Roane, on the fourth Monday in January, May and September.

CHAPTER 35

(House Bill No. 202—By Mr. Carr)

AN ACT to amend and reenact section one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of court in the eleventh judicial circuit.

[Passed February 8, 1957; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section 1-k. Eleventh circuit.

Be it enacted by the Legislature of West Virginia:

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

Section 1-k. Eleventh Circuit.—For the county of Pocahontas, on the second Tuesday in March, the second Tuesday in June, and the first Tuesday in October.
3 For the county of Greenbrier, on the third Tuesday in April, the fourth Tuesday in July, and the second Tuesday in November.
7 For the county of Monroe, on the first Tuesday in April, the second Tuesday in July, and the third Tuesday in October.
10 For the county of Summers, on the second Tuesday in January, the third Tuesday in May, and the second Tuesday in September.

CHAPTER 36

(House Bill No. 148—By Mr. Kidd and Mr. Cruikshank)

AN ACT to amend and reenact section one-n, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of court in the fourteenth judicial circuit.

[Passed January 31, 1957; in effect April 10, 1957. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section 1-n. Fourteenth circuit.

Be it enacted by the Legislature of West Virginia:

That section one-n, 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-n. Fourteenth Circuit.—For the county of Braxton on the first Monday in February, June and October.
4 For the county of Clay on the third Monday in March, 5 July and November.  
6 For the county of Gilmer on the first Monday in March, 7 July and November.  
8 For the county of Webster on the first Monday in January, May and September.

CHAPTER 37

(House Bill No. 301—By Mr. McCoy)

AN ACT to amend and reenact section one-v, 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 in the twenty-second judicial circuit.

[Passed February 19, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.
Section 1-v. Twenty-second circuit.

Be it enacted by the Legislature of West Virginia:

That section one-v, 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-v. Twenty-second Circuit.—For the county of Hampshire, on the first Tuesday in January, March and July, and the third Tuesday in September.  
4 For the county of Hardy, on the third Tuesday in February, June and October.  
6 For the county of Pendleton, on the third Tuesday in March, the fourth Tuesday in July, and the third Tuesday in November.
CHAPTER 38

(House Bill No. 76—By Mr. Bower and Mr. England)

AN ACT to amend and reenact section one-aa, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terms of the circuit court of the twenty-seventh circuit.

(Passed February 4, 1957; in effect from passage. Approved by the Governor.)

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section 1-aa. Twenty-seventh circuit.

Be it enacted by the Legislature of West Virginia:

That section one-aa, 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-aa. Twenty-Seventh Circuit.—For the county of Wyoming on the second Monday in March, the second Monday in May, and the second Monday in September and November.

CHAPTER 39

(House Bill No. 102—By Mr. Speaker, Mr. Flannery and Mr. Seibert)

AN ACT to amend and reenact section four, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to retirement system for judges of courts of record and contributions to retirement fund by judges.

(Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.)
Article 9. Retirement System for Judges of Courts of Record.

Section 4. Percentage contributions from salaries; termination of contributions.

Be it enacted by the Legislature of West Virginia:

That section four, article nine, 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 4. Percentage Contributions from Salaries; Termination of Contributions.—Every person who is now or shall hereafter serve as a judge of any court of record of this state shall pay into the judges' retirement fund six per cent of the salary received by him either out of the state treasury or from any county court or courts of this state, or, if his total salary as such judge be paid in part out of the state treasury and in part by a county court or county courts, then six per cent of such total salary shall be paid into the said fund: Provided, That when a judge becomes eligible to receive benefits from said fund no further payment by him shall be required.

In drawing warrants for the salary checks of said judges, the state auditor shall deduct from the amount of each such salary check six per cent thereof, which amount so deducted shall be credited by the state treasurer to said fund. Where the salary, or any part thereof, of a judge is paid by a county court, such county court shall deduct from the amount of each such salary check six per cent of the amount thereof, which amount so deducted shall be paid by said county court into the state treasury to the credit of said fund.

CHAPTER 40

(House Bill No. 315—By Mr. Bachmann and Mr. Moreland)

AN ACT to amend and reenact sections three, seventeen, twenty-seven and thirty-nine, article three, chapter sixty-
one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to crimes against property; penalties.

[Passed February 20, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 3. Crimes Against Property.
Section
3. Burning personal property of another of the value of fifty dollars; third degree arson.
17. Larceny of skiff, boat, timber and appliances; penalty.
27. Malicious killing of animals by poison or otherwise; penalty.
39. Giving worthless check; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Burning Personal Property of Another of the Value of Fifty Dollars; Third Degree Arson.—Any person who wilfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any personal property of any class or character, (such property being of the value of not less than fifty dollars and the property of another person), shall be guilty of arson in the third degree and upon conviction thereof, be sentenced to the penitentiary for not less than one nor more than three years.

Sec. 17. Larceny of Skiff, Boat, Timber and Appliances; Penalty.—If any person unlawfully take and carry away or convert to his own use any skiff, boat or timber, whether the same be afloat or not, or if any person buy or receive from another person, or aid in concealing, any stolen rope, line fastening, connection or other appliances or device used to tie, moor, attach or fasten floating craft, timber or other material to a bank of any stream, knowing or
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9 having cause to believe the same to have been stolen, he
10 shall be deemed guilty of the larceny thereof, and if the
11 value thereof exceed fifty dollars, he shall be guilty of
12 a felony, and, upon conviction, shall be confined in the
13 penitentiary not less than one nor more than five years;
14 and if the value be less than fifty dollars, he shall be
15 deemed guilty of a misdemeanor, and be punished as in
16 other cases of petit larceny. Any person so receiving such
17 property, knowing or having cause to believe the same
18 to be stolen, may be prosecuted although the principal
19 offender be not convicted.

Sec. 27. Malicious Killing of Animals by Poison or Other-
2 wise; Penalty.—If any person maliciously administer
3 poison to, or expose it with intent that it should be taken
4 by, any horse, cattle or other beast, of another person, or
5 if any person maliciously maim, kill, or cause the death
6 of any horse, cattle or other beast, of another person, of
7 the value of fifty dollars or more he shall be guilty of a
8 felony, and, upon conviction, shall be confined in the
9 penitentiary not less than one nor more than five years;
10 and, if it be of less value than fifty dollars, he shall be
11 guilty of a misdemeanor, and, upon conviction, shall be
12 confined in jail not more than three months and fined not
13 more than fifty dollars, in the discretion of the court:
14 Provided, That this section shall not be construed to
15 include dogs.

Sec. 39. Giving Worthless Check; Penalties.—Any per-
2 son who, with intent to defraud, shall make, draw, issue,
3 utter or deliver to another any check, draft or order for
4 the payment of money upon any bank, or other deposi-
5 tory, and thereby obtain from such other any credit,
6 credit on account, money, goods or other property or thing
7 of value, knowing at the time of such making, drawing,
8 issuing, uttering or delivering that the maker or drawer
9 thereof has not sufficient funds in, or credit with such
10 bank or other depository for the payment of such check,
11 draft or order in full upon its presentment, shall be guilty
12 of a misdemeanor, if the amount of such check, draft or
13 order be under fifty dollars, and upon conviction thereof,
shall be confined in the county jail not less than five nor
more than sixty days, or fined not less than one hundred
dollars, or both fined and imprisoned; and if the amount
of such check, draft or order be fifty dollars or over, he
shall be guilty of a felony, and, upon conviction thereof,
shall be confined in the penitentiary not less than one
nor more than five years and be fined not more than one
thousand dollars. The making, drawing, issuing, uttering
or delivering of a check, draft or order upon such bank, or
other depository, by any person knowing that there is
not sufficient funds or credit in such bank or depository
from which the same can be paid on presentment shall,
as against the drawer, be prima facie evidence of knowl-
edge of insufficiency of funds, or lack of credit, and of
intent to defraud: Provided, however, That if such check,
draft or order be paid at any time previous to the trial
or examination of such person before a justice of the
peace, or before indictment of such person by a grand
jury, then no presumption of knowledge of insufficiency
of funds, or lack of credit, and of intent to defraud shall
arise.

The making, drawing, issuing, uttering or delivery of
any such check, draft or order, for or on behalf of any
corporation, or in its name, by any officer or agent of
such corporation, shall subject such officer or agent to
the penalties of this section to the same extent as though
such check, draft, or order was his own personal act,
when such agent or officer knows that such corporation
does not have sufficient funds or credit with such bank
or other depository from which such check, draft or order
can legally be paid upon presentment.

Such person, officer or agent, shall be prosecuted in the
county in which he makes, draws, issues or delivers such
check. Justices of the peace shall have jurisdiction to try
any misdemeanor charge hereunder. The word “credit”
as used herein shall be construed to mean an arrangement
or understanding with the bank or depository for the pay-
ment of such check, draft or order.
CHAPTER 41

(House Bill No. 175—By Mr. Bachmann and Mr. Moreland)

AN ACT to amend and reenact section thirteen, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to grand and petit larceny distinguished; penalties.

[Passed February 19, 1957; in effect from passage. Approved by the Governor.]

Article 3. Crimes Against Property.
Section
13. Grand and petit larceny distinguished; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 13. Grand and Petit Larceny Distinguished; Penalties.—If any person commit simple larceny of goods or chattels, he shall, if they be of the value of fifty dollars or more, be deemed guilty of grand larceny, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than ten years; and if they be of less value, he shall be deemed guilty of petit larceny, and, upon conviction thereof, be confined in jail not exceeding one year.

CHAPTER 42

(Com. Sub. for Senate Bill No. 62—Originating in the Senate Committee on the Judiciary)

AN ACT to amend chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, designated article three-a, providing that larceny or misappropriation of goods held for sale or obtaining such goods by false pretenses shall, under certain circumstances, constitute the crime of shoplifting as herein defined, providing penalties for such crime; declaring that a presumption of guilt shall arise under certain circumstances; declaring that said crime shall constitute a breach of the peace and authorizing the arrest of the persons committing such crime.

[Passed February 28, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 3-a. Shoplifting.

Section 1. Definitions.

Section 2. Penalties.

Section 3. Concealment of merchandise.

Section 4. Shoplifting to constitute breach of peace.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Definitions.—When used in this article, the following terms shall have the following meanings:

(1) "Shoplifting" shall consist of any one or more of the following acts:

(a) For any person wilfully to take possession of any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.

(b) For any person wilfully to conceal upon his person or otherwise any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.
(c) For any person wilfully to alter any label, price tag or marking upon any merchandise offered for sale by any store with the intention of depriving the owner of all or some part of the value thereof.

(d) For any person wilfully to transfer any merchandise offered for sale by any store from the container in or on which the same shall be displayed to any other container with intent to deprive the owner of all or some part of the value thereof.

(2) "Store" shall mean any store or mercantile establishment in which merchandise is displayed for sale in such manner as to be readily accessible to persons shopping therein.

(3) "Merchandise" shall include goods and wares.

(4) "Owner of merchandise" shall include the owner and any other person, firm or corporation having the right to offer the same for sale as agent, consignee or in other capacity under any agreement with the owner of such merchandise.

(5) "Value of merchandise" shall mean the fair market value of any merchandise which a person shall convert to his own use in committing an act of shoplifting defined in subsections (a) and (b) of this section, or in the event a person shall commit an act of shoplifting defined in either subsections (c) or (d) of this section, then the "value of merchandise" shall mean the fair market value of that part of the merchandise of which the owner has been deprived in consequence of the commission of such act of shoplifting.

Sec. 2. Penalties.—If any person shall commit an act of shoplifting as defined in this article, he shall be guilty of a misdemeanor if the value of the merchandise be under fifty dollars and, upon conviction thereof, shall be confined in the county jail not less than one day nor more than twelve months, or fined not less than five dollars nor more than five hundred dollars, or both fined and imprisoned; and if the value of the merchandise be fifty dollars or over, such person shall be guilty of a felony and, upon conviction thereof, shall be confined in
the penitentiary not less than one nor more than ten
years and fined not more than one thousand dollars.
Justices of the peace shall have concurrent jurisdiction
with the circuit and criminal or intermediate courts of
misdemeanors under this section.

Sec. 3. Concealment of Merchandise.—If any person
shall wilfully conceal upon his person or otherwise mer-
chandise belonging to any store and for which such per-
sion has not paid the purchase price in full, either upon
or away from the store premises, there shall be a prima
facie presumption that such person has concealed said
merchandise with the intent of converting the same to
his own use within the meaning of the definition of shop-
lifting contained in section one of this article.

Sec. 4. Shoplifting to Constitute Breach of Peace.—An
act of shoplifting, as herein defined, is hereby declared to
constitute a breach of the peace, and any citizen of this
state may arrest a person committing any such act of shop-
lifting in his presence.

CHAPTER 43
(House Bill No. 146—By Mr. Chilton and Mr. Brotherton)

AN ACT to amend chapter twenty-seven of the code of West
Virginia, one thousand nine hundred thirty-one, as amend-
ed, by adding thereto a new article, to be designated article
six-a, relating to sentencing, commitment and control of
sex offenders.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 6-a. Commitment, Sentencing and Control of Sex Of-
fenders.

Section
1. Incest and crimes against nature; commitment for pre-sentence
examinations.
2. Rape and other sex crimes.
3. Transportation.
5. Sentence imposed.
6. Commitment to the board.
7. The effect of appeal from a judgment of convictions.
8. Notice of commitments; treatment; transfer; use of other facilities.
11. Duration of control.
12. Termination of control.
13. Continuance of control; order and application for review by the committing court.
14. Action of committing court upon application for review; reasons for continuance of control by the board.
15. Review by court of subsequent orders of the board.
16. Appeal from judgment of committing courts.
17. Voluntary admission to diagnostic institution; treatment.
18. Conflict of provisions; effect.
19. Agency of control.
20. Separability.

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 amended by adding thereto a new article, to be designated article six-a, to read as follows:

Section 1. Incest and Crimes Against Nature; Commitment for Pre-Sentence Examinations.—If a person is convicted under chapter sixty-one, article eight, section twelve or thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, the court shall commit him to the West Virginia board of control for pre-sentence social, physical and mental examinations. The court and all public officials shall make available to the board of control, upon its request, all pertinent data in their possession in respect to the case.

Sec. 2. Rape and Other Sex Crimes.—If a person is convicted under chapter sixty-one, article two, section fifteen, provided the sentence of the court is not death, or chapter sixty-one, article eight, section eleven, or section twenty-eight or under chapter forty-nine, article seven, section seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, wherein the offense under chapter forty-nine, article seven, section seven relates to sex acts, the court may commit him to the board of control for such a pre-sentence examination as the court is of the opinion that such an examination is
necessary and proper in the case. The court and all public
officials shall make available to the board of control, upon
its request, all pertinent data in their possession with
respect to the case.

Sec. 3. Transportation.—When the court commits a per-
son to the board of control in accordance with section one
or two for pre-sentence examinations, the court shall
order him conveyed by the proper county authorities to
some place of detention approved or established by the
board of control.

Sec. 4. Report of Examination.—Upon completion of
the examination but not later than sixty days after the
commitment order, a report of the results of the exami-
nation and recommendation of the board of control shall
be sent to the court.

Sec. 5. Sentence Imposed.—If it appears from such
reports that the board does not recommend specialized
treatment for the person's mental and physical aberra-
tions, the court shall order the proper county authorities to
bring him before the court and shall sentence him in the
manner provided by law or place him on probation if the
case warrants.

Sec. 6. Commitment to the Board.—If it appears from
said report that the board of control recommends spe-
cialized treatment for the person's mental or physical
aberrations, the court shall either order him brought
before the court by the proper county authorities and
place him on probation with the requirement as a con-
dition of such probation that he receives out-patient treat-
ment in such manner as the court shall prescribe or com-
mit him to the board of control under this article.

Sec. 7. The Effect of Appeal from a Judgment of
Convictions.—(a) The right of a convict to appeal from
the judgment of conviction is not affected by this article.
(b) If a person who has been convicted and committed
to the board of control appeals from a conviction the
execution of the commitment to the board of control shall
not be stayed by the appeal except as provided in para-
graph (c).
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Sec. 8. Notice of Commitments; Treatment; Transfer; Use of Other Facilities.—(a) If a court commits a person to the board of control it shall at once notify the board of control of such action in writing.

(b) The board of control shall then arrange for his treatment in the institution in this state best suited in its judgment to care for him. It may transfer him to or from any institution to provide for him according to his needs and to protect the public. The board of control may, irrespective of his consent, require participation by him in vocational, physical, educational and correctional training and activities; may require such modes of life and conduct as seem best adapted to fit him for the return to full liberty without danger to the public; and may make use of other methods of treatment and any treatment conducive to the correction of the person and to the prevention of future violations of law by him.

(c) The board of control may make use of law enforcement, detention, parole, medical psychiatry, educational, correctional, segregative and other facilities, institutions and agencies, public or private, within the state.

(d) No person placed in an institutional agency may be released therefrom except to the board of control or after approval of such release by the board of control.

Sec. 9. Periodic Examinations.—The board of control shall make periodic examinations of all persons within its control under this article for the purpose of determin-
ing whether the existing orders and dispositions in individual cases should be modified or continued in force. These examinations may be made as frequently as the board of control considers desirable and shall be made with respect to every person at intervals not exceeding one year. The board of control shall keep written records of all examinations and conclusions predicated thereon, and of all orders concerning the disposition or treatment of every person under its control. Failure of the board of control to examine a person committed to it or to make periodic examinations shall not entitle him to a discharge from the control of the board of control, but shall entitle him to petition the committing court for an order of discharge and the court shall discharge him unless it appears in accordance with section thirteen that there is necessity for further control.

Sec. 10. Parole.—Any person committed as provided in this article may be paroled if it appears to the satisfaction of the board of control, after recommendation by a special review board of five members, appointed by the board of control, a majority of the members of which shall not be connected with the board of control, and two of whom shall be qualified psychiatrists, that he is capable of making acceptable adjustment in society. The board of control may recommend to the board of probation and parole regulations for parole, revocation of parole and supervision of parolees. The parolee, however, will be amenable to the orders, directives and control of the board of probation and parole while he is paroled and in the event his parole is revoked, he will be recommitted to the custody of the board of control.

Sec. 11. Duration of Control.—The board of control shall keep every person committed to it under this article under its control and shall retain him, subject to the limitations of section twelve, under supervision and control, so long as in its judgment such control is necessary for the protection of the public. The board of control shall discharge any such person as soon as in its opinion there is reasonable probability that he can be given full liberty without danger to the public, but no person convicted of a felony
shall, without the written approval of the committing
court, be discharged.

Sec. 12. Termination of Control.—Every person com-
mitted to the board of control who has not been discharged
from its control as provided in section eleven, shall be
discharged at the expiration of the maximum term pre-
scribed by law for the offense for which he was convicted
or the expiration of one year, whichever is the greater,
unless the board of control has previously thereunto made
an order directing that he remain subject to its control
for a longer period and has applied to the committing
court for a review of said order as provided in section
thirteen.

Sec. 13. Continuance of Control; Order and Application
for Review by the Committing Court.—If the board of
control is of the opinion that discharge of a person from
its control at the time provided in section twelve would
be dangerous to the public for reasons set forth in section
fourteen, it shall make an order directing that he remain
subject to its control beyond that period; and shall make
application to the committing court for a review of that
order at least ninety days before the time of discharge
stated.

Sec. 14. Action of Committing Court Upon Application
for Review; Reasons for Continuance of Control by the
Board.—(a) If the board of control applies to the com-
mittling court for the review of an order as provided in
section thirteen, the court shall notify the person whose
liberty is involved, and, if he is not sui juris, his parent
or guardian as practicable, of the application, and shall
afford him opportunity to appear in court with counsel
and of process to compel the attendance of witnesses and
the production of evidence. He may have a doctor or
psychiatrist of his own choosing examine him in the
institution to which he is confined or at some suitable
place designated by the board of control. If he is unable
to provide his own counsel, the court shall appoint counsel
to represent him. He shall not be entitled to a trial by
jury.
(b) If, after a hearing, the court finds that discharge from the control of the board of control of the person to whom the order applies would be dangerous to the public because of the person's mental or physical deficiency, disorder or abnormality the court shall confirm the order. If the court finds that discharge from the control of the board of control would not be dangerous to the public for the causes stated, the court shall order that he be discharged from the control of the board of control at the time stated in the original commitment.

Sec. 15. Review by Court of Subsequent Orders of the Board.—(a) When an order of the board of control is confirmed as provided in section fourteen, the control of the board of control over the person shall continue, but unless he is previously discharged, the board shall within five years after the date of such confirmation make a new order and a new application for review thereof in accordance with this article. Such orders and applications may be repeated as often as in the opinion of the board of control it may be necessary for the protection of the public.

(b) Every person shall be discharged from the control of the board of control at the termination of the periods stated in paragraph (a) of this section unless the board of control has previously acted therein as required, and shall be discharged if the court fails to confirm the order as provided in section fourteen.

Sec. 16. Appeal from Judgment of Committing Courts.—If under the provisions of this article the court affirms an order of the board of control, the person whose liberty is involved may appeal to the proper appellate court for a reversal or modification of the order. The appeal shall be taken in the manner provided by law for appeals to said court from the judgment of an inferior court.

Sec. 17. Voluntary Admission to Diagnostic Institution; Treatment.—Any person believing himself to be afflicted by a physical or mental condition which may result in sexual action dangerous to the public may apply upon forms prescribed by the board for voluntary admission to some institution which provides diagnosis for such
persons. If the application is approved and he is admitted by the board of control, he shall be given a complete physical and mental examination. If it appears upon the examination that he is afflicted by a physical or mental condition that may prove dangerous to the public, such fact shall be certified to him and to the board of control. If he desires treatment, he may apply for admission to an institution designated by the board of control and upon approval of his application, he may be received in the designated institution and shall there receive the treatment indicated by his condition. If he is able to defray all or a part of the cost of his care and treatment, he shall be required to do that. If he desires to leave the institution he must give five days' written notice to the superintendent of the institution of his intention to leave. The board may provide out-patient treatment for him at his expense: Provided, however, That this section shall not apply to any person making application hereunder who, at the time of making such application, is charged with, whether by indictment or otherwise, any crime mentioned in sections one and two of this article.

Sec. 18. Conflict of Provisions; Effect.—All statutes conflicting with this article are superseded to the extent of the conflict and the provisions of this article shall prevail over conflicting provisions heretofore enacted.

Sec. 19. Agency of Control.—Wherever herein the board of control is referred to, the said agency dealing with mental health, in the event of the establishment of another agency to deal with mental health and related conditions, is intended; and such agency shall be endowed with the responsibilities hereinabove vested in the board of control.

Sec. 20. Separability.—The provisions of this article are separable and if any provision shall be held unconstitutional, such decision shall not affect the remainder of this article.
CHAPTER 44

(Senate Bill No. 302—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three, relating to the offense of soliciting of advertising any debt pooling or similar plan or charging therefor any fee in excess of two per centum of money collected pursuant to such plan and prescribing penalties for the commission of such offense.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 10. Crimes Against Public Policy.

Section 23. Debt pooling.

Be it enacted by the Legislature of West Virginia:

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

Section 23. Debt Pooling.—It shall be unlawful for any person, firm, corporation or voluntary association to solicit in any manner the rendering of advice and services of any and every kind whatsoever to a debtor in connection with a debt pooling plan or other similar plan pursuant to which the debtor deposits funds for the purpose of distributing such funds among his creditors. It shall further be unlawful for any person, except licensed attorneys, firm, corporation or voluntary association rendering such advice and services in a lawful manner to make any charge therefor, by way of fee, reimbursement of costs or otherwise, in excess of an amount equal to two
per centum of the total amount of money collected pur-
suant to such plan. Any person, whether acting as agent
or otherwise, violating any provision of this section shall
be guilty of a misdemeanor, and, upon conviction, shall
be fined not less than one hundred dollars nor more than
two hundred fifty dollars, or confined in jail for not less
than thirty days nor more than sixty days, or both.
Justices of the peace shall have concurrent jurisdiction
of offenses under this section with other competent courts.

CHAPTER 45
(House Bill No. 326—By Mr. Chilton)

AN ACT to amend article ten, chapter sixty-one of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated sec­
tion twenty-four, relating to the treatment of blind per­
sons accompanied by a dog guide in places of public
accommodation.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 10. Crimes Against Public Policy.

Section
24. Treatment of blind persons accompanied by a dog guide in places
of public accommodation; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 24. Treatment of Blind Persons Accompanied
by a Dog Guide in Places of Public Accommodation;
Penalty.—It shall be unlawful for any owner, lessee,
proprietor, manager, superintendent, agent or employee
of any place of public accommodation, amusement
or recreation, including but not limited to any inn, hotel,
restaurant, eating house, barber shop, billiard parlor,
store, public conveyance on land or water, theatre, motion
picture house, public educational institution or elevator,
to refuse to permit a blind person to enter such place or
to make use of the accommodations available, for the
reason that such blind person is being led by a dog guide:
Provided, however, That such dog guide is wearing a
harness: And provided further, That such blind person
shall first have presented for inspection credentials issued
by an accredited school for training dog guides.
Any person who shall violate this section shall be guilty
of a misdemeanor, and upon conviction shall be fined an
amount not to exceed fifty dollars.

CHAPTER 46
(House Bill No. 232—By Mr. Bachmann and Mr. Moreland)

AN ACT to amend and reenact section seventeen, article three,
chapter sixty-two of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to ver-
dicts jury may find in prosecution for larceny.

[Passed February 20, 1937; in effect ninety days from passage. Approved by the
Governor.]

Article 3. Trial of Criminal Cases.

Section
17. Verdicts jury may find in prosecution for larceny.

Be it enacted by the Legislature of West Virginia:
That section seventeen, 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 17. *Verdicts Jury May Find in Prosecution for Larceny.*—In a prosecution for grand larceny, if it be found that the thing stolen is of less value than fifty dollars, the jury may find the accused guilty of petit larceny, except in cases where it is otherwise provided; and in a prosecution for petit larceny, though the thing stolen be of the value of fifty dollars or more, the jury may find the accused guilty; and in either case he shall be sentenced for petit larceny.

**CHAPTER 47**

*House Bill No. 74—By Mr. Stalnaker*

AN ACT to amend article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven, relating to court costs incurred in prosecution of convicts.

[Passed February 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 8. *Crimes by and Proceedings Against Convicts.*

Section 7. Court costs incurred in prosecution of convicts.

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

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

Section 7. *Court Costs Incurred in Prosecution of Convicts.*—All taxable court costs incurred in the prosecution of a convict for any crime committed by such person while confined in the West Virginia penitentiary, West Virginia medium security prison, or the West Virginia state prison
6 for women or in any other penal institution of the state of
7 West Virginia, or in the custody of an officer thereof,
8 or for the crime of escaping from any of such institutions,
9 or such custody, or for any crime committed while at
10 large after escaping from any such institution, or such
11 custody, shall be paid out of the annual state approipa-
12 tion for "criminal charges," after such are certified by the
13 circuit court of the appropriate county and approved by
14 the board of control.

CHAPTER 48

(Senate Bill No. 67—By Mr. Martin)

AN ACT to amend and reenact section two, article twelve,
chapter sixty-two of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended, relating to
eligibility for probation.

[Passed February 27, 1957; in effect from passage. Approved by the Governor.]

Section
2. Eligibility for probation.

Be it enacted by the Legislature of West Virginia:

That section two, 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 2. Eligibility for Probation.—All persons who
2 have not been previously convicted of a felony within
3 five years from the date of the felony for which they are
4 charged, and who are found guilty of or plead guilty to
5 any felony, the maximum penalty for which is less than
6 life imprisonment, and all persons whether previously
7 convicted or not, who are found guilty of or plead guilty
to any misdemeanor, shall be eligible for probation, notw
withstanding the provisions of sections eighteen and nine, article eleven, chapter sixty-one of this code.

CHAPTER 49

(Senate Bill No. 128—By Mr. Moats and Mr. Carrigan)

AN ACT to amend and reenact section five, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to probation officers.

[Passed February 28, 1957; in effect July 1, 1957. Approved by the Governor.]


Section 5. Probation officers.

Be it enacted by the Legislature of West Virginia:

That section five, 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 5. Probation Officers.—The judge of any court actively exercising jurisdiction in criminal cases and having authority to place offenders on probation is authorized to appoint a court or county probation officer and a clerical assistant to serve during the pleasure of the appointing judge, and in addition in counties having a population of more than one hundred fifty thousand, such judge is authorized to appoint an assistant court or county probation officer: Provided, That the appointing judge shall first obtain the approval of the county court or the county courts in his judicial circuit of the expenses to be incurred and the salary or salaries to be paid the court or county probation officer and clerical assistants, which approval shall be discretionary with said county court...
or courts and shall be required before any appointment
made hereunder becomes effective.

The appointment of a court or county probation officer,
assistant court or county probation officer and clerical
assistant shall be in writing and entered on the order
book of the court by the judge making such appointment
and a copy of said order of appointment shall be de-
ivered to the county court of the county in which said
court or county probation officer, assistant court or
county probation officer and clerical assistant shall serve.
The said order of appointment shall state the monthly
salary fixed by said judge, to be paid the court or county
probation officer, assistant court or county probation of-
icer or clerical assistant so appointed. A court or county
probation officer shall receive for his services a monthly
salary of not less than three hundred nor more than five
hundred dollars per month; an assistant court or county
probation officer shall receive for his services a monthly
salary of not less than three hundred and not more than
four hundred dollars per month. A clerical assistant shall
receive for his services not to exceed two hundred dol-
lars per month. The county court shall make provisions
for payment and pay monthly the salary of the court or
county probation officer, assistant court or county proba-
tion officer and clerical assistant as designated in the
order of appointment.

The county court shall provide adequate office space,
equipment and supplies for the court or county probation
officer, assistant court or county probation officer and
clerical assistant, to be approved by the appointing judge.
The county court shall reimburse a court or county pro-
bation officer and an assistant court or county probation
officer for all expenses actually and necessarily incurred
in line of duty in the field.

No judge shall appoint any court or county probation
officer, assistant court or county probation officer or cler-
ical assistant who is related to him either by consanguinity
or affinity.

A judge of a circuit court whose circuit comprises more
than one county, having authority to appoint a court or
county probation officer, may appoint a court or county
probation officer and a clerical assistant in each county
of such circuit, or may appoint the same person as a court
or county probation officer and also the same person as a
clerical assistant in two or more of such counties.

When a judge has appointed a court or county proba-
tion officer and a clerical assistant to serve in a judicial
circuit including more than one county, the salary and
expenses of such appointees shall be contributed by each
county sharing in the services of such appointees in the
proportion agreed upon by such counties, if they agree,
otherwise in the proportion of the population in the
counties derived from the last United States census.

In lieu of, or in addition to, the court or county proba-
tion officers, assistant court or county probation officers
and clerical assistants provided for in this section, the
judge may avail himself of the services of state probation
and parole officers; and any such services which may be
provided to the court or judge by said state probation and
parole officers, shall be rendered at no additional cost to
any court or judge so using them. The director of proba-
tion and parole may assist any court or county probation
officer, upon request, with information relative to pro-
cedure, printed forms, and technique applicable to proba-
tion methods.

Nothing contained in this section shall in any manner
alter, modify, affect or supersede the appointment, tenure
or salary of any probation officer appointed by any court
under any special act of the Legislature heretofore or
hereafter enacted.

CHAPTER 50

(House Bill No. 124—By Mr. Powell)

AN ACT to amend and reenact section five-a, article twelve,
chapter sixty-two of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to pro-
Probation officers of the second judicial circuit, third judicial circuit, fourteenth judicial circuit and of Wayne County; salary and expenses.

[Passed March 1, 1957; in effect July 1, 1957. Approved by the Governor.]


Section 5-a. Probation officers of second judicial circuit, third judicial circuit, fourteenth judicial circuit and of Wayne county; salary and expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 5-a. Probation Officers of Second Judicial Circuit, Third Judicial Circuit, Fourteenth Judicial Circuit and of Wayne County; Salary and Expenses.—The judge of the circuit courts of the second judicial circuit, third judicial circuit, fourteenth judicial circuit and of the circuit court of Wayne county in the twenty-fourth judicial circuit each is authorized to appoint a court probation officer to serve during the pleasure of the appointing judge, without first obtaining approval of the county courts of the counties of said judicial circuits and of Wayne county, respectively, as provided in section five of the article. Such appointment shall be effective upon the entry of the appointment order in the court order book. A certified copy of said order shall be delivered to the county court of each of the counties concerned and said county courts respectively, shall arrange for and appropriate funds for payment of and shall pay the salary and expenses of such probation officer in a manner consistent with contribution provisions of said section five. The probation officers so appointed shall have and may exercise all of the powers and perform all the duties and services of probation officers as provided in this article.
AN ACT to amend article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen-a, relating to probation and parole.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the Governor.]

Section 14-a. Division of employment for paroled convicts.

Be it enacted by the Legislature of West Virginia:

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

Section 14-a. Division of Employment for Paroled Convicts.—The board shall have authority to employ a director of employment for paroled or pardoned prisoners. It shall be the duty of the director to investigate job opportunities and to give every possible assistance in helping prisoners, eligible to be paroled or who have been granted parole under this article, to find employment.
relating to the establishment in the state government of a centralized department of finance and administration, and to its powers and duties.

[Passed February 28, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 8. Department of Finance and Administration.

Section
1. Department of finance and administration; commissioner; divisions.
2. Council of finance and administration.
3. Budget division; powers and duties.
4. Central accounting division; powers and duties.
5. Purchasing division; powers and duties.
6. Personnel division; powers and duties.
7. General services division; powers and duties.
8. Authority of governor.
9. Statutory references.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Department of Finance and Administration; Commissioner; Divisions.—There is hereby created in the state government a department of finance and administration and the office of commissioner of finance and administration. The commissioner shall be the chief executive officer of the department and shall be appointed by the governor by and with the advice and consent of the senate for a term of six years. The annual compensation of the commissioner shall be fixed by the governor but not in excess of ten thousand dollars. There shall be in the department of finance and administration a budget division, a central accounting division, a purchasing division, a personnel division, and a general services division. Each division shall be headed by a director, who shall be appointed by the commissioner, to serve at the will and pleasure of the commissioner.
The commissioner shall have control and supervision of the department of finance and administration and shall be responsible for the work of each of its divisions. Under the control and supervision of the commissioner, each director shall be responsible for the work of his division. The commissioner and the directors shall have the authority to employ such assistants as may be necessary for the efficient operation of the department. The commissioner and the directors shall have the authority and shall perform the duties herein specified and shall also perform such other duties as the governor may by executive order prescribe.

Sec. 2. Council of Finance and Administration.—There is hereby established a council of finance and administration. The council shall be composed of ten members, four of whom shall serve ex officio and six of whom shall be appointed as herein provided. The ex officio members shall be the governor, the attorney general, the state treasurer, and the state auditor. From the membership of the joint committee on government and finance, the President of the Senate shall appoint three Senators as members of the council, not more than two of whom shall be members of the same political party, and the Speaker of the House shall appoint three Delegates as members of the council, not more than two of whom shall be members of the same political party.

The council shall serve the department of finance and administration in an advisory capacity only. It shall have the authority and it shall be its duty:

(1) To advise with the commissioner concerning all administrative rules and regulations to be issued by the department.

(2) To advise with the commissioner as to all budget proposals to be submitted to the board of public works.

(3) At the time of the submission of the proposed budget to the board of public works, to report to the board its conclusions concerning the proposed budget, and any additions, modifications or adjustments that it may care to suggest.
28 (4) To advise with the commissioner concerning such
29 studies of government and administration as it may con-
30 sider appropriate.
31 (5) To advise with the commissioner in the prepara-
32 tion of studies designed to provide long-term capital
33 planning and finance for state institutions and agencies.

Sec. 3. Budget Division; Powers and Duties.—The com-
2 missioner of finance and administration shall be ex officio
3 the director of the budget division. Except as otherwise
4 provided in this article, the budget division shall be
5 vested with the powers and authority, and shall perform
6 the functions and duties, heretofore granted or imposed
7 by law on the state budget office or the director of the
8 budget.

Sec. 4. Central Accounting Division; Powers and Du-
2 ties.—The central accounting division shall maintain a
3 central system of state accounts and shall be vested with
4 the powers and authority, and shall perform the func-
5 tions and duties, heretofore granted or imposed by law on
6 the director of the budget or the tax commissioner per-
7 taining to the formulation and control of accounting sys-
8 tems, or heretofore granted or imposed by law on the tax
9 commissioner pertaining to information and reports con-
10 cerning financial transactions; or heretofore granted or
11 imposed by law on the state budget office or the director
12 of the budget pertaining to requisitions for expenditures,
13 including those for the payment of personal services and
14 orders for the purchase of commodities, or heretofore
15 granted or imposed by law on the tax commissioner or
16 on the state auditor pertaining to compiling, printing, and
17 submitting reports of the financial transactions of the
18 state.

Sec. 5. Purchasing Division; Powers and Duties.—Ex-
2 cept as otherwise provided in this article, the purchasing
3 division shall be vested with the powers and authority,
4 and shall perform the functions and duties, heretofore
5 granted or imposed by law on the department of pur-
6 chases or the state director of purchases.

Sec. 6. Personnel Division; Powers and Duties.—The
personnel division shall be vested with the powers and authority, and shall perform the functions and duties, heretofore granted or imposed by law on the state budget office or the director of the budget pertaining to employment classification and salary schedules of state personnel, except the powers, functions and services vested by law in a personnel department when created and established in the state government pursuant to the provisions of Senate Bill No. 159 of the regular session of the Legislature, one thousand nine hundred fifty-seven, or other comparable legislation.

Sec. 7. General Services Division; Powers and Duties.—The general services division shall have control of the central mailing office in the capitol building, and shall be vested with the powers and authority, and shall perform the functions and duties, heretofore granted or imposed by law on the governor pertaining to such central mailing office, or heretofore granted or imposed by law on the state budget office, the director of the budget, the department of purchases or the director of purchases pertaining to inventory and property control, or heretofore granted or imposed by law on the state board of control pertaining to the care, control and custody of the capitol buildings and grounds.

Sec. 8. Authority of Governor.—The governor is hereby authorized to direct by executive order, not inconsistent with the provisions of this article, the transfer to the department of finance and administration of such records and equipment, the performance by the department of such additional functions and duties, and the discontinuance of such functions and duties of any other state officer or agency as may be necessary to effectuate the purposes of the fiscal reorganization prescribed in this article.

Sec. 9. Statutory References.—Whenever any statute of the state refers to an officer or agency of the state whose functions and duties are by this article transferred to another officer or agency of the state, the reference shall be understood to be made to the officer or agency, as the case may be, to which the functions and duties have been transferred.
CHAPTER 53

(House Bill No. 286—By Mr. Whaley)

AN ACT to amend and reenact sections one and three, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the course of descent and method of partition of real estate when the owner thereof dies intestate.

[Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 1. Descent.

Section 1. Course of descent generally.
3. When parties take per capita and when per stirpes.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article one, chapter forty-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. Course of Descent Generally.—When any person having title to any real estate of inheritance shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course:

(a) To his children and their descendants;

(b) If there be no child, nor descendant of any child, then the whole shall go to the wife or husband, as the case may be;

(c) If there be no child, nor descendant of any child, nor wife, nor husband, then one moiety each to the mother and father; or if there be no child, nor descendant of any child, nor wife, nor husband, nor mother, then the whole shall go to the father; or if there be no child, nor any descendant of any child, nor wife, nor husband, nor father, then the whole shall go to the mother;

(d) If there be no child, nor descendant of any child,
nor wife, nor husband, nor mother, nor father, the whole
shall go to the intestate’s brothers and sisters and the
descendants of brothers and sisters;

(e) And if there be no child, nor descendant of any
child, nor father, nor mother, nor wife or husband, nor
brother, nor sister, nor descendant of any brother or
sister, then one moiety shall go to the paternal and the
other to the maternal kindred in the following course:

(f) First to the grandfather and grandmother one-half
of the moiety each;

(g) If no grandmother one-half of the moiety to the
grandfather, or if no grandfather one-half of the moiety
to the grandmother; and in either case the other one-half
of the moiety, or if there be neither grandfather nor
grandmother the whole of the moiety, shall go to the
uncles and aunts on the same side, and their descendants;

(h) If there be no grandmother, nor such uncle, nor
such aunt, nor descendant of any such uncle or aunt, then
the whole of the moiety to the grandfather; or if there
be no grandfather, nor such uncle, nor such aunt, nor
descendant of any such uncle or aunt, then the whole of
the moiety to the grandmother;

(i) If there be no grandfather, nor grandmother, nor
such uncle, nor such aunt, nor descendant of any such
uncle or aunt, then to the great-grandfathers and great-
grandmothers one-fourth of the moiety each;

(j) If any great-grandfather or great-grandmother be
dead then his or her share, or the whole of the moiety
in case all the great-grandfathers and great-grandmothers
be dead, shall go to the brothers and sisters of the grand-
fathers and grandmothers, and the descendants of such
brothers and sisters of the grandfathers and grandmoth-
ers; and if there be no brother nor sister of any grand-
father or grandmother, nor the descendant of any such
brother or sister, then the whole of the moiety shall go
to such of the great-grandfathers and great-grandmothers
as may then be living, in equal shares, or to the survivor
of them;

(k) And so on, in like manner, in other cases without
end, passing to the nearest lineal ancestors, male and
female, and if any of them be dead his or her share, or
if all of them be dead the whole, to the brothers and
sisters of the lineal ancestors, male and female, of the
degree next nearer the intestate, and the descendants of
such brothers and sisters; and if there be no brother nor
sister of any lineal ancestor, male or female, of the degree
next nearer the intestate nor descendant of any such
brother or sister, then to such of the lineal ancestors in
this subdivision (k) first mentioned as may then be living,
in equal shares or to the survivor of them;
(1) If there be no paternal kindred the whole shall
go to the maternal kindred, and if there be no maternal
kindred the whole shall go to the paternal kindred. If
there be neither paternal nor maternal kindred, the whole
shall go to the kindred of the wife or husband of the
intestate in the like course as if such wife or husband
had survived the intestate and died entitled to the whole
of the estate.

Sec. 3. When Parties Take Per Capita and When Per
Stirpes.—Whenever the children of the intestate, or the
brothers and sisters of the intestate, or the uncles and
aunts of the intestate, or the brothers and sisters of any
of the intestate's lineal ancestors of the same degree, come
into partition, they shall take per capita, or by persons;
and where, a part of them being dead and a part living,
the descendants of those dead have right to partition,
such descendants shall take per stirpes, or by stocks, that
is to say, the shares of their deceased ancestors; but
whenever the persons entitled to partition, other than
those whose shares are definitely fixed by the statute of
descents, are all in the same degree of kindred to the
intestate, they shall take per capita or by persons.

CHAPTER 54
(House Bill No. 42—By Mr. Morgan and Mr. Young)

AN ACT to amend and reenact sections two and five, article
twenty-a, chapter nineteen of the code of West Virginia,

Section 2. Vaccination of dogs.
   5. Vaccine furnished by person administering same; fee.

Be it enacted by the Legislature of West Virginia:

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

Section 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-seven, have such dog or dogs properly vaccinated or immunized against rabies, and shall every second year thereafter have such dog or dogs revaccinated. After the first day of June, one thousand nine hundred fifty-seven, 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 every second year: Provided, however, That dogs need not be vaccinated before the age of five 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. Anyone owning a dog or dogs can have them vaccinated by any veterinarian or person working with or under such veterinarian, or if there be no resident veterinarian in the county, by such other qualified person as may be appointed by the county court, who shall work under the supervision of the county health department.

Sec. 5. Vaccine Furnished by Person Administering Same; Fee.—It shall be the duty of the veterinarian, or
person vaccinating each animal to furnish vaccine of a type capable of establishing and maintaining immunity for a period of not less than twenty-four months and he shall charge and collect for his service a fee not to exceed one dollar and fifty cents for each animal vaccinated.

CHAPTER 55

(House Bill No. 44—By Mr. Kessel)

AN ACT to amend and reenact sections six and ten, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to application for and issuance of marriage license.

[Passed February 19, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 6. Application for license; requirements for issuance of license.

Section 10. Endorsement and return of licenses by person solemnizing marriage; duties of clerk pertaining thereto.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Application for License; Requirements for Issuance of License.—Every license for marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides except, in cases of a female who is a nonresident of the state of West Virginia, by the clerk of the county court of the county in which application is made: Provided, however, That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor.
The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: Provided, further, That before any such license is issued each applicant therefor shall file with the clerk a certificate or certificates from any physician duly licensed in the state, stating that each party thereto has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date of such application, and stating that in the opinion of the physician the person therein named either is not infected with syphilis or, if so infected, is not in the state of the disease which is or may later become communicable. Such examinations and tests as are required hereunder may be given as provided by section nineteen, article four, chapter sixteen of this code.

The application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by one or the other of the parties to the contemplated marriage, and shall be verified by such party to be true to the best of his or her knowledge and belief; and shall be recorded in the register of marriages provided for in section eleven of this article. The date of its filing shall be noted in said register, which notation or a certified copy thereof shall be legal evidence of the facts therein contained.

To the extent otherwise provided by section six-c of this article, the provisions of this section shall not apply. No application for license shall be received nor any license issued on any Sunday, or before the hours of eight o'clock A. M. and after five o'clock P. M. on any week day.

Sec. 10. Endorsement and Return of Licenses by Person Solemnizing Marriage; Duties of Clerk Pertaining There-to.—Every person solemnizing a marriage shall take up the license authorizing such marriage, and on or before the fifth day of each month shall forward to the county clerk issuing such license the original of all such licenses in his possession, with an endorsement thereon of the fact
8 of such marriage and the time and place of celebrating
9 the same. In the event that the marriage authorized by
10 such license is not solemnized within sixty days from the
11 date of its issuance, then such license shall become null
12 and void. Should the county clerk not receive the said
13 original within sixty days after its issuance, he shall by
14 regular mail notify either of the applicants of that fact.

CHAPTER 56
(Senate Bill No. 337—Originating in the
Senate Committee on the Judiciary)

AN ACT to amend and reenact sections four and twenty-one,
article two, chapter forty-eight of the code of West Vir­
ginia, one thousand nine hundred thirty-one, as amended,
and to further amend said article two by adding thereto
a new section, designated section thirty-two, all relating
to grounds for and procedures concerning divorce.

[Passed March 7, 1957; in effect from passage. Approved by the Governor.]

Article 2. Divorce.
Section
21. Former name of wife; restoration.
32. Answer seeking affirmative relief or cross-bill; proceedings there­
on; time allowed after filing.

Be it enacted by the Legislature of West Virginia:

That sections four and twenty-one, article two, chapter forty­
eight of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, and that
said article two be further amended by adding thereto a new
section, designated section thirty-two, all to read as follows:

Section 4. Grounds for Divorce from Bond of Matri­
mony.—A divorce from the bond of matrimony may be
decreed:
(a) For adultery; or

(b) When either of the parties subsequent to the marriage has, in or out of this state, been sentenced to imprisonment for the commission of a crime which under the laws of this state is a felony, and such sentence has become final, if suit for divorce be commenced while such party is actually imprisoned under such sentence, or before the parties have again cohabited; and no pardon granted to the party so sentenced, if suit for divorce shall have been commenced before the granting of such pardon, shall restore such party to his or her conjugal rights; or

(c) To the party abandoned, when either party willfully abandons or deserts the other for one year; or

(d) For cruel or inhuman treatment, or reasonable apprehension of bodily hurt, and a charge of prostitution made by the husband against the wife shall be deemed cruel treatment within the meaning of this paragraph; cruel and inhuman treatment shall also be deemed to exist when the treatment by one spouse of another, or the conduct thereof, is such as to destroy or tend to destroy the mental or physical well-being, happiness and welfare of the other and render continued cohabitation unsafe or unendurable; or

(e) For habitual drunkenness of either party subsequent to the marriage; or

(f) For the addiction of either party, subsequent to the marriage, to the habitual use of opium, morphine, cocaine or other like drug.

Sec. 21. Former Name of Wife; Restoration.—The court, upon granting a divorce to the husband or wife, may, if there are no children of such marriage, allow the wife to resume her maiden name, or the name of a former husband if she has any living child or children, then under the age of twenty-one years and unmarried, by her marriage to him.

Sec. 32. Answer Seeking Affirmative Relief or Cross-Bill; Proceedings Thereon; Time Allowed After Filing.—
The defendant, in any suit for divorce, may file an answer seeking affirmative relief, or a cross-bill, and said suit shall thereafter be proceeded with to final adjudication, without remanding the same to rules, and without the service of further process upon the adverse party: Provided, however, That such adverse party shall have a period of thirty days from and after the date of the filing of any such answer seeking affirmative relief or cross-bill for pleading thereto, but may, by order entered of record, waive any part or all of such period of time for pleading and may thereby expedite proceedings in the suit.

CHAPTER 57
(House Bill No. 295—By Mr. Brotherton)

AN ACT to amend and reenact section four, article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to decree and birth certificate procedures and requirements in adoption cases.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 4. Adoption.

Section 4. Recording decrees and birth certificates; duties of clerks and registrar; fees.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Recording Decrees and Birth Certificates:
2. Duties of Clerks and Registrar; Fees.—The decree shall be
recorded in a book kept for that purpose, and the clerk
shall receive the same fees as in other cases in the circuit
court or juvenile court, as the case may be. All records of
proceedings in adoption cases and all papers and records
relating to such proceedings shall be kept in a sealed file
and shall not be open to inspection or copy by anyone
other than the parties of record or their legal representa-
tives, except upon court order for good cause shown. No
person in charge of adoption records shall disclose the
names of the adopting parent or parents or adopted child
except by court order. Immediately upon the entry of
such a decree of adoption, the court shall direct the clerk
thereof forthwith to make and deliver to the state registrar
of vital statistics a certificate under the seal of said court,
showing:

(1) The date and place of birth of the adoptee, if known;
(2) The names of the natural parents of the adoptee,
if known;
(3) The name by which said child has previously been
known;
(4) The names and addresses of the adopting parents;
(5) The name by which the child is to be thereafter
known; and
(6) Such other information from the record of said
adoption proceedings as may be required by the law of
this state relating to vital statistics and as may enable the
state registrar of vital statistics to carry out the duty
imposed upon him by this section.

Upon receipt of said certificate, the said registrar of
vital statistics shall forthwith issue and deliver by mail
to the adopting parents at their last known address and
to the clerk of the county court of the county wherein
such decree of adoption was entered a birth certificate in
the form required by law, except that the name of the
adoptee shown in said certificate shall be the name given
him by the decree of adoption. Such county court clerk
shall record such birth in the manner provided by chapter
sixteen, article five, section nineteen of this code.
CHAPTER 58

(House Bill No. 190—By Mr. Charnock)

AN ACT to amend article seven, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight, relating to blood grouping tests in proceedings for the maintenance of illegitimate children.

[Passed February 19, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 7. Maintenance of Illegitimate Children.
Section 8. Defendant may request blood grouping tests.

Be it enacted by the Legislature of West Virginia:

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

Section 8. Defendant May Request Blood Grouping Tests.—The court, or judge thereof in vacation, on motion of the defendant, if seasonably made, shall order the mother, her child and the defendant to submit to one or more blood grouping tests by a person duly qualified to make such tests to determine whether or not the defendant can be excluded as being the father of the child, and the results of such tests may be received in evidence but only in cases where definite exclusion is established. The cost and expense of making such tests shall be borne by the defendant.
AN ACT to amend and reenact section fifteen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the report of the state board of education to the governor and Legislature.

[Passed March 2, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section

15. Report to governor and Legislature.

Be it enacted by the Legislature of West Virginia:

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

Section 15. Report to Governor and Legislature.—On or before the first day of November preceding each odd-year regular session of the Legislature, the state board, through the state superintendent, shall make to the governor and to the Legislature a full report concerning the public schools and the educational institutions under its control and management, together with its recommendations in respect to needed legislation.

CHAPTER 60

(Senate Bill No 25—By Mr. Traubert and Mr. McCulty)

AN ACT to amend and reenact section sixteen, article two, chapter eighteen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the state camp and conference center at Ripley, West Virginia, so as to authorize county courts to erect and equip buildings at the camp and conference center.

[Passed January 29, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section 16. Establishment and operation of a state camp and conference center; payment of expense; gifts and donations; county courts may erect and equip buildings.

Be it enacted by the Legislature of West Virginia:

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

Section 16. Establishment and Operation of a State Camp and Conference Center; Payment of Expense; Gifts and Donations; County Courts May Erect and Equip Buildings.—For the purpose of developing competent leadership, developing character, training for useful citizenship, fostering patriotism, and of providing and encouraging the development of organized recreational activities for Future Farmers of America and Future Home-makers of America members, and other youth and adult groups, a camp and conference center is hereby established.

The West Virginia board of education is hereby authorized to secure a site for such camp and conference center at some suitable place and provide the necessary buildings and equipment therefor.

Such camp and conference center shall be operated by the division of vocational education of the West Virginia board of education. Such camp and conference center may be rented for educational purposes only and the rent received therefor shall be deposited in the state treasury and paid out on requisition of the division of vocational
22 education of the West Virginia board of education for the
23 maintenance and operation of such camp and conference
24 center.
25 Any appropriations now or hereafter made by the Legis-
26 lature to carry out the provisions and purposes of this
27 section shall be expended through the West Virginia
28 board of education.
29 The West Virginia board of education is hereby author-
30 ized and empowered to receive and use such gifts and
31 donations of money, land, buildings, materials, equip-
32 ment, supplies, and labor, either from public or private
33 sources, as may be offered unconditionally or under such
34 conditions as in the judgment of the West Virginia board
35 of education are proper and consistent with the provisions
36 of this section.
37 All the money received as gifts and donations by the
38 West Virginia board of education shall be deposited in
39 the state treasury to be used by the said board of educa-
40 tion in establishing and maintaining the aforesaid camp
41 and conference center. A report of all gifts and donations
42 offered and accepted, together with the names of the
43 donors and the amounts contributed by each and all dis-
44 bursements therefrom shall be submitted annually to the
45 governor of the state by the West Virginia board of edu-
46 cation.
47 The county court of any county may appropriate and
48 expend money from the general county fund, or from any
49 special fund available for such purpose, to erect and
50 equip a cottage or county building on such camp and con-
51 ference center property.

CHAPTER 61

(House Bill No. 333—By Mr. Schupbach and Miss Hallanan)

AN ACT to amend article two, chapter eighteen of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto five new sections, designated
sections seventeen to twenty-one, inclusive, relating to automobile driver training and education.

[Passed March 9, 1957; in effect from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section
17. Automobile driver education and training; aims and purposes.
18. State board of education to adopt rules and regulations.
19. Automobile driver training; establishment and maintenance of course; who may enroll.
20. Expenditure of school funds.
21. Automobile liability insurance.

Be it enacted by the Legislature of West Virginia:

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

Section 17. Automobile Driver Education and Training;
Aims and Purposes.—The aims and purposes of automobile driver education shall be to develop a knowledge of these provisions of chapter seventeen-c of this code and other laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, and a true appreciation of the causes, seriousness and consequence of traffic accidents. The aims and purposes of automobile driver training shall be to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles, including behind-the-wheel driving and observation in a dual control automobile.

Sec. 18. State Board of Education to Adopt Rules and Regulations.—The state board of education shall, with the advice of the state superintendent of schools and the superintendent of the department of public safety, adopt reasonable rules and regulations governing the establishment, conduct and scope of automobile driver education and automobile driver training for use in the public, pri-
vate, parochial and denominational high schools located within this state, subject to the requirements and exceptions set forth in this article. The first rules and regulations required by this section shall be adopted on or before July first, one thousand nine hundred fifty-seven.

Sec. 19. Automobile Driver Training; Establishment and Maintenance of Course; Who May Enroll.—The state superintendent of schools may promote and direct the establishment and maintenance of elective courses of instruction in automobile driver training in the public high schools in accordance with the rules and regulations of the state board adopted pursuant to section eighteen of this article. Directors, trustees, or other persons having control or authority over private, parochial or denominational high schools, who establish and maintain such courses in the schools under their control or supervision, shall comply with the rules and regulations of the state board adopted pursuant to section eighteen of this article.

In the case of pupils under the age of sixteen, instruction shall be limited to the classroom. In case of pupils sixteen years and over, the instruction may include practical training in the operation of motor vehicles on the public streets and highways, and the pupil need not have a learner's permit as required by chapter seventeen-b, article two, section five of this code, if he is operating a dual control automobile and a duly appointed instructor is actually occupying a seat beside the pupil.

No pupil shall be permitted to enroll in an automobile driver training course unless such student is presently enrolled in a course in automobile driver education or has satisfactorily completed such course.

Sec. 20. Expenditure of School Funds.—County boards of education, subject to the rules and regulations of the state board of education, may expend school funds to maintain and repair vehicles used for instructional purposes, to purchase fuel, lubricants, parts and accessories therefor, to pay the compensation of teachers or instructors and to procure automobile insurance, where such expenditures are for the purpose of establishing or maintaining
automobile driver training courses pursuant to this article. These expenditures, including compensation of teachers or instructors, may be made over a period of twelve months.

Each county board shall receive from funds specially appropriated for such courses a sum which shall be proportionate to the total amount available for distribution to all county boards in the state in the ratio which the number of pupils who satisfactorily complete such courses in the county bears to the total number of pupils who satisfactorily complete such courses in all public high schools within the state: Provided, That the payment shall not exceed the sum of twenty dollars for each such pupil per school year.

Sec. 21. Automobile Liability Insurance.—County boards of education shall procure or require automobile liability insurance in such amounts as the state board of education shall prescribe covering motor vehicles owned or operated for automobile driver training courses. The board having control of the financial and business affairs of any state educational institution which offers such course or courses for instruction in automobile driver training shall procure or require automobile liability insurance in like amounts covering motor vehicles owned or operated for any such course. Such insurance shall be against any liability arising out of the use of such vehicles in connection with such courses.

CHAPTER 62
(House Bill No. 223—By Mr. Vennari and Mr. Floyd)

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 the county superintendent of schools.

[Passed March 9, 1957; in effect 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 re-election 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 or before the first day of May 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 63

(House Bill No. 113—By Mr. Vennari and Mr. Floyd)

AN ACT to amend and reenact section nine, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to traveling expenses of county superintendents.

[Passed February 11, 1957; in effect July 1, 1957. Approved by the Governor.]
Article 4. County Superintendent of Schools.

Section
9. Reimbursement for traveling expenses; voucher.

Be it enacted by the Legislature of West Virginia:

That section nine, 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 9. Reimbursement for Traveling Expenses; Voucher.—The board may reimburse the superintendent from the current expense fund for traveling expenses incurred in the performance of his duties in an amount not to exceed one thousand dollars per year. But no allowance shall be made except upon sworn itemized statements.

CHAPTER 64

(Senate Bill No. 61—By Mr. Taylor and Mr. Bowers)

AN ACT to amend and reenact section two, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to filling vacancies on county boards of education.

[Passed February 12, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section
2. Filling vacancies.

Be it enacted by the Legislature of West Virginia:

That section two, 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 2. Filling Vacancies.—The board shall, by appointment, fill within thirty days any vacancy that occurs in its membership. Such appointments shall continue until the next primary or general election, whichever may first occur, when the voters shall elect a successor for the unexpired term. In the event that the board does not fill the vacancy within thirty days, the state superintendent of schools shall appoint a person to fill the vacancy: Provided, however, That should a vacancy occur less than forty-two days next preceding any primary or general election, such vacancy shall not be filled by election until the next succeeding primary or general election, whichever may first occur.

CHAPTER 65

(Senate Bill No. 8—By Mr. Traubert and Mr. Bowers)

AN ACT to amend and reenact section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time of appointment of teachers by the school board and compensation of members thereof.

[Passed February 21, 1957; in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section 4. Meetings; quorum, employment and assignment of teachers; compensation of members.

Be it enacted by the Legislature of West Virginia:

That section four, 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 4. Meetings; Quorum, Employment and Assignment of Teachers; Compensation of Members.—The board
shall meet on the first Monday of July and the first and third Tuesdays in August and at such other times as the board may fix upon its records. At any meeting as authorized above and in compliance with the provisions of article four of this chapter, the board may employ such qualified teachers, or those who will qualify by the time of entering upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. On or before the first Monday in May the superintendent shall furnish to the board a list of those probationary and continuing contract teachers to be considered for transfer and subsequent assignment for the next ensuing school year.

Special meetings may be called by the president or any three members, but no business shall be transacted other than that designated in the call.

A majority of the members shall constitute the quorum necessary for the transaction of official business.

Board members shall receive compensation at the rate of twenty dollars per meeting attended. But they shall not receive pay for more than eighteen meetings in any one year.

Members shall also be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses incurred on official business, at the order of the board.

When, by a majority vote of its members, a county board of education deems it a matter of public interest, such board may join the West Virginia school board association and the national school board association, and may pay such dues as may be prescribed by said associations and approved by action of the respective county boards. Membership dues and actual traveling expense of board members for attending meetings of the West Virginia school board association may be paid by their respective county boards of education out of funds available to meet actual expenses of the members, but no allowance shall be made except upon sworn itemized statements.
CHAPTER 66

(Senate Bill No. 213—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirty-seven, relating to the authority of county boards of education to impose a personal school tax for the support of public schools and to the collection thereof.

[Passed March 8, 1957; in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section 37. Authority to impose personal school tax for the support of public schools; collection of tax; procedure for enactment of ordinance.

Be it enacted by the Legislature of West Virginia:

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

Section 37. Authority to Impose Personal School Tax for the Support of Public Schools; Collection of Tax; Procedure for Enactment of Ordinance.—For the support of public schools in the county, each county board of education shall have the authority to impose by ordinance a personal school tax of not more than ten dollars on each resident of the county twenty-one years of age or older:

Provided, That any ordinance enacted under the provisions of this section shall be published at least once a week for two successive weeks in two newspapers published in such county; or if there be only one newspaper published therein, then in that newspaper; or if there be no newspaper published therein, then by posting copies of such ordinance for a like period in at least ten conspicuous places in such county, and in the event ten per cent of the
registered voters of said county by written petition duly signed by them and filed with the board of education within fifteen days after the expiration of such publishing or posting, protest against said ordinance, the ordinance shall not become effective until it shall be ratified by a majority of the votes cast by the duly qualified voters of such county at an election duly and regularly held as provided by the laws of the state of West Virginia, and the result of said election ascertained and declared. Such election shall be held after notice of such submission shall be given by publication or posting of the same for two successive weeks next prior to the date of such election as above provided for the publication of the ordinance when adopted. Said tax shall not be imposed upon or collected from persons on the department of public assistance rolls as of January first of any year. With respect to the collection of any tax so imposed, the assessor and the sheriff shall have the same powers and responsibilities as in the case of the collection of capitation taxes. Every person upon whom such tax is imposed shall be personally liable therefor, and unless the tax is paid when due, it may be collected from the delinquent taxpayer in a civil action instituted by the county board in any court of competent jurisdiction. All proceeds of the tax shall be deposited in and credited to the general current expense fund of the county board, except that the assessor or the sheriff, as the case may be, may retain a commission of one per cent on all such taxes collected by him: Provided, That limitations as contained in chapter eleven-a, article one, section seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall not apply to the commission retained hereunder.

Before enacting such ordinance the county board of education shall publish a copy of the same once in two newspapers of opposite politics published in the county, if such there be, and otherwise in one newspaper so published. If no newspaper is published in the county, publication shall be in a newspaper of general circulation in the county. An ordinance shall not be finally passed until one week has elapsed after the last date of publication.
and persons interested have been given an opportunity to attend a meeting of the board and be heard with respect to the ordinance. After passage of the ordinance, a certified copy thereof shall be filed in the office of the clerk of the county court as a public record.

Before collecting the taxes imposed by this section the assessor shall give bond in a penalty to be fixed by the county board of education of not less than ten thousand dollars nor more than one hundred thousand dollars, conditioned for the faithful performance of his duties under this section; the premium on such bond shall be paid by the county board of education.

The authority to levy the school tax provided in this article shall terminate five years after the effective date of this act.

CHAPTER 67
(Senate Bill No. 214—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto four new sections designated sections thirty-eight, thirty-nine, forty and forty-one, authorizing county boards of education to impose a tax upon certain instruments transferring title to real and personal property which are recorded, providing for the imposition and collection of such tax, disposition of the proceeds thereof, and penalties for violation.

(Passed March 8, 1957; in effect from passage. Approved by the Governor.)

Article 5. District Board of Education.

Section
38. Tax on instruments transferring title to real and personal property authorized; transfer not affected.
40. Duties of the clerk of the county court; clerk and surety liable; disposition of proceeds.
41. Offenses; penalties; validity of instruments.
Be it enacted by the Legislature of West Virginia:

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

Section 38. Tax on Instruments Transferring Title to Real and Personal Property Authorized; Transfers Not Affected.—Except as hereinafter provided, the board of education of any county school district shall have the authority to impose by ordinance a tax upon all instruments in the form of deeds, trust deeds and mortgages transferring title to real and personal property, or interests therein, offered for recordation or filing and recorded or filed in the office of the clerk of the county court of the county in which the school district is located. The tax shall not exceed the rate of two dollars and twenty cents for each five hundred dollars, or fractional part thereof, of the actual consideration paid or to be paid for, or of the principal amount of the debt secured by, the transfer, except that no more than five thousand dollars tax shall be due on any one transfer.

In the case of transfers of real property lying partly within and partly without the county in which the tax is imposed, the tax shall apply only to such proportion of the consideration, or to such proportion of the debt secured, as the value of the property within the county bears to the value of the whole property transferred.

In the case of a trust deed or mortgage which secures a debt already secured by a duly recorded trust deed or mortgage, the tax shall not apply to the amount owed on the debt secured by the previously recorded instrument, but only to any additional debt secured by the instrument offered for recordation.

In the case of a transfer of property where there is owing on the property transferred a sum of money secured by a duly recorded trust deed or mortgage, the obligation of which is transferred to and assumed by the transferee under the instrument offered for recordation,
the tax shall not apply to the amount of the obligation assumed by the transferee.

In the case of a trust deed or mortgage which transfers the same property which is transferred by a deed offered for recordation and recorded simultaneously with such trust deed or mortgage, the tax shall not apply to any property transferred by such trust deed or mortgage which is also transferred by such simultaneously recorded deed.

The provisions of this section shall not apply to any instrument conveying or transferring property where the consideration or the debt secured is two hundred dollars or less; to any conveyance or transfer effected by will, testamentary trust, intestacy, deed of partition, eminent domain, lease, conditional sales contract, change of name or merger of corporations or otherwise by operation of law; to any instrument conveying or transferring property to a religious, educational, or charitable organization incorporated or unincorporated; to any instrument conveying property to the state or any political subdivision thereof or to the United States or any office or agency thereof; to any instrument the effect of which is to convey or transfer the title to property from one spouse to the other; or to any confirmation, curative deed, corrective deed, or other like instrument, except to the extent of property of additional value thereby conveyed or transferred or of any additional consideration paid therefor, whichever is the greater.

Sec. 39. Procedure for Imposing Tax; Filing for Record.—Before enacting such ordinance, the county board of education shall publish one time a copy of the same in two newspapers of opposite politics published in the county, if such there be, and otherwise in one newspaper so published. If no newspaper is published in that county, publication shall be in a newspaper of general circulation in the county. An ordinance shall not be finally passed until one week has elapsed after the last date of publication and persons interested have been given an opportunity to attend a meeting of the board and be heard with respect to the ordinance.
After passage of such ordinance, a certified copy thereof shall be filed in the office of the clerk of the county court as a public record.

Sec. 40. Duties of the Clerk of the County Court; Clerk and Surety Liable; Disposition of Proceeds.—When any instrument upon which the tax authorized in section thirty-eight of this article is legally applicable is offered for recordation in the office of the clerk of the county court, it shall be the duty of the clerk to ascertain and compute the tax due thereon and collect such tax as a prerequisite to the acceptance of the instrument for recordation.

The clerk shall append or show by stamp or otherwise on the face or at the end of an instrument upon which he has collected such tax a statement that he has collected the tax and stating the amount of the tax collected. The clerk shall keep a separate record of all such taxes collected, and the clerk and the surety on his bond shall be liable for the proceeds of such tax. The clerk shall at the end of each month pay all proceeds of the tax to the sheriff and they shall be credited to the general current expense fund of the board of education, except a commission of one per cent of such proceeds which shall be retained for collecting such tax and credited to the general county fund.

Sec. 41. Offenses; Penalties; Validity of Instruments.—It shall be unlawful for any person to cause to be recorded any instrument upon which the tax authorized by section thirty-eight of this article is legally applicable without paying such tax. It shall also be unlawful for any person to misrepresent the amount of the actual consideration paid or to be paid, the principal amount of the debt secured or any other pertinent fact when offering an instrument for recordation upon which such tax is legally applicable.

Failure to collect or pay such tax shall not affect the validity of any instrument for any purpose, and shall not constitute a lien upon the property transferred.

Any person who shall knowingly and intentionally violate any of the provisions of this section or of the three
16 preceding sections shall be guilty of a misdemeanor and,
17 upon conviction thereof, shall be punished by a fine of not
18 less than twenty-five nor more than one hundred dollars.
19 The authority to levy the school tax authorized by this
20 act shall terminate five years after the effective date
21 thereof.

CHAPTER 68

(House Bill No. 312—By Mr. Vennari and Mr. King)

AN ACT to amend and reenact section two-a, article seven,
chapter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to sick leave
compensation.

[Passed March 9, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 7. Teachers.
Section
2-a. Sick leave compensation.

Be it enacted by the Legislature of West Virginia:

That section two-a, 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-a. Sick Leave Compensation.—Any county
2 board of education may establish and maintain in its
3 annual budget a separate fund to be known as the “teachers’ sick leave fund”.
5 Any full-time teacher employed by a county board of
6 education that establishes such fund shall be entitled to
7 at least five days’ sick leave per year, cumulative to a total
8 of twenty days. Money allocated to the sick leave fund
9 shall be used to pay the salary of all full-time teachers
10 for time lost from assigned duties due to personal accident,
11 sickness, death in the immediate family, or any other
emergency cause that may be authorized or approved by the board.

All sick leave benefits shall be paid at the end of each school year. If funds budgeted for sick leave are insufficient to pay the amount due, the per diem salaries for all teachers claiming sick leave benefits shall be reduced proportionately. The board shall carry over from year to year the accumulated balance in the sick leave fund. The board is authorized to prescribe such other regulations as it may deem necessary.

All moneys received by a county board of education from any appropriation made by the Legislature for sick leave benefits, if not used for the purposes of this section, may be expended only to provide salary increases for existing teachers, to pay the salaries of necessary additional teachers, or if so required to pay the legal minimum salaries of existing teachers.

CHAPTER 69

(Senate Bill No. 70—By Mr. Traubert and Mr. Swearingen)

AN ACT to repeal sections twenty-five, twenty-six, twenty-seven and twenty-seven-a, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections fifteen, twenty-three, twenty-four, thirty and thirty-a of said article, and to amend said article by adding there-to a new section, designated section thirty-b, all relating to the licensing of teachers and school administrators.

[Passed February 13, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section
15. Teacher certification; general qualifications and requirements.
23. Authority of state superintendent of free schools to issue certificates; kinds of certificates.
24. Validity of first class certificates previously issued.
30-a. Certification of teachers serving in the armed forces of the United States.
30-b. Validity of present certificates.

Be it enacted by the Legislature of West Virginia:

That sections twenty-five, twenty-six, twenty-seven and twenty-seven-a, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections fifteen, twenty-three, twenty-four, thirty and thirty-a be amended and reenacted, and that a new section, designated section thirty-b, be added to said article, to read as follows:

Section 15. Teacher Certification; General Qualifications and Requirements.—No person employed as a teacher in the free schools of this state shall receive for such services any part of any free school funds who does not hold a valid teaching certificate licensing him to teach in the public schools for the period of his employment and showing the grade levels and subject areas in which he is qualified to teach: Provided, That if a teacher is employed in good faith on the anticipation that he is eligible for a certificate and it is later determined that he was not eligible, the state superintendent of schools may authorize payment by the county board of education to the teacher for a time not exceeding one school month. All certificates shall expire on June thirtieth of the last year of their validity irrespective of the date of issuance. Under no circumstances shall a certificate to teach be granted to any person who is not a citizen of the United States, is not of good moral character and physically, mentally and emotionally qualified to perform the duties of a teacher and who has not attained the age of eighteen years on or before the first day of October of the year in which his certificate is issued; except that an exchange teacher from a foreign country shall not be required to be a citizen of the United States. The term "teacher" as used in this section is intended to include the classroom teacher, school librarian, school principal, school superintendent, assistant superintend-
Sec. 23. Authority of State Superintendent of Free Schools to Issue Certificates; Kinds of Certificates.—The state superintendent of free schools shall have authority to issue certificates valid in the public schools of the state in accordance with standards and requirements approved by the state board of education. Certificates authorized to be issued include:

A professional certificate for teaching in the public schools may be issued for a five-year period to the holder of a bachelor's degree from an approved institution of higher education, in which case, the certificate shall be endorsed for teaching in the elementary or secondary schools or both in accordance with an approved program completed by the applicant. A professional certificate for teaching in the public schools may be issued provisionally, in which case, it shall be valid for a three-year period.

Professional certificates, as provided by this section, shall be valid for teaching in grades one through nine, or seven through twelve, or one through twelve, or in any other combination of grades approved by the state board of education, in accordance with the program of collegiate training completed.

A professional administrative certificate may be issued for a five-year period to an applicant who has completed the requirements for a master's degree in an institution of higher education approved to give graduate training, in which case, the certificate shall be endorsed in accordance with an approved program completed by the applicant.

Other certificates or teaching permits valid in the public schools are authorized to be issued by the state superintendent of free schools, with the approval of the state board of education, as warranted by conditions and the changing needs of education.

Sec. 24. Validity of First Class Certificates Previously Issued.—First class high school certificates, issued prior
to the effective date of this act, shall be valid in grades seven through twelve. First class elementary certificates, issued prior to the effective date of this act, shall be valid in grades one through nine. Public school certificates issued prior to the effective date of this act shall be valid in grades one through twelve.

First class high school certificates, issued prior to the effective date of this act, shall be valid in the elementary schools provided the holder has had one full year or more of teaching or principalship experience in the elementary grades prior to July one, one thousand three hundred thirty-four. In all such cases, the teacher or principal shall file with his certificate in the office of the county superintendent of schools a certified statement of elementary experience to meet the above requirement.

Sec. 30. Certificate Renewals and Permanent Certificate.—Any certificate based on a bachelor's degree and valid for a five-year period which was originally issued in the school year of one thousand nine hundred thirty-three and one thousand nine hundred thirty-four, or any such certificate issued thereafter, shall be renewable for the period designated on the original certificate, provided the holder: (1) Files application on a prescribed form with the state department of education; (2) presents an official transcript of six semester hours of approved credit, as may be prescribed by the state board of education, completed after the beginning of the period of validity of the certificate to be renewed and within the five-year period immediately preceding the date of application for renewal; and (3) submits the recommendation of the county superintendent of schools of the county in which he last taught or resides. The third renewal becomes a permanent certificate.

Any certificate based on a bachelor's degree which is issued for a five-year period and valid or renewable in the school year one thousand nine hundred fifty-six and one thousand nine hundred fifty-seven, or any such certificate issued thereafter, shall be made permanent provided the holder: (1) Files application on a prescribed
form with the state department of education; (2) presents
an official transcript showing the completion of the re-
quirements for a master’s degree at an institution of
higher education approved to give graduate training per-
tinent to the improvement of public school teachers, or
completes the fifth year of training leading to a bachelor’s
degree in library science from a school fully approved
by the American library association; (3) submits a recom-
mendation based on successful teaching experience from
the county superintendent of schools of the county in
which he last taught or resides; and (4) submits evidence
of five years’ teaching experience.

Any certificate not requiring college graduation or any
certificate issued for less than a five-year period which is
valid or renewable in the school year one thousand nine
hundred fifty-six and one thousand nine hundred fifty-
seven, or any such certificate issued thereafter, shall be
renewed for the period designated on the original certifi-
cate provided the holder: (1) Files application on a
prescribed form with the state department of education
before September one of the third year following the
expiration of the certificate; (2) presents an official tran-
script of six semester hours of credit, as may be pre-
scribed by the state board of education and completed
after the beginning of the period of validity of the certi-
ficate to be renewed; and (3) submits the recommenda-
tion of the county superintendent of schools of the county
in which he last taught or resides. The normal certificate
based on two years of collegiate preparation which was
discontinued with the one thousand nine hundred forty-
two series is subject to all regulations contained in this
paragraph except that the third renewal becomes a
permanent certificate.

A person who has reached the age of sixty and holds a
renewable certificate, as provided in this section, need
not present renewal credit but shall meet all other re-
newal requirements.

A person holding a permanent certificate of any type
who meets the requirements for a professional certificate
and completes eighteen semester hours of approved gradu-
ate credit shall, upon application, be issued a permanent professional certificate provided he is recommended by the county superintendent of the county in which he last taught or resides.

If the applicant seeking renewal has cause to believe that his county superintendent refuses to give a recommendation without just cause, he shall have the right, in such case, to appeal to the state superintendent of schools whose responsibility it shall be to investigate the matter and issue a certificate if, in his opinion, the county superintendent's recommendation was withheld arbitrarily.

Sec. 30-a. Certification of Teachers Serving in the Armed Forces of the United States.—A certificate held by a member of the armed forces of the United States shall not expire prior to June thirtieth of the year following his or her honorable discharge provided the certificate was valid at the time of entry into the armed forces.

Sec. 30-b. Validity of Present Certificates.—Nothing in this act shall be construed or interpreted in such way as to invalidate or in any manner change or shorten the validity period of certificates in force on the effective date of this act.

CHAPTER 70
(Senate Bill No. 298—By Mr. Traubert)

AN ACT to amend article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-three, providing for a file of names of qualified teachers to be kept by the state superintendent of schools.

[Passed March 8, 1957; in effect from passage. Approved by the Governor.]

Article 7. Teachers.
Section 33. State superintendent to keep master file of qualified teachers for use by school officials.
Be it enacted by the Legislature of West Virginia:

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

Section 33. State Superintendent to Keep Master File of Qualified Teachers for Use by School Officials.—The state superintendent of free schools shall prepare and keep a master file of names of persons who meet the regular qualifications to teach in the public schools of West Virginia. Each person shall be listed alphabetically, and, insofar as possible, by his major and minor teaching fields. The following data shall also be included: Last known home address, unmarried and married name, date of birth, sex, names of colleges and universities attended, years of such attendance and degrees awarded, and kinds of teaching certificates held.

The proper officers of West Virginia university and of the colleges supported by the state shall, within ninety days after the effective date of this section, transmit to the state superintendent of free schools a list of persons suitable for inclusion in said master file. Such list shall be as complete as practicable but shall include only students who have attended the school during the period from July first, one thousand nine hundred thirty-seven, to March fifteenth, one thousand nine hundred fifty-seven. Thereafter, the proper officers of such schools shall, on or before March first and July first of each year, submit a similar list of persons who qualify for inclusion in the master file. The state superintendent may request similar information from colleges and universities which are not supported by the state.

The master file shall be available for the use of proper county school officials. The state superintendent shall, through the use of the file, assist the county officials in finding qualified persons to fill teaching positions.

The state superintendent may make appropriate rules and regulations to carry out the provisions of this section.
AN ACT to amend and reenact section twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowance upon retirement under the state teachers' retirement system.

Article 7-a. State Teachers’ Retirement System.

Section 26. Allowance upon retirement.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, 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 26. Allowance upon Retirement.—Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be the sum of the following:

(a) The actuarial equivalent of the contributions and deposits of the member in his individual account up to the time of his retirement, with regular interest.

(b) The actuarial equivalent of the contributions of the employer up to the time of the member's retirement, which shall equal the sum in subsection (a) of this section minus deposits with regular interest on such deposits.

(c) Where prior service credit has been granted, an allowance of one and one-half per cent of the member's average final salary multiplied by the number of years of prior service credited to him.

(d) The actuarial equivalent of the amounts that would have accumulated under subsections (a) and (b) of this
section, if the member had contributed to his individual
account until he was fifty years old, at the annual rate of
his past actual contributions, but this subsection shall
apply only as additional income to members who qualify
for disability retirement before they are fifty years old.

(e) Twelve dollars multiplied by his total service as
a teacher.

(f) The member shall receive in addition to the allowances under subsections (c) and (d) an amount equal
to six dollars multiplied by his total service credit: Provided, however, The maximum allowance under this sub-
section shall be one hundred and ninety-two dollars: And provided further, That this subsection shall be effective
on and after July the first, one thousand nine hundred fifty-seven.

The disability annuities of all teachers retired for dis-
ability shall be based upon a disability table prepared
by a competent actuary, approved by the retirement
board.

For the purposes of subsection (c):

(1) An allowance for prior service shall in no case
exceed three-fifths of the member's average final salary.

(2) Average final salary for this purpose shall in no
case exceed two thousand five hundred dollars, nor shall
it be less than twelve hundred dollars.

All annuities shall be paid in twelve monthly payments.
In computing such monthly payments, fractions of a cent
shall be deemed a cent. Such monthly payments shall cease
with the payment for the month within which the benefi-
ciary dies, and shall begin with the payment for the
month succeeding the month within which the annuitant
became eligible under this article for the annuity granted;
in no case, however, shall annuitant qualifying for an
annuity because of age or service, receive more than four
monthly payments which are retroactive after the board
receives his application for annuity.

In case the retirement board receives data affecting the
approved annuity of a retired teacher, the annuity shall
be changed in accordance with such data, the change
being effective with the payment for the month within
which the board received the new data.

An annuity application shall be cancelled immediately
if the applicant dies before the retirement board approved
such application.

The provisions of this section shall apply to the computa-
tion of all monthly allowances paid to beneficiaries
after the effective date hereof.

Any person who has attained the age of sixty-five and
who has served at least twenty-five years as a teacher
prior to July one, one thousand nine hundred forty-one,
shall be eligible for prior service credit and for prior
service pensions as prescribed in this section.

CHAPTER 72
(Senate Bill No. 93—By Mr. Martin)

AN ACT to amend and reenact section three, article ten, chap-
ter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the land
grant status of West Virginia colleges.

(Passed March 4, 1957; in effect ninety days from passage. Approved by the
Governor.)

Article 10. Federal Aid and Gifts for Educational Purposes.
Section 3. Federal aid for West Virginia university.

Be it enacted by the Legislature of West Virginia:

That section three, article ten, 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. Federal Aid for West Virginia University.—
2 The state of West Virginia hereby renews its assent to the
provisions and purposes of the act of Congress of August thirtieth, eighteen hundred and ninety, entitled “An act to apply a portion of the proceeds of the public land to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of the act of Congress approved July second, eighteen hundred and sixty-two,” and of all subsequent acts of Congress amending or supplementing said act, and accepts the appropriations of money authorized thereby.

The state of West Virginia hereby designates West Virginia university as the beneficiary of such appropriations for the instruction of students.

CHAPTER 73
(Senate Bill No. 293—By Mr. Martin)

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, designated section five-b, relating to payroll deductions for contributions by employees of the board of governors of West Virginia university for participation in group insurance plans.

[Passed March 2, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 11. West Virginia University.
Section 5-b. Payroll deductions for employee participation in group insurance plans.

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, designated section five-b, to read as follows:
Section 5-b. Payroll Deductions for Employee Participation in Group Insurance Plans.—Whenever any employees of the board of governors of West Virginia university shall be eligible to participate in any group insurance plan, the board shall have the authority to authorize such participation, and, upon the written request of any participating employee, may make periodic deductions from salary payments due such employee of the amount of the contribution he is required to make for such participation. Upon proper requisition of the board, the auditor shall periodically issue a warrant, payable as specified in the requisition, for the total contributions so withheld from the salaries of all participating employees.

CHAPTER 74
(Senate Bill No. 219—By Mr. Martin)

AN ACT to repeal section two, article thirteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section one of said article thirteen, all relating to West Virginia state college.

[Passed March 5, 1957; in effect ninety days from passage. Approved by the Governor.]

Section 1. Continuation and management; Washington Carver camp.

Be it enacted by the Legislature of West Virginia:
That section two, article thirteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section one of said article thirteen be amended and reenacted to read as follows:

Section 1. Continuation and Management; Washington Carver Camp.—The institution for the instruction of students heretofore established and located at Institute, in
Kanawha county, shall be continued and shall be known as the "West Virginia State College." The business and educational affairs of said college shall be under the control, supervision and management of the state board of education, as provided in section thirteen, article two of this chapter.

The state board of education shall establish and maintain in the West Virginia state college, in addition to the courses of study leading to a bachelor of science or bachelor of arts degree, such professional and pre-professional courses of study as may be expedient and practicable, and shall prescribe the conditions for graduation therefrom and make rules for the conferring of degrees and for issuing the proper diplomas to those who successfully complete such courses.

The rules and regulations made by the president and faculty of said college for its general government, for the admission of students thereto, the standards of scholarship to be maintained therein and the graduation of students therefrom, shall be submitted to the state board of education for its approval.

The Washington Carver camp, heretofore established as an adjunct of the West Virginia state college, is hereby continued for the purposes and function to be determined by the state board of education. The state board of education is hereby authorized to provide necessary and suitable equipment for carrying out the purposes of said camp. The title to the property upon which such camp site is located shall be and remain in the state board of education. Any appropriations hereafter made to carry out the provisions and purposes of this section shall be expended through the state board of education.

CHAPTER 75

(House Bill No. 339—By Miss Hallanan and Mr. Blue)

AN ACT to amend and reenact sections one, two, three, four, five and six, article seventeen, chapter eighteen of the code
of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia schools for the deaf and the blind.

[Passed March 4, 1931; in effect ninety days from passage. Approved by the Governor.]

Article 17. West Virginia Schools for the Deaf and the Blind.

Section

1. Continuation; management.
2. Admission and record of pupils.
3. Tuition, board and clothing of pupils.
4. Period of attendance; special admission.
5. Course of instruction.
6. Registration of deaf and blind by assessors.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five and six, article seventeen, 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. Continuation; Management.—The West Virginia schools for deaf pupils and blind pupils heretofore established and located at Romney, in Hampshire county, shall be continued and shall be known as the "West Virginia Schools for the Deaf and the Blind." The schools shall be maintained for the care and education of the deaf youth and blind youth of the state. The educational or business affairs of the schools shall be under the control, supervision and management of the state board of education, as provided in section thirteen, article two of this chapter.

Sec. 2. Admission and Record of Pupils.—All deaf youth and blind youth resident in the state, between the ages of six and twenty, inclusive, providing they are educable, physically capable and free from contagious disease, shall be enrolled in the school on application to the superintendent, until the school is filled. Applicants shall be admitted in the order of their application. It shall be the duty of the superintendent to keep a careful record of the names of
all applicants, with the dates of their admission and dis-
charge, their ages, post-office addresses, the names of their
parents or guardians, and the degree, cause and circum-
stances of their deafness or blindness.

Sec. 3. Tuition, Board and Clothing of Pupils.—All such
deaf pupils and blind pupils shall be admitted to the
schools without charge for board and tuition. When not
otherwise provided with clothing they shall be furnished
therewith by the institution while they are pupils therein,
and the superintendent shall make out an account therefor
in each case against the county where the pupil receiving
the clothing resided at the time the clothing was furnished,
in an amount not exceeding seventy-five dollars per
annum for any one pupil, which account shall be sworn
to by the superintendent and countersigned by the busi-
ness manager and shall be transmitted by the superinten-
dent to the auditor of the state, who shall forward a copy
thereof to the clerk of the county court of such county.
The county court shall, at its next levy term, provide for
the payment of the same and cause the amount to be paid
directly to the West Virginia schools for the deaf and the
blind to be deposited into the indigent clothing fund.
All money so received shall be disbursed upon requisitions
for the payment of accounts incurred thereunder. If any
such accounts are not paid within a reasonable time after
such levy term, it shall be the duty of the auditor to collect
the same.

Sec. 4. Period of Attendance; Special Admissions.—The
pupils of said schools may continue therein until comple-
tion of the prescribed course of study, or a lesser period
of time which the condition and progress of the pupil
may justify, as determined by the state board of education
and the superintendent. After all applicants between the
prescribed ages of six and twenty years, inclusive, have
been enrolled, if there are additional accommodations,
the superintendent may enroll other deaf pupils and blind
pupils who may be of suitable age to receive any advan-
tage from the institution, and upon such terms as the
state board of education may prescribe; but it shall be
distinctly understood that such persons shall withdraw
from the institution in the order of their admission to
make room for new applicants between the ages pre-
scribed.

Sec. 5. Course of Instruction.—The course of instruction
in the institution shall be prescribed by the state board of
education with the advice of the superintendent, and shall
be as extensive in the intellectual, musical, vocational, and
prevocational departments as the capacities and interests
of the pupils may require.

Sec. 6. Registration of Deaf and Blind by Assessors.—
In addition to their other duties the county assessors of the
state are hereby required to register, in a book to be
furnished them by the state auditor for the purpose, the
names of all deaf persons and blind persons under twenty-
one years of age in their respective counties, with the
degree and cause of deafness and blindness in each case,
as far as can be ascertained from the heads of the families
or from other persons whom the county assessors may
conveniently consult, their ages, the names of their parents
or guardians, their post-office addresses, and such other
facts as may be useful in making the institution efficient
in the education of the deaf and of the blind. They shall
complete the registration on or before June one of each
year and forward their report to the auditor, a copy to the
state superintendent of schools and to the superintendent
of the West Virginia schools for the deaf and the blind on
or before July one of each year. The superintendent shall
immediately communicate with the parents or guardians
of all the deaf persons and the blind persons mentioned
in the assessor’s report, with a view of their admission as
pupils into said schools.

CHAPTER 76

(Com. Sub. for Senate Bill No. 171—Originating in the
Senate Committee on Education)

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, designated article twenty-one, relating to the creation of a state scholarship fund to provide scholarships for the training of persons for teaching in the public schools of West Virginia, establishing the conditions and provisions for such scholarships in education, and providing for the administration of the program by the state superintendent of free schools.

[Passed March 8, 1957; in effect from passage. Approved by the Governor.]


Section

1. Need for scholarships.
2. Creation of West Virginia scholarship fund.
3. Number of scholarships.
4. County scholarship committees; selection of scholarship holders.
5. Value of scholarships; disbursement of funds.
7. Repayment or cancellation of notes.
8. State superintendent of free schools to make necessary rules and regulations.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Need for Scholarships.—The state Legislature hereby declares that there is a wide and continuing need for new and additional teachers in the public school system of the state, and that the scholarships herein provided will attract additional young people to the teaching profession and thus aid in the solution of a pressing and serious problem facing the people of this state.

Sec. 2. Creation of West Virginia Scholarship Fund.—There is hereby created the West Virginia scholarship fund for teacher trainees for the public purpose of relieving the existing teacher shortage in the schools, to be administered by the state superintendent of free schools.
Sec. 3. Number of Scholarships.—There are hereby created one hundred scholarships as follows: In each county there shall be a number of scholarships equal to the number of delegates from that county in the House of Delegates of the state Legislature.

Sec. 4. County Scholarship Committees; Selection of Scholarship Holders.—In each county there shall be created a selection committee comprised of the county superintendent of schools and the board of education, with the superintendent to serve as chairman of the committee. Each county scholarship committee, by May one of each year, shall select and recommend to the state superintendent of free schools for appointment from that county, on the basis of merit and need as hereinafter set forth, the number of high school graduates, or prospective graduates, not to exceed the number as determined in section three hereof, plus an equal number of alternates, who are interested in teaching and whose work and qualifications are such as to indicate that they possess the qualifications to make them successful teachers. Each person selected shall rank among the upper third of the members of the graduating class of which he is a member, and be a bona fide resident of the county from which he is selected. The selection by the county scholarship committee shall also be partially based on the financial needs of the students selected in order to promote the purposes of this article of encouraging additional students to enter the teaching profession who might otherwise be unable to do so. Scholarships shall not be awarded to any individual who has been issued any type of teaching certificate by the state board of education or the state department of education.

In the event of a rejection of a scholarship or a vacancy in a scholarship during the school year, the state superintendent of free schools shall fill the vacancy upon the recommendation of the appropriate county scholarship committee where the rejection or vacancy has occurred, from the list of alternates in that county.

Sec. 5. Value of Scholarships; Disbursement of Funds.—
Each scholarship shall carry a stipend of five hundred dollars for a school year of nine months, which shall be disbursed to scholarship holders upon their application as approved by the state superintendent of free schools upon vouchers for that purpose. Such scholarships shall be paid in equal installments at the beginning of each quarter or semester while college is in session to each person who has been awarded such a scholarship when the following requirement is met:

Such person shall be a bona fide full-time student in the college or department of education in a West Virginia institution of higher education or in the pre-education program of such institution where the college of education is a senior college within the institution, provided that the program in education is approved by the state board of education.

Each person awarded a scholarship under the terms of this article shall be eligible upon the completion of satisfactory work during the first year to have the scholarship renewed at the discretion of the state superintendent of free schools for a period of one additional year of full-time study in a program of education or pre-education as stipulated in the preceding paragraph. Two further renewals of one year each may be made under the same conditions with no person holding a scholarship longer than is necessary to complete all of the requirements for graduation from the undergraduate course in teacher training he is pursuing.

Sec. 6. Giving of Notes.—Each person who receives a scholarship shall execute notes and shall deliver said notes to the state superintendent of free schools or to his representative. Each such note shall be payable on demand to the state treasurer for the amount of the quarterly or semi-annual payment. The superintendent shall hold said notes until they have been paid or cancelled as prescribed in section seven of this article.

Sec. 7. Repayment or Cancellation of Notes.—At the expiration of each school year of service as a teacher in the public schools of West Virginia by a person who has
4 held a scholarship granted under this article, such person shall submit to the state superintendent of free schools a statement of service on a form provided for that purpose and certified by the county superintendent in the county in which he has taught. Upon receipt of such statement in proper form, the state superintendent shall cancel the oldest outstanding notes given by such person covering the scholarship for one year. If for any reason, except for death or physical or mental disability, or being drafted into the armed services, a recipient of a scholarship fails successfully to complete his education course and to be certified to teach in the public schools of West Virginia, or if upon completion of such course and certification as a teacher he fails to file with the state superintendent of free schools by July first of each year a statement concerning his previous year's employment and his address for the ensuing year, the state superintendent of free schools shall make demand for payment of all of said unpaid and uncancelled notes and shall transmit all such notes promptly to the state treasurer who shall enforce collection thereon and shall deposit such sums so collected in the general revenue fund.

Sec. 8. State Superintendent of Free Schools to Make Necessary Rules and Regulations.—The state superintendent of free schools shall have the power to make all necessary rules and regulations to carry this article into effect.

CHAPTER 77
(Senate Bill No. 294—By Mr. Martin)

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 8, 1957; in effect July 1, 1957. 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 two hundred dollars per semester; and for nonresident students five hundred dollars per semester. The schedule of fees, and any changes therein, shall be entered in the minutes of the meetings of the governing board, and the governing board shall file with the state auditor and state budget director a certified copy of such schedule and changes.

In addition to the fees mentioned in the preceding paragraph, but subject to all requirements and within the limits fixed thereby, the governing board of any state educational institution may impose and collect a student union building fee. All such building fees collected at the institution shall be paid into a special fund and shall be used only for the eventual construction and operation of a student union building or for the renovation of an existing structure for use as a student union building. Until such time as the special fund, together with any other moneys
available for the purpose, may be large enough to defray
the cost of providing a student union building, all moneys
in the fund may be invested in any such bonds or other
securities as are now or may hereafter be authorized as
proper investments for state funds.
Refund, as an erroneous payment, may be made of any
such fees, upon the voluntary or involuntary withdrawal
from classes of any student, until eight weeks of the school
semester or term have expired, but no refund may be
made thereafter.

CHAPTER 78

( Senate Bill No. 323—Originating in the
Senate Committee on Finance)

AN ACT to amend and reenact section five, article one-a, chap­
ter twenty-five of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the estab­
ishment, maintenance, and operation
of book stores at
state educational institutions and to the disposition of reve­
nues derived therefrom.

(Passed March 5, 1937; in effect from passage. Approved by the Governor.)

Article 1-a. Fees and Other Money Collected at State Institu­
tions.

Section
5. Establishment, maintenance, and operation of book stores at state
educational institutions; disposition of revenues.

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. Establishment, Maintenance, and Operation
of Book Stores at State Educational Institutions; Disposi-
tion of Revenues.—The governing board of each state educational institution shall have the authority to establish and operate a book store at the institution. The book store shall be operated for the use of the institution itself, including each of its schools and departments, in making purchases of books, stationery and other school and office supplies generally carried in college stores, and for the benefit of students and faculty members in purchasing such products for their own use, but no sales shall be made to the general public. The prices to be charged the institution, the students and the faculty for such products shall be fixed by the governing board, shall not be less than the prices fixed by any fair trade agreements, and shall in all cases include in addition to the purchase price paid by the book store a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage, and other operating expenses, to the end that the prices charged shall be commensurate with the total cost to the state of operating the book store.

All moneys derived from the operation of the store shall be paid into a special revenue fund as provided in section two, article two, chapter twelve of this code. The governing board shall, subject to the approval of the governor, fix and from time to time change the amount of the revolving fund necessary for the proper and efficient operation of each book store. Whenever at the end of any fiscal year the unencumbered balance in the book store special revenue fund shall exceed the amount of the revolving fund so established, the excess shall be transferred by the state auditor to the general revenue fund and become a part of the general revenue of the state.

Moneys derived from the operation of the book store 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 university 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 eighty thousand dollars for the construction of a building to house the university book store. Until such building is constructed, the board of governors
and the governor shall take this authorization into account in fixing the amount of the revolving fund for the university book store.

CHAPTER 79

(Senate Bill No. 146—By Mr. Moats and Mr. Swearingen)

AN ACT to amend and reenact chapter ninety-two, acts of the Legislature of West Virginia, 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 February 11, 1957; 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 of West Virginia, 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-third 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 hun-
dred forty and one thousand nine hundred fifty-eight.

CHAPTER 80

(House Bill No. 155—By Mr. Brotherton and Mr. Charnock)

AN ACT to amend and reenact section three, article four, chap-
ter three of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to delegates to
national convention; election.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 4. Nomination or Election of Candidates at Primaries.

Section

3. Delegates to national convention; election.

Be it enacted by the Legislature of West Virginia:

That section three, 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 3. Delegates to National Convention; Election.—

2 At each May primary there shall be elected by the voters
3 of each political party of the state the number of persons
4 to which the party is entitled as delegates at large, and
5 by the voters of each political party in each congressional
6 district in the state the number of delegates to which the
7 district is entitled, in the national convention of the party
8 to be next held after the date of such primary. The per-
9 sons receiving the highest number of votes in the state as
delegates at large, to the number to which the state is
entitled, shall be elected delegates. The persons receiving
12 the highest number of votes as delegates in any congres-
CHAPTER 81

AN ACT to amend and reenact section twenty-three, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to vacancies in nominations for elections and payment of filing fees by candidates.

[Passed February 21, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination or Election of Candidates at Primaries.

Section

23. Vacancies in nominations; filing fees.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, 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 23. Vacancies in Nominations; Filing Fees.—If any vacancy shall occur in the party nomination of candidates for office, caused by the death, withdrawal, failure to make a nomination for the office at the primary election, or otherwise, it may be filled and the name of the candidate certified by the executive committee of the political party for the political division in which the vacancy occurs. If such vacancy be not filled by the executive committee more than forty-five days next preceding
the date of the election, it shall be lawful for the chairman
of the political party executive committee for the political
division to fill such vacancy and make a certificate thereof
and file the same with the officer with whom the original
certificate of nomination was, should, or might have been,
regularly filed. And it shall be the duty of the officer to
receive and proceed with the same in all respects as an
original nomination: Provided, however, That in no in-
stance shall a certificate be filed and received less than
forty-two days preceding the date of election: Provided
further, That where the vacancy exists because of a failure
to make a nomination for the office at the primary elec-
tion, no nomination under this section shall be deemed
filed until a filing fee shall have been paid in an equal
amount and to the same office that a candidate for the
nomination to the position being filled under this section
is required to pay under section six-a of this article.

CHAPTER 82

(Com. Sub. for Senate Bill No. 269—Originating in the
Senate Committee on the Judiciary)

AN ACT to amend and reenact section two, article two, chap-
ter fifty-four of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to pleadings
in proceedings in eminent domain.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 2. Procedure.
Section
2. Pleadings; verification.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter fifty-four of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:
Section 2. **Pleadings; Verification.**—The pleadings shall be in writing and shall be verified. The petition shall describe with reasonable certainty the property proposed to be taken, and may embrace one or more parcels of land where the ownership is the same. If an estate less than a fee is proposed to be taken, the petition shall describe with reasonable certainty the particular estate less than the fee which it is proposed to take, the name of the owner or owners thereof, the manner and extent of their respective interests. If there are any liens upon or conflicting claims to such real estate, the petition shall state the nature and amount of such liens and claims and the names and places of residence of the persons who hold the same, so far as known to the petitioner. Where there are persons interested in the property proposed to be taken whose names are unknown to the applicant, or it is not known to the applicant whether there are any other persons interested in the property proposed to be taken, or there be any contingent or executory interest or estate in such property which is liable to vest in or to open and let in persons not in being, such fact shall be stated in the petition and such persons, if any, shall be made parties defendant to such petition by the general description of parties unknown. The joinder of any person having only a contingent or executory interest in the property proposed to be taken shall not be necessary when the person not joined is virtually represented by any other party or parties defendant; and where such virtual representation exists no order or decree made thereunder shall be deemed erroneous or void because of such non-joinder. The petition shall also state the use to which the estate sought to be taken is intended to be appropriated.

**(CHAPTER 83)**

*(Com. Sub. for Senate Bill No. 264—Originating in the Senate Committee on the Judiciary)*

AN ACT to amend and reenact section three, article two, chapter fifty-four of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to notices to the owner or other interested party in eminent domain proceedings when the property proceeded against is subject to future interests.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. Procedure.

Section

3. Notice; riparian owner affected by taking water.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Notice; Riparian Owner Affected by Taking Water.—Of such application ten days' notice shall be served on the owners, claimants and persons holding liens, whose interests the applicant seeks to condemn, and the notice may be given either before the petition is presented or afterwards. But where the owners of the real estate proposed to be taken or the persons holding such liens or conflicting claims, or any of them, are nonresidents of the state or their whereabouts is unknown, or they are unknown to the applicant, or there be any persons made parties defendant by the general description of parties unknown as provided in section two of this article, the notice as to them, instead of being thus served, may be given by advertisement containing (by reference to a plat filed for the purpose in the office of the clerk of the circuit court or otherwise) a specific description of the property in which they are interested that is proposed to be taken, and stating the purpose to which it is intended to be appropriated, and the time and place at which a hearing will be asked upon the application, which advertisement shall be published at least once a week for four successive weeks in some newspaper published in the county, or if none be published therein, then some newspaper of general circulation in the county.
Where water is to be taken as authorized in section ten, article one of this chapter, notice to riparian owners having lands below the point at which the water is proposed to be taken, and likely to be affected thereby, shall be given by publishing the same once each week for four successive weeks in some newspaper of general circulation published in the county. Any such riparian owner may come into court, or before the judge of such court in vacation, on the return day of the notice and publication, make himself a party to the proceedings and have his rights passed upon by the commissioner, and his damage, if any, ascertained, allowed and paid as in this chapter provided for the taking of lands.

CHAPTER 84
(Com. Sub. for Senate Bill No. 265—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section four, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of a guardian ad litem in eminent domain proceedings for owners or other interested parties under disability or who are unknown.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. Procedure.

Section 4. Persons under disability.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Persons Under Disability.—If the owner, or person holding any lien or claim, be under any disability
and there be a guardian or committee for him, such guardian or committee shall be notified; but if there be no guardian or committee or if any such owner or person be unknown or if there be any persons made parties by the general description of parties unknown, as provided in section two of this article, the court, or judge thereof in vacation, shall appoint a guardian ad litem to defend such interests and may direct the payment of such guardian ad litem, in an amount to be fixed by the court or judge, to be taxed as costs and paid by the applicant.

CHAPTER 85
(House Bill No. 184—By Mr. Richardson)

AN ACT to amend article one, 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 twenty-four, relating to the inapplicability of the rule against perpetuities to options in leases.

(Passed March 1, 1937; in effect ninety days from passage. Approved by the Governor.)


Section

24. Options in leases; rule against perpetuities.

Be it enacted by the Legislature of West Virginia:

That article one, 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 twenty-four, to read as follows:

Section 24. Options in Leases; Rule Against Perpetuities.—An option contained in any lease to purchase the whole or any part of the leased premises, exercisable either during the term of the lease or immediately upon its termination, shall, if otherwise valid, be enforceable
in accordance with its terms, irrespective of the rule against perpetuities. In any suit to enforce such option, the lessor, or the successors in interest of the lessor, shall not plead the rule against perpetuities as a defense, and the same shall not constitute a defense either in law or in equity: Provided, That this section shall not apply to any lease heretofore executed.

CHAPTER 86
(Senate Bill No. 88—By Mr. Martin)

AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article seven, relating to gifts of securities and money to minors.

[Passed February 14, 1957; in effect ninety days from passage. Approved by the Governor.]


Section
1. Definitions.
3. Effect of gift.
4. Duties and powers of custodian.
5. Custodian’s expenses, compensation, bond and liabilities.
7. Resignation, death or removal of custodian; bond; appointment of successor custodian.
8. Accounting by custodian.
10. Short title.
11. Severability.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Definitions.—In this article, unless the context otherwise requires:
(a) An "adult" is a person who has attained the age of twenty-one years.

(b) A "bank" is a bank, trust company, national banking association, savings bank or industrial bank.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the circuit court.

(e) "The custodial property" includes:

1. all securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article;

2. the income from the custodial property; and

3. the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

(f) A "custodian" is a person so designated in a manner prescribed in this article.

(g) A "guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.

(h) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(i) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(j) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles
and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(k) A “minor” is a person who has not attained the age of twenty-one years.

(l) A “security” includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in “registered form” when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(m) A “transfer agent” is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(n) A “trust company” is a bank authorized to exercise trust powers in the state.

Sec. 2. Manner of Making Gift.—(a) An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: “as custodian for ...........................................
(name of minor)
under the West Virginia Gifts to Minors Act”;

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult person, other than the donor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:
“GIFT UNDER THE WEST VIRGINIA GIFTS TO MINORS ACT

I, ......................................................, hereby deliver (name of donor)
to .........................................................., as custodian (name of custodian)
for .......................................................... under the West (name of minor)
Virginia Gifts to Minors Act, the following security(ies):
(insert an appropriate description of the security or securities delivered sufficient to identify it or them)

..........................................................

(signature of donor)

..........................................................

(name of custodian)

receipt of the above described security(ies) as custodian
for the above minor under the West Virginia Gifts to
Minors Act.

Dated: ..........................................................

(signature of custodian)

(3) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a bank with trust powers, followed, in substance, by the words:
“as custodian for ..........................................................

(name of minor)

under the West Virginia Gifts to Minors Act”.

(b) Any gift made in a manner prescribed in subsection (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor’s failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

Sec. 3. Effect of Gift.—(a) A gift made in a manner prescribed in this article is irrevocable and conveys to the
minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this article.

(b) By making a gift in a manner prescribed in this article, the donor incorporates in his gift all the provisions of this article and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this article.

Sec. 4. Duties and Powers of Custodian.-(a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion.
and intelligence who is seeking a reasonable income and
the preservation of his capital, except that he may, in his
discretion and without liability to the minor or his estate,
retain a security given to the minor in a manner pre-
scribed in this article.

(f) The custodian may sell, exchange, convert or other-
wise dispose of custodial property in the manner, at the
time or times, for the price or prices and upon the terms
he deems advisable. He may vote in person or by general
or limited proxy a security which is custodial property.
He may consent, directly or through a committee or other
agent, to the reorganization, consolidation, merger, dis-
solution or liquidation of an issuer, a security which is
custodial property, and to the sale, lease, pledge or mort-
gage of any property by or to such an issuer, and to any
other action by such an issuer. He may execute and de-
deliver any and all instruments in writing which he deems
advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which
is custodial property and in registered form in the name
of the custodian, followed, in substance, by the words:
"as custodian for ____________________ under the West
Virginia Gifts to Minors Act". The custodian shall hold
all money which is custodial property in an account with
a broker or in a bank in the name of the custodian, fol-
lowed, in substance, by the words: "as custodian for
__________________________ under the West Vir-

(h) The custodian shall keep records of all transactions
with respect to the custodial property and make them
available for inspection at reasonable intervals by a par-
ent or legal representative of the minor or by the minor,
if he has attained the age of fourteen years.

(i) A custodian has and holds as powers in trust, with
respect to the custodial property, in addition to the rights
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and powers provided in this article, all the rights and
powers which a guardian has with respect to property
not held as custodial property.

Sec. 5. Custodian’s Expenses, Compensation, Bond and Liabilities.—(a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property compensation for his services determined by

1. A direction by the donor when the gift is made; or

2. In lieu of a direction by the donor a sum equal to five per cent of the gross income from the custodial property.

(d) Except as otherwise provided in this article, a custodian shall not be required to give a bond for the performance of his duties.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this article.

Sec. 6. Exemption of Third Persons from Liability.—No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this article, or is obliged to inquire into the validity or propriety under this article of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the applica-
Sec. 7. Resignation, Death or Removal of Custodian; Bond; Appointment of Successor Custodian.—(a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this article.

(b) A custodian, other than the donor, may resign and designate his successor by:

(1) executing an instrument of resignation designating the successor custodian; and

(2) causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for ____________________________ under the

(name of minor)

West Virginia Gifts to Minors Acts"; and

(3) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

(c) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(d) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty-one years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of fourteen years, may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the
minor or the minor, if he has attained the age of fourteen
years, may petition the court that, for cause shown in the
petition, the custodian be removed and a successor custo-
dian be designated or, in the alternative, that the custo-
dian be required to give bond for the performance of
his duties.

(f) Upon the filing of a petition as provided in this
section, the court shall grant an order, directed to the
persons and returnable on such notice as the court may
require, to show cause why the relief prayed for in the
petition should not be granted and, in due course, grant
such relief as the court finds to be in the best interests
of the minor.

Sec. 8. Accounting by Custodian.—(a) The minor, if he
has attained the age of fourteen years, or the legal repre-
sentative of the minor, an adult member of the minor's
family, or a donor or his legal representative may petition
the court for an accounting by the custodian or his legal
representative.

(b) The court, in a proceeding under this article or
otherwise, may require or permit the custodian or his
legal representative to account and, if the custodian is re-
moved, shall so require and order delivery of all custodial
property to the successor custodian and the execution of
all instruments required for the transfer thereof.

Sec. 9. Construction.—(a) This article shall be so con-
strued as to effectuate its general purpose to make uni-
form the law of those states which enact it.

(b) This article shall not be construed as providing an
exclusive method for making gifts to minors.

Sec. 10. Short Title.—This article may be cited as the
"West Virginia Gifts to Minors Act".

Sec. 11. Severability.—If any provision of this article or
the application thereof to any person or circumstances is
held invalid, the invalidity shall not affect other provi-
sions or applications of the article which can be given
effect without the invalid provision or application, and to
this end the provisions of this article are severable.
CHAPTER 87
(Senate Bill No. 174—By Mr. Moats and Mr. Jackson, of Lincoln)

AN ACT to amend article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven-b, relating to photographing, microphotographing or reproducing on film or other process records, papers or documents.

[Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 1. Legislative Acts and Resolutions; Public Records.

Section 7-b. Photographing, microphotographing or reproducing on film or other process records, papers or documents.

Be it enacted by the Legislature of West Virginia:

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

Section 7-b. Photographing, Microphotographing or Reproducing on Film or Other Process Records, Papers or Documents.—If any business, institution, member of a profession or calling, or any officer of a local governmental agency, including county officers, county boards of education and municipalities, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the
16 regular course of business unless held in a custodial or
17 fiduciary capacity or unless its preservation is required
18 by law: Provided, however, That destruction of records of
19 local governmental agencies shall also be contingent
20 upon the approval by those agencies of such disposition.
21 Such reproduction, when satisfactorily identified, is as
22 admissible in evidence as the original itself in any judi-
23 cial or administrative proceeding whether the original is
24 in existence or not, and an enlargement or facsimile of
25 such reproduction is likewise admissible in evidence if
26 the original reproduction is in existence and available
27 for inspection under direction of court. The introduction
28 of a reproduced record, enlargement or facsimile, does
29 not preclude admission of the original.

CHAPTER 88

(House Bill No. 121—By Mr. Brotherton)

AN ACT to amend and reenact section twenty-four, article
three, chapter twenty-nine of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, re-
lating to the state fire marshal’s office and the tax to pay
for the operation thereof.

(Passed February 15, 1957; in effect March 1, 1957. Approved by the Governor.)

Article 3. State Fire Marshal; Protection Against Fire.

Section
24. Fund for maintenance of office of state fire marshal.

Be it enacted by the Legislature of West Virginia:

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

Section 24. Fund for Maintenance of Office of State Fire
2 Marshal.—For the purpose of maintaining the office of
3 state fire marshal and paying the expenses incidental
4 thereto every insurance company other than life doing
5 business in this state, except farmers' mutual fire insur-
6 ance companies, shall pay to the state fire marshal annual-
7 ly on or before the first day of March, in addition to the
8 taxes now required by law to be paid by such companies,
9 one-half of one per cent of the net direct premium receipts
10 of such companies on insurance against the hazard of fire
11 and on that portion of all other net direct premiums
12 reasonably applicable to insurance against the hazard of
13 fire which are included in other coverages, and received
14 by it for insurance on property or risks in this state during
15 the calendar year next preceding as shown by their
16 annual statement under oath to the insurance department.
17 The money so received by the state fire marshal shall be
18 paid by him into the treasury where it shall be set aside
19 as a special fund for the maintenance of the office of state
20 fire marshal and the expenses incidental thereto. The
21 state shall not be liable in any manner for the salary of
22 the fire marshal, deputy fire marshal, assistant fire mar-
23 shal, clerk, or for the maintenance of such office, or any
24 expenses incidental thereto, and the same shall be payable
25 only from the special fund provided for in this section
26 or by appropriation or contribution.
27 In the event of a controversy as to the proper determi-
28 nation of the premium base on which this tax is to be
29 computed, a hearing may be had by said fire marshal on
30 the application of any interested person, corporation or
31 association, which hearing shall be held after reasonable
32 notice. Appeal from any finding or holding of said fire
33 marshal may be by petition to the circuit court of Kanawha
34 county within thirty days of such finding or holding.

CHAPTER 89

(House Bill No. 28—By Mr. Carr)

AN ACT to amend article three, chapter twenty of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section two-b, making it lawful for a landowner, members of his family and his tenants to carry a gun at any time incident to their pursuits in caring for livestock and poultry on such landowner's lands.

[Passed February 5, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 2-b. Carrying gun on landowner's land.

Be it enacted by the Legislature of West Virginia:

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

Section 2-b. Carrying Gun on Landowner's Land.—
2 Notwithstanding any other provisions of this chapter, it shall be lawful for a bona fide resident landowner of this state, any member of said landowner's family and any bona fide tenant of said landowner, to carry an uncased gun at any time, whether accompanied by or without a dog, in their regular pursuits in caring for and looking after such landowner's livestock or poultry on his land and on any lands leased or rented by him for livestock or poultry husbandry purposes.

CHAPTER 90
(Senate Bill No. 187—By Mr. Chenoweth)

AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section five-a, relating to bow and arrow hunting, defining lawful and unlawful types of bows and arrows and where unlawful to shoot.

[Passed February 28, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 5-a. Bow and arrow hunting; unlawful methods and devices.

Be it enacted by the Legislature of West Virginia:

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

Section 5-a. Bow and Arrow Hunting; Unlawful Methods and Devices.—(1) A long bow may be substituted for a gun during any season for which firearms are lawful: Provided, however, That it shall be unlawful to have both gun and bow in the field at the same time: Provided further, That it shall be unlawful to kill, or attempt to kill, any wild animal, wild bird, fish, frog or turtle with a crossbow.

(2) It shall be unlawful to kill, or attempt to kill, turkey, bear or deer with any arrow not equipped with a point having at least two sharp cutting edges measuring in excess of three-fourths of an inch wide.

(3) It shall be unlawful to kill, or attempt to kill, any wild animal, wild bird, fish, frog or turtle with an arrow having an explosive head or shaft.

(4) It shall be unlawful to shoot an arrow across any public highway or from aircraft, motor-driven watercraft, motor vehicle or other land conveyance.
AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-b, relating to authorizing the issuance of operating licenses or permits for privately owned and operated commercial shooting preserves; the promulgation of such rules as may be necessary to carry out the provisions of the section; and for other purposes.

(Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.)


Section 12-b. Commercial shooting preserve.

Be it enacted by the Legislature of West Virginia:

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

Section 12-b. Commercial Shooting Preserve.—1. The director is hereby authorized and empowered to issue operating licenses or permits for commercial shooting preserves, which shall be privately owned and operated, and to make such rules as may be necessary and proper in carrying out the purpose of this section.

2. Operating licenses or permits may be issued to any person, association, or corporation for the operation of commercial shooting preserves that meet the requirements hereinafter prescribed.

(a) Each commercial shooting preserve shall contain a minimum of three hundred acres in one tract of leased or
13 owned land (including water area, if any) and shall be
14 restricted to not more than three thousand contiguous
15 acres (including water area, if any), except that preserves
16 confined to the releasing of ducks only may be authorized
17 to operate with a minimum of fifty contiguous acres (in-
18 cluding water area).
19  (b) The exterior boundaries of each commercial shoot-
20 ing preserve shall be clearly defined and posted with signs
21 erected around the extremity at intervals of one hundred
22 fifty yards or less.
23 3. Game which may be hunted under this section on
24 which a more liberal season may be allowed, shall be con-
25 fined to artificially propagated quail, turkeys, pheasants,
26 chukar partridges, mallards and black ducks, and such
27 other species as the director may add from time to time.
28 Mallards and/or black ducks released on a commercial
29 shooting preserve must have had a one-fourth inch hole
30 punched in the outer web of the right foot before the birds
31 attain the age of six weeks.
32 4. Fees for commercial shooting preserve licenses or
33 permits shall be established at the rate of fifty dollars
34 per year for the first three hundred acres of shooting
35 preserve area, plus twenty-five dollars per year for each
36 additional one hundred acres or parts thereof.
37 5. The operating licenses or permits issued by the di-
38 rector shall entitle holders thereof, and their guests or
39 customers, to recover not more than eighty per cent of
40 the total number of each species of game bird released on
41 the premises each year, except mallard, black duck, ring-
42 necked pheasant, chukar partridge, and other non-native
43 game species upon which a one hundred per cent recovery
44 may be allowed.
45 6. Except for the required compliance with the restric-
46 tion on the maximum number of released birds that may
47 be recovered from each preserve each year, as provided
48 in paragraphs five and ten, shooting preserve operators
49 may establish their own shooting limitations and restric-
50 tions on the age, sex, and number of birds that may be
51 taken by each person.
7. In order to give a reasonable opportunity for a fair return on a sizeable investment, a liberal season shall be designated by the director during the six month period, beginning October first and ending March thirty-first.

8. All harvested game shall be tagged prior to being either consumed on the premises or removed therefrom, such tags to remain affixed until the game actually is delivered to the point of consumption. The director shall furnish numbered tags at nominal cost to shooting preserve operators.

9. Each shooting preserve operator shall maintain a registration book listing all names, addresses, and hunting license numbers of all shooters; the date on which they hunted; the amount of game and the species taken; and the tag numbers affixed to each carcass. An accurate record likewise must be maintained of the total number, by species, of game birds and ducks raised and/or purchased, and the date and number of all species released. These records shall be open to inspection by a delegated representative of the director at any reasonable time, and shall be the basis upon which the game recovery limits in paragraph five hereof shall be determined.

10. Any wild game found on commercial shooting preserves may be harvested in accordance with applicable game and hunting laws pertaining to open seasons, bag and possession limits, and so forth, as are established regularly by the director and the United States fish and wildlife service.

11. State hunting licenses shall be required of all persons hunting or shooting on shooting preserves. State residents shall be licensed under the regularly established game and hunting laws. Nonresidents shall be required to possess a regular nonresident hunting license.

12. The director may revoke any shooting preserve license or permit issued under the authority of this section, when the licensee has been convicted of a violation of any of the provisions of this section. After such revocation, a new license or permit may be issued if in the discretion of the director, the circumstances so warrant.
13. Any and all statutes, or parts thereof, in conflict with or inconsistent with the provisions of this section upon the date of its enactment are hereby repealed.

CHAPTER 92

(Senate Bill No. 186—By Mr. Chenoweth)

AN ACT to amend and reenact section two-l, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to bow and arrow hunting licenses.

[Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 2-l. Class L; nonresident state-wide bow and arrow hunting license; class M; resident state-wide bow and arrow hunting license.

Be it enacted by the Legislature of West Virginia:

That section two-l, 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-l. Class L; Nonresident State-wide Bow and Arrow Hunting License; Class M; Resident State-wide Bow and Arrow Hunting License.—A class L license shall be a nonresident bow and arrow hunting license and shall entitle the licensee to employ a long bow and arrow in taking game, fish, turtle and frogs in all counties of the state. It shall be issued only to citizens of the United States who are not residents of this state. The fee therefor shall be five dollars.

A class M license shall be a resident bow and arrow hunting license and shall entitle the licensee to employ a long bow and arrow in taking game, fish, frogs, and turtles in all counties of the state; this license to be in
addition to class A and class I hunting licenses. It shall be issued only to citizens of the United States who are residents of this state. The fee therefor shall be one dollar.

CHAPTER 93
(Com. Sub. for Senate Bill No. 228—Originating in the Senate Committee on Forestry and Conservation)

AN ACT to amend section three, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hunting and fishing licenses.

(Passed March 9, 1957; in effect January 1, 1958. Approved by the Governor.)

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; Compensation of Persons Issuing Licenses; Alien Permits.—Persons eligible for any class license shall make application therefor, either in person or by agent, in writing or orally, as follows:

(1) For class A, B, E, F, H, I, J, K, L and M licenses, to any county clerk or to any other person authorized by the director to issue licenses.

(2) For class D-1 and class D-2 licenses, to the county clerk of any county bordering the Ohio river, or to any other person in such county authorized by the director to issue licenses.
(3) For class C license, to the commission; and for class G license, to the commission, or its administrative employees at state parks or state forests.

Every person making application for any license shall pay, in addition to the license fees prescribed therefor in the preceding sections of this article, an additional fee of fifteen cents as compensation for the person issuing the license: Provided, however, That no additional fee shall be collected by any agent for issuing a national forest hunting and trapping class I license, a national forest fishing class J license, and only one fee of fifteen cents shall be collected for issuing combination resident statewide hunting and fishing class A-B licenses. All such additional fees received by any county clerk shall be paid by him into the general county fund.

Aliens desiring to procure licenses shall first apply to the director for a permit to secure such license. If the director satisfies himself that the applicant is legally entitled to such license, and will observe the laws of this state, and particularly the provisions of this chapter, he may issue the permit. Permits, once issued, shall remain in force until revoked. No issuing officer shall be required to issue or deliver any license unless the applicant informs him that the licensee is duly qualified and eligible to receive the class of license applied for, and payment of the required fee is made to such officer.

CHAPTER 94

(Senate Bill No. 75—By Mr. Parker)

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 nineteen, relating to the disposition of funds received from the federal government on account of the leasing of lands for flood control, navigation, and allied purposes.
Article 9. Forests.

Section 19. Disposition of flood control, navigation, and allied funds from the federal government.

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 nineteen, to read as follows:

Section 19. Disposition of Flood Control, Navigation, and Allied Funds from the Federal Government.—Receipts from the treasurer of the United States, paid to the state or its proper officers pursuant to direction of an act of Congress relating to disposition of funds received on account of the leasing of lands for flood control, navigation, and allied purposes, shall be allocated by the state auditor to each county in accordance with the method of allocation specified by the federal government. The state auditor shall transfer to the road commission fifty per cent of the funds so allocated to each county for the purpose of maintenance of secondary roads in the area or areas of the county in which such flooded lands are located. Fifty per cent of the funds so allocated to any county in which such lands are located shall be paid by the state auditor to the board of education of that county to be expended by the board for the benefit of the public schools of the county.

CHAPTER 95

(Com. Sub. for Senate Bill No. 181—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact sections two, five and eight, article twenty-three, chapter nineteen of the code of West
Virginia, one thousand nine hundred thirty-one, as amended, and to amend article twenty-four of said chapter nineteen by adding thereto a new section, designated section six-a, all relating to West Virginia racing commission personnel and the licensing, management and control of horse race meetings and race tracks thereby.

(Passed March 4, 1957; in effect from passage. Approved by the Governor.)

Article
23. Horse Racing.
24. Race Tracks.

Be it enacted by the Legislature of West Virginia:

That sections two, five and eight, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that article twenty-four of said chapter nineteen be amended by adding thereto a new section, designated section six-a, all to read as follows:

Article 23. Horse Racing.

Section
2. Racing commission; qualifications and compensation of members, secretary, steward and employees.
5. Application for license; priority of racing dates; review.
8. Disposition of funds for payment of outstanding pari-mutuel tickets.

Section 2. Racing Commission; Qualifications and Compensation of Members, Secretary, Steward and Employees.
2 —The compensation of the members of the commission shall not exceed the sum of forty dollars per day, and actual bona fide expenses, while actually engaged in the business of the commission, and shall not exceed the sum of four thousand dollars per annum in the aggregate for compensation. The commission shall, under the restrictions and within the qualifications hereinafter set forth, appoint a secretary and steward, to represent the commission, and such additional help as shall be reasonably necessary to administer the provisions of this article, and shall, within the limits prescribed by the Legislature, fix
their compensation and actual expenses. The compensation and actual expenses of the members and employees of the commission shall be paid from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel wagering and shall be itemized in the budget in the same manner as all other departments of the state government, but no such expenses shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.

(a) No person who directly or indirectly has an interest in any manner whatsoever, including an interest as owner, lessor, lessee, stockholder or employee, in any race track, where horse race meetings may be held, shall be eligible for appointment to the commission,

(b) No person while serving as a member of the Legislature, or as an elective officer of this state, shall be eligible for appointment to the commission.

(c) No person convicted of an offense, which, under the laws of this state or any other state or of the United States of America, constitutes a felony or a violation of chapter sixty-one, article four of this code, shall be eligible for appointment to the commission.

(d) No person shall knowingly be employed by the commission in any capacity whatsoever who shall:

1. Directly, or indirectly, or in any capacity, own or have an interest in any race track where horse race meetings may be held, including an interest as owner, lessor, lessee, stockholder or employee.

2. At the time of his employment as a racing official be or have been within one year prior thereto, a member of the Legislature or an elective officer of this state, unless he is experienced and qualified as a racing official.

3. Have been prior to the time of his employment, or shall be during the time of his employment, convicted of an offense, which, under the laws of this state or any other state or of the United States of America, constitutes a felony or a violation of chapter sixty-one, article four of this code.

4. In any manner have delegated to him the duties and
powers of the members of the commission, as director or
supervisor of racing, or in any other manner or capacity
whatsoever.

Any steward employed by the commission or by a
licensee thereof, shall be a person of integrity, and ex-
perienced and qualified for such position by the generally
accepted practices and customs of horse racing in the
United States.

Any person violating any provision of this section shall
be guilty of a misdemeanor, and, upon conviction, shall
be confined in jail not less than six months nor more than
one year or be fined not less than five hundred nor more
than one thousand dollars, or, in the discretion of the
court, may be punished by both such fine and imprison-
ment. Venue of such offense shall be in the county, or any
one of the counties, wherein the person violating this
section carries out any duties of, or performs any work
for, the commission, which constitutes the basis of the
charge or complaint against him.

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 Vir-
ginia racing commission for a license to do so. Such ap-
lication 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 com-
mision shall prescribe blank forms in making such ap-
lications. 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 post-
office address of the person making such application, the
number of days he intends to hold or conduct such meet-
ing (which shall be successive week days, excluding Sun-
days), and the location of the place or track or enclosure
where he proposes to hold or conduct such race meeting.

No license shall be granted to any person, firm or cor-
poration, the owners, members, stockholders, officers or
directors of which shall consist of persons any one of
whom has heretofore been convicted, within ten years prior to the date of such license application, of an offense which, under the laws of this state, of any other state or of the United States of America, shall constitute a felony or a crime involving moral turpitude.

In fixing 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. 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 hundred eighty days 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 hundred eighty day 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, on the day following the 
close of any race meeting, in some newspaper 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 hundred eighty days from the date of the publication 
of such notice.

Any such tickets that shall not be presented for pay-
ment within one hundred eighty days from the date of the 
presentation 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.

The costs 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-
ized account thereof, under oath, be first filed with the 
state auditor.

Article 24. Race Tracks.

Section

6-a. Restrictions on construction permits.

Section 6-a. Restrictions on Construction Permits.—No 
construction permit which may be or has been issued 
under the provisions of this article shall be transferred or 
assigned in any manner whatsoever without the consent 
of the commission. When a permit is issued for construc-
tion of a race track for running, trotting or other particu-
lar type or kind of horse race meeting, the owner, holder 
or other person responsible for the race track constructed 
under such permit may not convert or change the meeting 
into a horse race meeting of another type or kind within 
one year from and after the date on which construction is 
completed and the first race meeting is held, whichever 
is the later, but may, after expiration of such one year
period, convert or change the type or kind of meeting
with the consent of the commission entered of record.

The life of any construction permit issued under the
provisions of this article shall be limited to a period of
three months only: Provided, however, That if the com-
mission is satisfied that the holder or holders of such per-
mit has in good faith started construction of the proposed
race track, such permit may be extended for successive
periods of three months each but in no event shall the
aggregate time of the permit exceed a period of twenty-
four months from the date of the original permit. Any
construction permit issued and in effect on the effective
date of this section shall be included under and controlled
by the provisions of this section.

CHAPTER 96
(Senate Bill No. 335—By Mr. Nuckols)

AN ACT to amend chapter twenty-nine of the code of West
Virginia, one thousand nine hundred thirty-one, as amend-
ed, by adding thereto a new article, designated article
twelve, relating to the purchase, control and supervision
of insurance on state properties, activities and responsibil-
ities, creating a state board of insurance, and prescribing
penalties for the violation thereof.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the
Governor.]


Section
1. Intent and objects.
2. Definitions.
4. Organization, meetings and reports of board.
5. Powers and duties of board.
6. State records; requirements; penalties.
7. Placement of insurance on state property, activities and responsi-
bilities.
8. All powers, duties and responsibilities of the department of purchases pertaining to state insurance hereby transferred to state board of insurance.
9. Penalties for violation of article.
10. Repeal of inconsistent laws.
11. Interpretation and purpose; constitutionality.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Intent and Objects.—Recognition is given to the fact that the state of West Virginia owns extensive properties of varied types and descriptions representing the investment of vast sums of money; that the state and its officials, agents and employees engage in many governmental activities and services and incur and undertake numerous governmental responsibilities and obligations; that such properties are subject to losses, damage, destruction, risks and hazards and such activities and responsibilities are subject to liabilities which can and should be covered by a sound and adequate insurance program; and that good business and insurance practices and principles necessitate the centralization of responsibility for the purchase, control and supervision of insurance coverage on all state properties, activities and responsibilities and the cooperation and coordination of all state officials, departments and employees in the development and success of such a centralized state insurance program. Wherefore, in order to accomplish these desired ends and objectives, the provisions of this article are hereby enacted into law in response to manifest needs and requirements therefor and in the interest of the establishment and development of an adequate, economical and sound state insurance and bonding service on all state property, activities and responsibilities.

Sec. 2. Definitions.—As used in this article, unless the context otherwise clearly requires:
(a) “Board” means the “state board of insurance of West Virginia.”
(b) "Company" means and includes corporations, associations, partnerships and individuals.

c) "Insurance" means all forms of insurance and bonding services available for protection and indemnification of the state and its officials, employees, properties, activities and responsibilities against loss or damage or liability, including fire, marine, casualty, and surety insurance.

d) "Insurance company" means all insurers or insurance carriers, including but not limited to stock insurance companies, mutual insurance companies, reciprocal and inter-insurance exchanges, and all other types of insurers and insurance carriers, including life, accident, health, fidelity, indemnity, casualty, hospitalization and other types and kinds of insurance companies, organizations and associations, but excepting and excluding workmen's compensation coverage.

e) "State property activities" and "state responsibilities" shall mean and include all operations, boards, commissions, works, projects and functions of the state, its properties, officials, agents and employees which, within the scope and in the course of governmental employment, may be subject to liability, loss, damage, risks and hazards recognized to be and normally included within insurance and bond coverages.

(f) "State property" means all property belonging to the state of West Virginia and any boards or commissions thereof wherever situate and which is the subject of risk or reasonably considered to be subject to loss or damage or liability by any single occurrence of any event insured against.

Sec. 3. Creation, Composition, Qualifications, and Compensation of Board.—(a) There is hereby created the "state board of insurance of West Virginia" which shall be composed of three members appointed by the governor with the advice and consent of the Senate. Each of the members shall be a resident of West Virginia possessed of not less than five years' experience in the business of insurance and no more than two of such members shall
belong to any one political party. The three original members of such board shall be appointed for terms of one, two and three years, respectively, and each subsequent appointment shall be for a term of four years. In the event a vacancy occurs it shall be filled by appointment of the unexpired term. No member of the board may be removed from office by the governor except for official misconduct, incompetency, neglect of duty, or gross immorality.

(b) The insurance commissioner of West Virginia shall serve as secretary of the board without vote and shall make available to the board the information, facilities and services of the office of the state insurance commissioner.

c) Each member of the board shall receive the sum of twenty-five dollars per day for each day's services actually performed for such board as well as all necessary expenses incurred in the performance of their duties, not exceeding one hundred days in any one calendar year. The auditor shall pay such compensation and expenses upon requisition certified by the chairman from appropriations provided for such purposes.

Sec. 4. Organization, Meetings and Reports of Board.—

The board shall select one of its members as chairman and shall meet in the office of the insurance commissioner upon call of the chairman. The board shall keep records of all of its proceedings which shall be public and open to inspection, shall adopt a seal and shall exercise and perform the duties prescribed by this article.

The board shall report in writing to the governor, legislative auditor and budget director on or before the thirty-first day of August of each year. Such report shall contain a summary of the board's proceedings during the preceding fiscal year including a detailed and itemized statement and summary of all state insurance procured by the board during such fiscal year.

Sec. 5. Powers and Duties of Board.—The board shall have general supervision and control over the insurance of all state property, activities and responsibilities, in-
cluding the acquisition and cancellation thereof; determin-
ation of amount and kind of coverage, included but not
limited to deductible forms of insurance coverage, inspec-
ations or examinations relating thereto, reinsurance, and
any and all matters, factors and considerations entering
into negotiations for advantageous rates on and coverage
of all such state property, activities and responsibilities.
Any policy of insurance purchased or contracted for by
the board shall provide that the insured shall be barred
and estopped from relying upon the constitutional im-
munity of the state of West Virginia against claims or
suits. The board may enter into any contracts necessary
to the execution of the powers granted to it by this article.
It shall endeavor to secure the maximum of protection
against loss, damage or liability to state property and on
account of state activities and responsibilities by proper
and adequate insurance coverage through the introduc-
tion and employment of sound and accepted methods of
protection and principles of insurance. It is empowered
and directed to make a complete survey of all presently
owned and subsequently acquired state property subject
to insurance coverage by any form of insurance, which
survey shall include and reflect inspections, appraisals,
exposures, fire hazards, construction, and any other ob-
jectives or factors affecting or which might affect the in-
surance protection and coverage required. It shall keep
itself currently informed on new and continuing state
activities and responsibilities within the insurance cover-
ages herein contemplated. The board shall work closely
in cooperation with the state fire marshal’s office in ap-
plying the rules and regulations of that office insofar as
the appropriations and other factors peculiar to state
property will permit. The board is given power and au-
thority to make rules and regulations governing its func-
tions and operations and the procurement of state insur-
ance, but shall not make or promulgate any rules or reg-
ulations in contravention of or inconsistent with the laws
or rules and regulations governing the office of insurance
commissioner of West Virginia.
The board is hereby authorized and empowered to ne-
gotiate and effect settlement of any and all insurance
claims arising on or incident to losses of and damages to
state properties, activities and responsibilities hereunder
and shall have authority to execute and deliver proper
releases of all such claims when settled. The board may
adopt rules and procedures for handling, negotiating and
settlement of all such claims. All such settlements and
releases shall be effected with the knowledge and consent
of the attorney general.

Sec. 6. State Records; Requirements; Penalties.—(a) It
shall be the duty of every officer, department and em-
ployee of the state having custody or control of any
state property, activities or responsibilities, as defined in
section two of this article, to make a written report there-
of to the board, on forms prepared and prescribed by it,
briefly describing said property, activities or responsibili-
ties, showing the nature, location and estimated fair
market value of potential liability thereof, and stating
whether such property, activities or responsibilities are
covered by insurance and, if insured, the nature, amount
and contract expiration date of such insurance and the
name and address of the insuring company or companies.
Such reports shall be made annually on or before the first
day of May and separate reports shall be made on newly
acquired state property from time to time within thirty
days next following the acquisition thereof. When any
such insured state property is sold, destroyed or otherwise
disposed of, the officer, department or employee of the
state having had the custody or control thereof shall make
a written report of such sale, destruction or other disposi-
tion of such property to the board within thirty days next
following the date of sale, destruction or other disposi-
tion thereof.

(b) The board shall assemble and organize all pertinent
information and data received and obtained by it on new
and continuing state property, activities and responsibili-
ties within the insurance coverage herein contemplated,
and shall compile and currently maintain a summary rec-
ord thereon, in such form and detail as may be found
practicable, as basis for insurance services on all such
state property, activities and responsibilities.
Sec. 7. Placement of Insurance on State Property, Activities and Responsibilities.—(a) No officer, department or employee of the state having control or custody of any state property, or being in charge of any state activities, or being charged with any state responsibilities as herein contemplated, shall pay out any state money for the purpose of insurance against loss, damage or liability to any such state property or on account of any such state activity or responsibility or incur any obligation or indebtedness against the state for such insurance, except (1) upon the board's prior approval and placement of such insurance coverage and (2) its subsequent approval of invoices and charges therefor.

(b) All state insurance shall be placed only with solvent insurance companies licensed by the insurance commissioner to transact insurance in West Virginia.

(c) All state insurance shall be placed only through agents duly licensed by the insurance commissioner of West Virginia and no more than five per cent of the total premium volume of state insurance shall be placed through any one agent or agency. For the purpose of this paragraph, agent or agency shall include all employees, relatives, partners or affiliates out of the agency with whom such insurance is placed. In addition thereto no more than fifteen per cent of the total premium volume of state insurance shall be placed in agencies in any one county.

(d) No insurance shall be placed with any member of the board, the state insurance commissioner, official, officer or employee of the state of West Virginia, member of the Legislature, member or officer of any state or county political party executive committee, nor with the spouse, parent or child of any such person, nor with any corporation, any stockholder of which falls within the classes herein enumerated.

Sec. 8. All Powers, Duties and Responsibilities of the Department of Purchases Pertaining to State Insurance Hereby Transferred to State Board of Insurance.—On the effective date of this article, all powers, duties and functions vested in the department of purchases relating to
insurance on state properties, activities and responsibilities and all records and equipment relating thereto shall be transferred by the department of purchases to the state board of insurance.

Sec. 9. Penalties for Violation of Article.—Any person placing or aiding, abetting, or conspiring to place state insurance in violation of any provision of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed one thousand dollars or imprisoned for a period not to exceed six months, or may be punished by both such fine and imprisonment.

Sec. 10. Repeal of Inconsistent Laws.—All laws or parts of laws inconsistent with the provisions of this article are hereby repealed, except in cases where the plain meaning and context hereof otherwise provide for coordinate interpretation and application of the provisions of this article with any other laws.

Sec. 11. Interpretation and Purpose; Constitutionality.—The provisions of this article are considered remedial and shall be liberally construed and interpreted so as to effect and accomplish the general purposes and objectives hereof. In the event any part or provision of the article be held to be unconstitutional by any court of competent jurisdiction, such holding and decision of the court shall not affect the validity and constitutionality of the remaining parts and provisions of the article.

CHAPTER 97

(House Bill No. 126—By Mr. England and Mr. Whaley)

AN ACT to repeal article five and article thirteen of chapter thirty-one, and to amend and reenact chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to insurance and prescribing penalties for the violation thereof.

[Passed March 8, 1957; in effect January 1, 1958. Approved by the Governor.]
Chapter 33. INSURANCE

Article
1. Definitions.
2. Insurance Commissioner.
3. Licensing, Fees and Taxation of Insurers.
6. The Insurance Policy.
8. Investments.
10. Rehabilitation and Liquidation.
13. Life Insurance.
15. Accident and Sickness Insurance.
16. Group Accident and Sickness Insurance.
17. Fire and Marine Insurance.
18. Casualty Insurance.
22. Farmers' Mutual Fire Insurance Companies.
23. Fraternal Benefit Societies.
24. Hospital Service Corporations and Medical Service Corporations.

Be it enacted by the Legislature of West Virginia:

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

Article 1. Definitions

Section
1. Insurance.
2. Insurer.
3. Person.
4. Transacting insurance.
5. Commissioner.
6. Domestic insurer.
7. Foreign insurer.
8. Alien insurer.
9. State; United States.
11. Reinsurance.
12. Agent.
13. Solicitor.
15. Reciprocal insurance.
16. Policy.
17. Premium.
18. Stock insurer.
19. Mutual insurer.

Section 1. Insurance.—Insurance is a contract whereby one undertakes to indemnify another or to pay a specified amount upon determinable contingencies.

Sec. 2. Insurer.—Insurer is every person engaged in the business of making contracts of insurance.

Sec. 3. Person.—Person includes an individual, company, insurer, association, organization, society, reciprocal, partnership, syndicate, business trust, corporation or any other legal entity.

Sec. 4. Transacting Insurance.—Transacting insurance includes solicitation and inducement, preliminary negotiations, effecting a contract of insurance and transaction of matters subsequent to effecting the contract and arising out of it.

Sec. 5. Commissioner.—Commissioner means the insurance commissioner of West Virginia.

Sec. 6. Domestic Insurer.—A domestic insurer is an insurer formed under the laws of West Virginia.

Sec. 7. Foreign Insurer.—A foreign insurer is an insurer formed under the laws of the United States or of another state of the United States.

Sec. 8. Alien Insurer.—An alien insurer is an insurer formed under the laws of a country other than the United States.

Sec. 9. State; United States.—State means any state, commonwealth, territory, or district of the United States. United States includes the states, territories, districts and commonwealths thereof.

Sec. 10. Kinds of Insurance—Life; Accident and Sickness; Fire; Marine; Casualty; Surety.—The following definitions of kinds of insurance are not mutually exclusive and, if reasonably adaptable thereto, a particular coverage may be included under one or more of such definitions:

(a) Life Insurance—Life insurance is insurance on hu-
(b) Accident and Sickness—Accident and sickness insurance is insurance against bodily injury, disability or death by accident or accidental means, or the expense thereof, or against disability or expense resulting from sickness, and insurance relating thereto.

(c) Fire—Fire insurance is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual liability for any such loss or damage. Fire insurance shall also include miscellaneous insurance as defined in paragraph (e) (11) of this section.

(d) Marine—Marine insurance is insurance:

(1) against any and all kinds of loss or damage to vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land (above or below ground), or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builders' risks and all personal property floater risks;

(2) against any and all kinds of loss or damage to person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter
of such insurance (but not including life insurance or
surety bonds nor insurance against loss by reason of
bodily injury to the person arising out of the ownership,
maintenance or use of automobiles);
(3) against any and all kinds of loss or damage to
precious stones, jewels, jewelry, gold, silver and other
precious metals, whether used in business or trade or
otherwise and whether the same be in course of trans-
portation or otherwise;
(4) against any and all kinds of loss or damage to
bridges, tunnels and other instrumentalities of transpor-
tation and communication (excluding buildings, their
furniture and furnishings, fixed contents and supplies held
in storage) unless fire, windstorm, sprinkler leakage, hail,
explosion, earthquake, riot or civil commotion or any or
all of them are the only hazards to be covered;
(5) against any and all kinds of loss or damage to
piers, wharves, docks and slips, excluding the risks of
fire, windstorm, sprinkler leakage, hail, explosion, earth-
quake, riot and civil commotion and each of them;
(6) against any and all kinds of loss or damage to other
aids to navigation and transportation, including dry docks
and marine railways, dams and appurtenant facilities for
control of waterways;
(7) marine protection and indemnity insurance, which
is insurance against, or against legal liability of the in-
sured for, loss, damage or expense arising out of, or inci-
dent to, the ownership, operation, chartering, mainte-
nance, use, repair or construction of any vessel, craft or
instrumentality in use in ocean or inland waterways, in-
cluding liability of the insured for personal injury, illness
or death or for loss of or damage to the property of an-
other person.
(e) Casualty—Casualty insurance includes:
(1) Vehicle insurance, which is insurance against loss
of or damage to any land vehicle or aircraft or any draft
or riding animal or to property while contained therein
or thereon or being loaded therein or therefrom, from
any hazard or cause, and against any loss, liability
or expense resulting from or incident to ownership, main-
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tenance or use of any such vehicle, aircraft or animal;
together with insurance against accidental death or acci-
dental injury to individuals, including the named insured,
while in, entering, alighting from, adjusting, repairing or
cranking, or caused by being struck by any vehicle, air-
craft or draft or riding animal, if such insurance is issued
as a part of insurance on the vehicle, aircraft or draft or
riding animal.

(2) Liability insurance, which is insurance against
legal liability for the death, injury, or disability of any
human being, or for damage to property; and provision
for medical, hospital, surgical, disability benefits to in-
jured persons and funeral and death benefits to depend-
ents, beneficiaries or personal representatives of persons
killed, irrespective of legal liability of the insured, when
issued as an incidental coverage with or supplemental to
liability insurance.

(3) Burglary and theft insurance, which is insurance
against loss or damage by burglary, theft, larceny, rob-
bery, forgery, fraud, vandalism, malicious mischief, confis-
cation, or wrongful conversion, disposal, or concealment,
or from any attempt at any of the foregoing, including
supplemental coverages for medical, hospital, surgical and
funeral benefits sustained by the named insured or other
person as a result of bodily injury during the commission
of a burglary, robbery, or theft by another; also insurance
against loss of or damage to moneys, coins, bullion, secu-
rities, notes, drafts, acceptances, or any other valuable
papers and documents, resulting from any cause.

(4) Personal property floater insurance, which is insur-
ance upon personal effects against loss or damage from
any cause.

(5) Glass insurance, which is insurance against loss
or damage to glass, including its lettering, ornamentation,
and fittings.

(6) Boiler and machinery insurance, which is insur-
ance against any liability and loss or damage to property
or interest resulting from accidents to or explosion of
boilers, pipes, pressure containers, machinery, or appa-
ratus, and to make inspection of and issue certificates of
inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(7) Leakage and fire extinguishing equipment insurance, which is insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water mains, pipes and containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus.

(8) Credit insurance, which is insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(9) Malpractice insurance, which is insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(10) Entertainment insurance, which is insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle; entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

(11) Miscellaneous insurance, which is insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the commissioner as being contrary to law or public policy.

(f) Surety—Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.
168 (2) Insurance guaranteeing the performance of con-
tracts, other than insurance policies, and guaranteeing and
executing bonds, undertakings, and contracts of surety-
ship.

172 (3) Insurance indemnifying banks, bankers, brokers,
financial or monied corporations or associations against
loss, resulting from any cause, of bills of exchange, notes,
bonds, securities, evidences of debt, deeds, mortgages,
warehouse receipts or other valuable papers, documents,
money, precious metals and articles made therefrom,
jewelry, watches, necklaces, bracelets, gems, precious and
semi-precious stones, including any loss while they are
being transported in armored motor vehicles, or by mes-
senger, but not including any other risks of transportation
or navigation, and also insurance against loss or damage
to such an insured’s premises or to his furnishings, fix-
tures, equipment, safes and vaults therein, caused by
burglary, robbery, theft, vandalism or malicious mischief,
or any attempt to commit such crimes.

187 (4) Title insurance, which is insurance of owners of
property or others having an interest therein, or liens or
encumbrances thereon, against loss by encumbrance, de-
defective title, invalidity or adverse claim to title.

Sec. 11. Reinsurance.—Reinsurance is a contract of in-
demnity against liability by which an insurer procures
another insurer to insure it against loss or liability by
reason of the original insurance.

Sec. 12. Agent.—An insurance agent is an individual
appointed by an insurer to solicit, negotiate, effect or
countersign insurance contracts in its behalf.

Sec. 13. Solicitor.—An insurance solicitor is an indi-
vidual appointed and authorized by an agent to solicit
and receive applications for insurance as a representative
of such agent.

Sec. 14. Broker.—A broker is an individual who for
compensation in any manner solicits, negotiates or pro-
cures insurance or the renewal or continuance thereof on
behalf of insureds or prospective insureds.
Sec. 15. Reciprocal Insurance.—Reciprocal insurance is insurance resulting from an inter-exchange among persons known as subscribers of reciprocal agreements of indemnity, the inter-exchange being effected through an attorney-in-fact common to all such persons, and the group of such subscribers being a reciprocal insurer.

Sec. 16. Policy.—Policy means the contract effecting insurance, or the certificate thereof, by whatever name called, and includes all clauses, riders, endorsements and papers attached thereto and a part thereof.

Sec. 17. Premium.—Premium is the consideration for insurance, by whatever name called.

Sec. 18. Stock Insurer.—Stock insurer is an incorporated insurer with capital divided into shares and owned by its shareholders.

Sec. 19. Mutual Insurer.—Mutual insurer is an incorporated insurer without permanent capital stock and the governing body of which is elected by the policyholders.

Article 2. Insurance Commissioner

Section
1. Office continued; appointment, qualification and term.
2. Commissioner's compensation and expenses; officers' assistants.
4. Authority to take depositions and subpoena witnesses and records.
5. Witness fees.
6. Service of subpoena; compelling compliance.
7. Immunity of witness.
8. Records of insureds.
9. Examination of insurers and others; access to books, records, etc.
11. Enforcement of orders; revocation of licenses; court action.
12. Notice.
13. Hearings.
15. Annual report by commissioner.

Section 1. Office Continued; Appointment, Qualification and Term.—There is hereby continued in effect the state agency heretofore created and known as the "Insurance Commissioner of West Virginia" which agency shall consist of an insurance commissioner and such employees as may be authorized by law. The term of the present commissioner shall continue until July first, one thousand nine hundred fifty-nine. All appointments to said
office made thereafter shall be for a period of six years, except that in case of a vacancy the appointment shall be made to fill the unexpired term. The commissioner shall be a citizen and resident of this state and shall be appointed by the governor, by and with the advice and consent of the senate. Before taking the oath of office the commissioner shall sever all connections either direct or indirect with any and all insurers subject to his supervision and with any person representing any such insurer, except as a policyholder or claimant.

Sec. 2. Commissioner's Compensation and Expenses; Office; Assistants.—The commissioner shall receive an annual salary of at least nine thousand dollars and actual expenses incurred in the performance of official business, which compensation shall be in full for all services. The office of the commissioner shall be maintained in the capitol or other suitable place in Charleston. The commissioner may employ such persons and incur such expenses as may be necessary in the discharge of his duties and shall fix the compensation of such employees, but such compensation shall not exceed the appropriation therefor. All compensation for salaries and expenses of the commissioner and his employees shall be paid monthly out of the state treasury by requisition upon the auditor, properly certified by the commissioner.

Sec. 3. General Duties of Commissioner.—The commissioner shall enforce the provisions of this chapter and perform the duties required of him thereunder; shall affix his official seal to all documents and papers required to be filed in other states by domestic insurers and to other papers when an official seal is required; and shall on or before the tenth day of each month pay into the state treasury all fees and monies which he has received during the preceding calendar month.

Sec. 4. Authority to take Depositions and Subpoena Witnesses and Records.—The commissioner, or any person conducting a hearing or investigation by his authority, shall have power to take depositions, subpoena witnesses and compel their attendance, administer oaths, examine...
any person under oath, compel any person to subscribe to
his testimony after it has been correctly reduced to writ-
ing and require the production of any books, papers,
records, correspondence or other documents which he
deems relevant to the inquiry.

Sec. 5. *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 re-
quired by the subpoena, and unless such payment is not
thereupon made. No insurer, agent, broker, solicitor or
other person subject to the provisions of this chapter
whose conduct, condition or practices are being investi-
gated, 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 attend-
ance, 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 the commissioner. In
all other cases, it shall be paid by the person at whose
instance the summons is issued.

Sec. 6. *Service of Subpoena; Compelling Compliance.*—
The subpoena shall be served in the manner as if issued
from a circuit court unless otherwise provided. In case a
person refuses to obey any subpoena issued hereunder or
to testify with respect to any matter concerning which he
may be lawfully interrogated, the commissioner or his
representative may invoke the aid of any circuit court in
order that the testimony or evidence be produced. Upon
proper showing, such court shall issue a subpoena or order
requiring such person to appear before the commissioner
or his representative and produce all evidence and give all
testimony touching the matter in question. A person fail-
ing to obey such order may be punished by such court
as for contempt.
Sec. 7. Immunity of Witness.—If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing conducted pursuant to this chapter or in any cause or proceeding instituted by the commissioner pursuant to this chapter on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed by the commissioner to give such testimony or produce such evidence, he must none the less comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any matter or thing concerning which he may testify or produce evidence, pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding: Provided, however, That no such individual so testifying shall be exempt from prosecution or punishment for any perjury or false swearing, committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning 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. 8. Records of Insureds.—Upon request of the commissioner any person in West Virginia who is the insured under any policy issued by an insurer upon a subject of insurance resident, located or to be performed in West Vir-
ginia, shall produce for examination all policies and other
documents evidencing and relating to such insurance, and
shall disclose the amount of the gross premiums paid or
agreed to be paid for the insurance, all persons through
whom such insurance was procured or who participated in
the transaction in any manner, and such other information
relative to the placing of such insurance as may reason-
ably be required.

Sec. 9. Examination of Insurers and Others; Access to
Books, Records, etc.—(a) The commissioner or his ac-
credited examiners shall, at least once each three years,
visit each domestic insurer and thoroughly examine its fi-
nancial condition and methods of doing business and as-
certain whether it has complied with all the laws and
regulations of this state; all expenses of such examination
to be borne by such insurer. The commissioner at such
times as he deems necessary may cause an examination to
be conducted of any foreign or alien insurer licensed to
transact insurance in this state; all expenses of such ex-
amination to be borne by such insurer. The commissioner
shall make a full written report of each such examination
of an insurer, certified to by the commissioner or the ex-
aminer in charge of such examination. The commissioner
shall furnish a copy of the report to the insurer examined
not less than ten days prior to filing the same in his office.
If such insurer so requests in writing, within such ten-day
period, the commissioner shall consider the objections of
such insurer to the report as proposed, and shall not so file
the report until after such modifications, if any, have been
made therein as the commissioner deems proper. The re-
port, when filed, shall be admissible in evidence in any
action or proceeding brought by the commissioner against
the insurer examined, or its officers or agents, and shall be
prima facie evidence of the facts stated therein. The com-
missioner or his examiners may at any time testify and
offer other proper evidence as to information secured dur-
ing the course of an examination, whether or not a written
report of the examination has at that time been either
made, served, or filed in the commissioner's office. The ex-
amination of an alien insurer shall be limited to its United
States business. In lieu of making his own examination, the commissioner may accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of the state of domicile of a foreign insurer or the state of entry into the United States of an alien insurer.

(b) The commissioner may also cause to be examined at such times as he deems necessary the books, records, papers, documents, correspondence and methods of doing business of any agent, broker or solicitor licensed by this state.

(c) For such purposes the commissioner, his deputies and employees shall have free access to all books, records, papers, documents and correspondence of all such insurers (whether domestic, foreign or alien), agents, brokers and solicitors wherever such books, records, papers, documents and records are situate.

(d) The commissioner may revoke the license of any such insurer, agent, broker or solicitor who refuses to submit to such examination.

(e) The commissioner may withhold from public inspection any examination or investigation report for so long as he deems prudent.

Sec. 10. Rules and Regulations.—The commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the interests of policyholders and the public of this state.

Sec. 11. Enforcement of Orders; Revocation of Licenses; Court Action.—In addition to examinations and investigations expressly authorized by this chapter, the commissioner may conduct such examinations and investigation of insurance matters as he may deem proper to determine whether any person has violated any provision of this chapter or to secure information useful in the lawful administration of his duties. If the commissioner determines, after notice and hearing, that any person is transacting insurance in an illegal, improper or unjust manner or is failing to pay losses and obligations when they
12 become due, excepting claims to which there is a substan-
13 tial defense, he may order such person to discontinue such
14 illegal, improper or unjust manner of transacting insur-
15 ance or may order such person to adjust and pay his obli-
16 gations as they become due. If any person shall fail or
17 refuse within twenty days after notice to obey such order,
18 the commissioner may revoke any license issued by him
19 and held by such person and in addition may apply to the
20 circuit court, or the judge thereof in vacation, having
21 jurisdiction for an injunction or the appointment of a
22 receiver, or for both, and such court or judge may enforce
23 such order of the commissioner by injunction or by ap-
24 pointment of a receiver to take charge of the affairs and
25 property of such person, or both, and may make such
26 further orders as may be necessary and proper to effectu-
27 ate such injunction or receivership.

Sec. 12. Notice.—Whenever under the provisions of this
2 chapter the commissioner is required to give notice to any
3 person the service of such notice shall be deemed proper
4 and effective with regard to any licensee of the commis-
5 sioner (including insurers, agents, brokers and solicitors)
6 or any employee of such licensee when such notice directed
7 to such person to be notified shall have been deposited in
8 the United States mails, postage prepaid, addressed to
9 the principal place of business or residence of such licensee
10 as last of record in the commissioner's office. The verified
11 return of the person depositing such notice in the mails
12 as to the fact of such mailing shall be proof of service.
13 Notice to a person other than a licensee or employee of a
14 licensee shall be served in the manner provided by law
15 for service of process in civil actions and such manner of
16 service may also be used and shall constitute effective
17 notice to a licensee or employee of a licensee.

Sec. 13. Hearings.—The commissioner may call and hold
2 hearings for any purpose deemed necessary by him for the
3 performance of his duties. He shall hold hearings when
4 required by the provisions of this chapter or upon a written
5 demand therefor by a person aggrieved by any act or
6 failure to act by the commissioner or by any rule, regu-
7 lation or order of the commissioner. Such demand shall
8 specify the grounds to be relied upon as a basis for the
9 relief to be requested at such hearing and such hearing
10 shall be held within forty-five days of receipt by the com-
11 missioner of written demand therefor, unless postponed
12 to a later date by mutual agreement. The commissioner
13 may in his discretion stay the effect of any order, rule or
14 regulation pending hearing. The commissioner shall give
15 at least fifteen days notice of the time, place and matters
16 to be considered at a hearing to all persons directly affect-
17 ed by such hearing. The commissioner shall allow any
18 person directly affected by the hearing to appear in person
19 and by counsel, to be present during the giving of all
20 evidence, to have a reasonable opportunity to inspect all
21 documentary evidence, to examine witnesses and present
22 relevant evidence, and to have subpoenas issued by the
23 commissioner to compel attendance of witnesses and pro-
24 duction of evidence in his behalf. Formal rules of pleading
25 or evidence need not be observed at any hearing. Upon
26 written request seasonably made by a person directly
27 affected by a hearing, and at such person's expense, or
28 upon his own motion and expense, the commissioner shall
29 cause a full stenographic record of the hearing to be made
30 by a competent reporter. If further requested in writing
31 by a person directly affected by such hearing, the com-
32 missioner shall cause such record to be transcribed and
33 made a part of the official record of the hearing, at the
34 expense of such person or may do so at his own motion
35 and expense, and shall furnish a copy thereof to any
36 party directly affected by such hearing at the request and
37 expense of such party. Within forty-five days after com-
38 pletion of a hearing, unless the time be extended by
39 mutual consent, the commissioner shall enter an order
40 containing his findings of fact and conclusions upon the
41 subject matter of such hearing. Such order may affirm,
42 modify or nullify action theretofore taken or may pre-
43 scribe new action within the scope of the notice of hearing,
44 and a copy thereof shall be mailed to all persons directly
45 affected by such hearing. In the discretion of the com-
46 missioner a rehearing may be granted to any party to a
47 hearing upon written request filed with the commissioner
within thirty days of the mailing of such order. Costs of
any hearing or rehearing for the attendance of witnesses,
service of subpoenas, and stenographic record and tran-
cript may be taxed by the commissioner to any party or
parties against whom he shall find and may be recovered
in a civil action.

Sec. 14. *Judicial Review.*—An appeal from the com-
missioner shall be taken only from an order entered after
hearing or an order refusing a hearing. Any person
aggrieved by any such order may, within thirty days after
the order has been mailed or delivered to the persons
entitled to receive the same, or within thirty days after
an order denying rehearing has been so mailed or deliver-
ed, appeal to the circuit court of Kanawha County, or the
judge thereof in vacation, by presenting a written petition
to such court or judge and mailing a copy thereof to the
commissioner. Upon the receipt of such copy the com-
missioner shall forthwith transmit to the clerk of such
court the record of the proceedings before him. The court
or judge shall fix a time for hearing upon said petition at
his earliest convenience. Notice in writing of the time and
place of said hearing shall be given by petitioner to the
commissioner at least fifteen days prior thereto. The court
or judge shall, without a jury, hear and determine the
matter upon the record of proceedings before the com-
missioner, except that for good cause shown the court may
permit the introduction of additional evidence, and may
enter an order revising or reversing the order of the com-
missioner, or may affirm such order, or remand the action
to the commissioner for further proceedings. Pending
such appeal the order of the commissioner shall be in full
force and effect until final determination, unless the com-
missioner shall in his discretion have stayed the effect of
his order pending final determination of the appeal or
unless the court or judge thereof before whom the appeal
is pending shall enter an order staying the commissioner's
order until final determination. The judgment of the
circuit court may be reviewed upon appeal by the supreme
court of appeals in the same manner as other civil cases
to which the state is a party.
Sec. 15. Annual Report by Commissioner.—The commissioner shall annually, on or before the first day of November, submit to the governor a report for the previous calendar year of his official acts, and of the condition of insurers doing business in this state, with a condensed statement of their reports to him, abstracts of all accounts rendered to any court by receivers of insolvent insurers, abstracts of reports to the commissioner by such receivers, together with a statement of all fees and taxes received from insurers and other licensees and paid by him into the state treasury.

Article 3. Licensing, Fees and Taxation of Insurers

Section
1. License required.
2. General qualifications for license.
3. Prerequisites to issuance of charter for domestic insurer.
4. Charter documents and information to be filed.
5. Capital or surplus required.
6. Deposit requirements.
7. Issuance of license; kinds of insurance.
8. Term of license; renewal.
9. Refusal to license.
10. Mandatory revocation or suspension.
11. Discretionary revocation or suspension; penalty in lieu thereof; reissuance.
12. Name of insurer.
13. Fees; fund for maintenance of commissioner’s office.
15. Annuity tax.

Section 1. License Required.—(a) No person shall act as an insurer and no insurer shall transact insurance in West Virginia except as authorized by a valid license issued by the commissioner, except as to such transactions as are expressly otherwise provided for in this chapter.

(b) No such license shall be required for an insurer, formerly holding a valid license, to enable it to investigate and settle losses under its policies lawfully written in West Virginia while such license was in effect, or to liquidate such assets and liabilities of the insurer (other than the collection of new premiums) as may have resulted from its former authorized operations in West Virginia.

(c) An insurer not transacting new insurance business in West Virginia but continuing collection of premiums on and servicing of policies remaining in force as to
residents of or risks located in West Virginia, is trans-
acting insurance in West Virginia for the purpose of 
premium and annuity tax requirements but is not required 
to have a license therefor.

Sec. 2. General Qualifications for License.—(a) To 
qualify for a license to transact insurance in West Vir-
ginia an insurer must be otherwise in compliance with 
the provisions of this chapter and with its charter, and 
must be an incorporated stock insurer, or an incorporated 
mutual insurer or a reciprocal insurer.

(b) No license to transact insurance in this state shall 
be issued, renewed or continued in effect to any domestic, 
foreign or alien insurer which is owned, or financially 
controlled, in whole or in part, by any state, or by a 
foreign government, or any political subdivision, instru-
mentality or agency of either, or which is an agency of 
any such state, government or subdivision, unless such 
insurer was so owned, controlled or constituted prior to 
the first day of January, one thousand nine hundred fifty-
five and licensed to transact insurance in this state prior 
to the first day of January, one thousand nine hundred 
fifty-five.

Sec. 3. Prerequisites to Issuance of Charter for Domestic 
Insurer.—The secretary of state of this state shall not 
issue a certificate of incorporation to any insurer until the 
commissioner shall have examined the charter of such 
insurer and approved same in writing upon being satisfied 
that such insurer is in a position to comply with provisions 
of this chapter and that the incorporation and licensing of 
such insurer is in the public interest, and unless such 
charter shall provide that such insurer shall maintain its 
principal place of business in this state.

Sec. 4. Charter Documents and Information to be Filed. 
—Every insurer applying for an initial license shall file 
with the commissioner accompanying its application: 
(a) a certified copy of its charter with all amendments; 
(b) a certified copy of its bylaws with all amendments; 
(c) a copy of its annual statement as of December 
thirty-first last preceding;
(d) a copy of report of last examination, if any, made of the insurer, certified by the insurance supervisory official of the state of domicile of a foreign insurer or the state of entry into the United States of an alien insurer;

(e) if a foreign or alien insurer, a certificate of the public official having supervision of insurance in the state or country of domicile of such insurer showing that it is authorized to transact the kinds of insurance proposed to be transacted in West Virginia;

(f) if an alien insurer, a copy of the appointment and authority of its United States manager;

(g) certificate of deposit where deposits are required by this chapter;

(h) such other information and documents as the commissioner deems necessary for the protection of policyholders or to assure compliance with this chapter.

Sec. 5. Capital or Surplus Required.—To qualify for a license to transact insurance, unless otherwise provided in this chapter, an insurer shall possess paid-in capital stock (if a stock insurer) or surplus (if a mutual insurer) in the amount set forth below opposite the kinds of insurance for which license is requested:

(a) Life ......................................................... $200,000.00
(b) Accident and Sickness ................................. $200,000.00
(c) Life and Accident and Sickness .................. $300,000.00
(d) Fire and Marine ........................................ $100,000.00
(e) Casualty ....................................................... $100,000.00
(f) Surety ......................................................... $600,000.00
(g) Accident and Sickness together with any one or more of the following: Fire and Marine, Casualty $300,000.00
(h) Fire and Marine, and Casualty ...................... $200,000.00
(i) Surety together with any one or more of the following: Accident and Sickness, Fire and Marine, Casualty $600,000.00

In addition the commissioner shall require of any insurer additional expendable surplus funds in an amount equal
to one-half such minimum capital or surplus listed above
for the kinds of insurance for which license is requested:
Provided, That insurers duly licensed to transact insur-
ance in West Virginia on March thirtieth, one thousand
nine hundred fifty-seven shall have until March thirty-
first, one thousand nine hundred sixty-one to meet the
requirement of additional expendable surplus funds in
the amount herein specified.

Sec. 6. Deposit Requirements.—The commissioner shall
not issue a license to any insurer unless it has deposited
and maintained in trust with the state treasurer, for the
protection of its policyholders or its policyholders and
creditors, cash or government securities eligible for the
investment of capital funds of domestic insurers (of the
type described in section seven of article eight of this
chapter) under this chapter in the amount of one hundred
thousand dollars; except:

(a) as to foreign insurers in lieu of such deposit or
part thereof with the state treasurer, the commissioner
may accept the current certificate of the state insurance
supervisory official of any other state that a like deposit
by such insurer is being maintained in public custody or
in a depository approved by such supervisory official in
such state in trust for the purpose of protection of all
policyholders or policyholders and creditors of such in-
surer in the United States.

(b) as to alien insurers in lieu of such deposit or part
thereof with the state treasurer, the commissioner may
accept evidence satisfactory to him that the insurer main-
tains within the United States in public depositories, or
in trust institutions within the United States approved
by the commissioner, assets available for discharge of its
United States insurance obligations which assets shall
be in an amount not less than the outstanding liabilities
of the insurer arising out of its insurance transactions
in the United States, together with an amount equal to
the deposit required under this section for other insurers
requesting license to transact like kinds of insurance.

Sec. 7. Issuance of License; Kinds of Insurance.—Upon
receiving the application and supporting documents re-
required by section four of this article, if the commissioner
is satisfied that an insurer has complied with the terms
of its charter and the provisions of this chapter and
other laws of this state and that such insurer is solvent
and will transact insurance in a legal, proper and just
manner, he may issue to such insurer a license authorizing
it to transact insurance in this state. Such license may
authorize an insurer which otherwise qualifies therefor
to transact life and/or accident and sickness insurance,
or an insurer other than a life insurer to transact any
of the kinds of insurance other than life for which it
otherwise qualifies. However, as to any life insurer which,
immediately prior to the effective date of this chapter,
lawfully held a license granting to it the right to trans-
act in West Virginia additional kinds of insurance other
than life and accident and sickness, the commissioner may
continue to license said insurer to transact the same kinds
of insurance as those specified in such prior license so
long as such insurer is otherwise in compliance with this
chapter.

Sec. 8. Term of License; Renewal.—All licenses of in-
surers shall expire at midnight on the March thirty-first
next following the date of issuance. The commissioner
shall renew annually the licenses of all insurers who
qualify and make application therefor upon a form pre-
scribed by the commissioner.

Sec. 9. Refusal to License.—The commissioner may re-
fuse to license an insurer when he determines that an
insurer has not complied with the laws of this state or
that it is not in the best interests of the people of this
state that such insurer be licensed or that such insurer
would transact business in this state in an improper,
illegal or unjust manner. In such event the commissioner
shall enter an order refusing such license, and the ap-
plicant therefor may demand a hearing in the manner
provided in article two of this chapter.

Sec. 10. Mandatory Revocation or Suspension.—The
commissioner after notice and hearing shall refuse to
renew or shall revoke or suspend the license of any in-
surer:
Sec. 11. Discretionary Revocation or Suspension; Penalty in Lieu Thereof; Reissuance.—(a) The commissioner may after notice and hearing refuse to renew, or may revoke or suspend the license of an insurer, in addition to other grounds therefor in this chapter, if the insurer:

1. violates any provision of this chapter other than those as to which refusal, suspension or revocation is mandatory;
2. fails to comply with any lawful rule, regulation or order of the commissioner;
3. is transacting insurance in an illegal, improper or unjust manner;
4. is found by the commissioner to be in an unsound condition or in such condition as to render its further transaction of insurance in West Virginia hazardous to its policyholders or to the people of West Virginia;
5. compels insureds under its policies to accept less than the amount due them or to bring suit against it to secure full payment when it has no substantial defense;
6. refuses to be examined or to produce its accounts, records and files for examination by the commissioner when required;
7. fails to pay any final judgment rendered against it in West Virginia within thirty days after the judgment became final or time for appeal expired, whichever is later;
8. fails to pay when due to the state of West Virginia any taxes, fees, charges or penalties required by this chapter.

(b) In lieu of refusing to renew, revoking or suspending the license of an insurer in any case except where such action is mandatory, the commissioner may, by order, require the insurer to pay to the state of West Virginia a penalty in a sum not exceeding one thousand
dollars, and upon the failure of the insurer to pay such
penalty within thirty days after notice thereof, the com-
missioner may revoke or suspend the license of such
insurer.

(c) When any license has been revoked or suspended
or renewal thereof refused, the commissioner may reissue,
terminate the suspension or renew such license when he
is satisfied that the conditions causing such revocation,
suspension or refusal to renew have ceased to exist and
are unlikely to recur.

Sec. 12. Name of Insurer.—No insurer shall be licensed
to transact insurance in West Virginia which has or uses
a name so similar to that of any insurer already so licensed
as to cause uncertainty or confusion or which tends to
deceive or mislead as to the type of organization of the
insurer; except that in case of conflict of names between
two insurers the commissioner may permit or require
the newly licensed insurer to use in West Virginia such
supplementation or modification of its name as is reason-
ably necessary to avoid such conflict.

Sec. 13. Fees; Fund for Maintenance of Commissioner's
Office.—(a) Except where it is otherwise specially pro-
vided, the commissioner shall demand and receive the
following fees from all insurers: For annual fee for each
license, fifty dollars; for receiving and filing annual re-
ports, fifty dollars; for valuation of policies of life in-
surers organized under the laws of this state, one and
one-half cents for each one thousand dollars of insurance;
for valuation of policies of life insurers organized under
the laws of any other state licensed to transact insurance
in this state such rate for each one thousand dollars of
insurance valued as is imposed by such other state upon
any similar insurer organized under the laws of this state
licensed to transact insurance in such other state; for
filing certified copy of articles of incorporation, twenty-
five dollars; for filing copy of its charter, twenty-five
dollars; for filing statements preliminary to admission,
fifty dollars; for filing any additional paper required by
law or furnishing copies thereof, one dollar; for every
certificate of valuation, copy of report or certificate of
condition of company to be filed in any other state, five
dollars; for each licensed agent, five dollars. The commis-
sioner may by regulation set reasonable charges for print-
ed forms for the annual statements required by law. He
may sell at cost publications purchased by, or printed on
behalf of the commissioner.

(b) The commissioner shall pay into the state treasury
all fees and charges collected by him under the provisions
of this section. Such fees and charges collected shall com-
prise a special fund designated "insurance commissioner's
fund" to be appropriated as provided by law for the use
of the commissioner in the administration of his office,
and any portion of such fund not used during a calendar
year shall be carried forward for such subsequent use.
The state treasurer shall, at the end of each fiscal year,
transfer any amount over and above the amount appro-
priated for the operation of the commissioner's office for
the ensuing year to the general fund.

Sec. 14. *Premium Tax.*—Every insurer transacting in-
surance in West Virginia shall make a return to the com-
missioner annually on a form prescribed by the commis-
sioner, on or before the first day of March, under the oath
of its president or secretary, of the gross amount of direct
premiums (whether designated as a premium or by some
other name) collected and received by it during the pre-
vious calendar year on policies covering risks resident,
located or to be performed in this state and stating the
amount of tax due hereunder, together with payment
to the commissioner in full for such tax due. Such tax
shall be a sum equal to two percent of such gross direct
premiums, including dividends (by whatever name called)
on participating policies applied in reduction of premiums,
less premiums returned to policyholders because of can-
cellation of policies. All such taxes received by the com-
misioner shall be paid by him into the state treasury
for the benefit of the state fund.

Sec. 15. *Annuity Tax.*—Every life insurer transacting
insurance in West Virginia shall make a return to the
commissioner annually on a form prescribed by the com-
missioner, on or before the first day of March, under the
oath of its president or secretary, of the gross amount
of annuity considerations collected and received by it
during the previous calendar year on business transacted
in this state and stating the amount of tax due hereunder,
together with payment in full for such tax due. Such tax
shall be a sum equal to one per centum of the gross
amount of such annuity considerations, less annuity con-
siderations returned and less termination allowances on
group annuity contracts. All such taxes received by the
commissioner shall be paid by him into the state treasury
for the benefit of the state fund.

Sec. 16. Retaliation.—(a) When by or pursuant to the
laws of any other state or foreign country any premium
or income or other taxes, or any fees, fines, penalties,
licenses, deposit requirements or other material obliga-
tions, prohibitions or restrictions are imposed upon West
Virginia insurers doing business, or that seek to do busi-
ness in such other state or country, or upon the agents
of such insurers, which in the aggregate are in excess of
such taxes, fees, fines, penalties, licenses, deposit require-
ments or other obligations, prohibitions or restrictions
directly imposed in the aggregate upon similar insurers
of such other state or foreign country or upon the agents
of such insurers under the statutes of this state, so long
as such laws continue in force or are so applied, the same
obligations, prohibitions and restrictions of whatever kind
shall be imposed in the same manner upon similar in-
surers of such other state or foreign country doing busi-
ness in West Virginia. Any tax, license or other obliga-
tion imposed by any city, county or other political sub-
division of a state or foreign country on West Virginia
insurers or their agents shall be deemed to be imposed
by such state or foreign country within the meaning of
this section. The provisions of this section shall not apply
to ad valorem taxes on real or personal property or to
personal income taxes.

(b) If an insurer domiciled in West Virginia is refused
authority to transact in another state insurance upon a
plan and in a manner which is permitted for domestic
insurers of such other state, notwithstanding that the
30 West Virginia insurer be fully qualified for such authority
31 in accordance with the applicable laws of such other state,
32 and if such refusal be not accompanied by a written state-
33 ment of the grounds therefor, then and thereafter, and
34 for so long as such refusal shall continue, the commis-
35 sioner may refuse to grant an initial license (but not a
36 renewal of an existing license) to any insurer domiciled
37 in such other state which may seek to transact in West
38 Virginia a like kind or kinds of insurance.


Section 1. Compliance required.
Section 2. Application to particular types of insurers.
Section 3. Existing licenses.
Section 4. Existing contracts.
Section 5. Existing forms and filings.
Section 6. Existing actions, violations.
Section 7. Particular provisions prevail.
Section 8. General penalty.
Section 9. Repeal.
Section 10. Severability.
Section 11. Effective date.
Section 12. Service of process on licensed insurers.
Section 13. Service of process on unlicensed insurers.
Section 15. Reinsurance.
Section 16. Limit of risk.
Section 17. Prohibited interests of officers and directors in certain transactions.
Section 18. Representation of unlicensed insurers prohibited.

Section 1. Compliance Required.—No person shall trans-
sect insurance in West Virginia or relative to a subject of
insurance resident, located or to be performed in West
Virginia without complying with the applicable provi-
sions of this chapter.

Sec. 2. Application to Particular Types of Insurers.—
No provision of this chapter shall apply to:
(a) hospital service corporations and medical service
corporations except as stated in article twenty-four of this
chapter;
(b) fraternal benefit societies except as stated in article
twenty-three of this chapter;
(c) farmers’ mutual fire insurance companies except as
stated in article twenty-two of this chapter.

Sec. 3. Existing Licenses.—The expiration dates of
licenses in force immediately prior to the effective date
of this chapter, and lawfully existing under any law re-
pealed by this act, are hereby extended to midnight, 
March thirty-first next succeeding such effective date, at 
which time they shall expire. Any such license may be 
renewed, suspended or revoked as though originally issued 
under this chapter.

Sec. 4. Existing Contracts.—No provision of this chapter 
shall be deemed to modify or invalidate any insurance 
policy heretofore lawfully in force.

Sec. 5. Existing Forms and Filings.—Every insurance 
form and every rate or other filing lawfully in use imme-
diately prior to the effective date of this chapter shall 
continue in effect until the commissioner otherwise pre-
scribes pursuant to this chapter.

Sec. 6. Existing Actions, Violations.—Repeal by this act 
of any laws shall not affect or abate any right heretofore 
accrued, action or proceeding heretofore commenced or 
any unlawful act or violation heretofore committed under 
such laws and punishment or deprivation of license as a 
consequence thereof as provided by such laws. All such 
laws shall be deemed to continue in force to the extent 
made necessary by the foregoing provision.

Sec. 7. Particular Provisions Prevail.—Provisions of 
this chapter relative to a particular kind of insurance 
or a particular type of insurer or to a particular matter 
shall prevail over provisions relating to insurance in gen-
eral or insurers in general or to such matter in general.

Sec. 8. General Penalty.—In addition to the refusal to 
renew, suspension or revocation of a license, or penalty 
in lieu of the foregoing, because of violation of any pro-
vision of this chapter, it is a misdemeanor for any person 
to violate any provision of this chapter, and any person 
convicted of a misdemeanor for the violation of any pro-
vision of this chapter shall be punished by a fine of not 
more than one thousand dollars or by imprisonment for 
not more than six months, or by both such fine and im-
prisonment.

Sec. 9. Repeal.—The provisions of all acts or parts of 
acts, or of this code, which are inconsistent with the pro-
visions of this chapter are hereby repealed to the extent of such inconsistency. Repeal by this chapter or this act of any provision of any act or parts of acts or of this code shall not have the effect of reviving any prior law theretofore repealed or superseded by such repealed provision.

Sec. 10. Severability.—If any provision of this chapter or the application of such provision to any circumstance is held to be unconstitutional or otherwise invalid, the remainder of this chapter or the application of the provisions to other circumstances shall not be affected thereby. The Legislature hereby declares that it would have passed the remainder of this chapter if it had known that such provision, or its application to any circumstances, would be declared unconstitutional or otherwise invalid.

Sec. 11. Effective Date.—Except as otherwise expressly stated herein, this chapter shall become effective on the first day of January, one thousand nine hundred fifty-eight.

Sec. 12. Service of Process on Licensed Insurers.—The auditor of this state shall be, and is hereby constituted, the attorney-in-fact of every licensed insurer, domestic, foreign, or alien, transacting insurance in this state, upon whom all legal process in any action, suit or proceeding against it shall be served, and he may accept service of such process. Such process shall be served upon the auditor, or accepted by him, in the same manner as provided for service of process upon unlicensed insurers under subparagraphs (2) and (3) of paragraph (b) of section thirteen of this article. Each licensed insurer shall pay to the auditor an annual fee of ten dollars for services as authorized agent for service of process.

Sec. 13. Service of Process on Unlicensed Insurers.—(a) The purpose of this section is to subject certain insurers to the jurisdiction of the courts of this state in suits by or on behalf of insureds or beneficiaries under certain insurance contracts. The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state
by insurers while not licensed to transact insurance in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this section, what constitutes transacting insurance in this state, and also exercises powers and privileges available to the state by virtue of public law number fifteen, seventy-ninth congress of the United States, chapter twenty, first session, senate number three hundred forty, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

(b) (1) Any of the following acts in this state, effected by mail or otherwise, by an unlicensed foreign or alien insurer: (1) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business, is equivalent to and shall constitute an appointment by such insurer of the auditor of the state and his successor in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

(2) Such service of process upon any such insurer in any such action or proceeding in any court of competent jurisdiction of this state, may be made by serving the auditor of the state or his chief clerk with two copies thereof and the payment to him of a fee of two dollars. The auditor shall forward a copy of such process by regis-
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48 entered mail to the defendant at its last known principal
49 place of business, and shall keep a record of all process so
50 served upon him. Such service of process is sufficient,
51 provided notice of such service and a copy of the process
52 are sent within ten days thereafter by or on behalf of the
53 plaintiff to the defendant at its last known principal place
54 of business by registered mail with return receipt request-
55 ed. The plaintiff shall file with the clerk of the court in
56 which the action is pending, or with the judge or justice of
57 such court, in case there be no clerk, an affidavit of com-
58 pliance herewith, a copy of the process, and either a return
59 receipt purporting to be signed by the defendant or a
60 person qualified to receive its registered mail in accord-
61 ance with the rules and customs of the post-office depart-
62 ment; or, if acceptance was refused by the defendant or
63 its agent, the original envelope bearing a notation by the
64 postal authorities that receipt was refused. Service of
65 process so made shall be deemed to have been made
66 within the territorial jurisdiction of any court in this
67 state.
68 (3) Service of process in any such action, suit or pro-
69 ceeding shall in addition to the manner provided in sub-
70 paragraph (2) of this paragraph (b) be valid if served
71 upon any person within this state who, in this state on
72 behalf of such insurer, is
73 A. Soliciting insurance, or
74 B. Making, issuing or delivering any contract of insur-
75 ance, or
76 C. Collecting or receiving any premium, membership
77 fee, assessment or other consideration for insurance; pro-
78 vided notice of such service and a copy of such process are
79 sent within ten days thereafter, by or on behalf of the
80 plaintiff to the defendant at the last known principal
81 place of business of the defendant, by registered mail with
82 return receipt requested. The plaintiff shall file with the
83 clerk of the court in which the action is pending, or with
84 the judge or justice of such court in case there be no clerk,
85 an affidavit of compliance herewith, a copy of the process,
86 and either a return receipt purporting to be signed by the
87 defendant or a person qualified to receive its registered
mail in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or its agent the original envelope bearing a notation by the postal authorities that receipt was refused.

(4) The papers referred to in subparagraphs (2) and (3) of this paragraph (b) shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete ten days after such process and the accompanying papers are filed in accordance with this section.

(5) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

(c) (1) Before any unlicensed foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unlicensed insurer shall either (1) deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action: *Provided, however, That the court may in its discretion make an order dispensing with such deposit or bond where the auditor of the state shall have certified to such court that such insurer maintains within this state funds or securities in trust or otherwise sufficient and available to satisfy any final judgment which may be entered in such action, suit or proceeding; or (2) procure a license to transact insurance in this state.

(2) The court in any action, suit, or proceeding, in which service is made in the manner provided in subparagraphs (2) or (3) of paragraph (b) of this section may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subparagraph (1) of this paragraph (c) and to defend such action.
(3) Nothing in subparagraph (1) of this paragraph (c) is to be construed to prevent an unlicensed foreign or alien insurer from filing a motion to set aside service thereof made in the manner provided in subparagraphs (2) or (3) of paragraph (b) of this section on the grounds either (1) that such unlicensed insurer has not done any of the acts enumerated in subparagraph (1) of paragraph (b) of this section, or (2) that the person on whom service was made pursuant to subparagraph (3) of paragraph (b) of this section was not doing any of the acts therein enumerated.

(d) In any action against an unlicensed foreign or alien insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney's fee and includes such fee in any judgment that may be rendered in such action. Such fee shall not exceed twelve and one-half percent of the amount which the court finds the plaintiff is entitled to recover against the insurer, but in no event shall such fee be less than twenty-five dollars. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

(e) The provisions of this section shall not apply to any suit, action or proceeding against any unlicensed foreign or alien insurer arising out of any contract of excess line insurance effected in accordance with article twelve of this chapter where any such contract contains a provision designating the auditor or his successor in office its true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding instituted by or on behalf of an insured or beneficiary arising out of such contract of insurance.

Sec. 14. Annual Statement by Insurers.—Each licensed insurer shall annually on or before March first, unless the time is extended by the commissioner for good cause
shown, file with the commissioner a true statement of its financial condition, transactions and affairs as of the December thirty-first preceding; said statement to be in form and content as prescribed and required by the commissioner for the kinds of insurance to be reported upon. The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise.

Sec. 15. Reinsurance.—(a) An insurer shall reinsure its risks, or any part thereof, only in solvent insurers having surplus to policyholders not less in amount than the paid-in capital required under this chapter of a stock insurer licensed to transact like kinds of insurance.

(b) An insurer shall so reinsure in such alien insurers only as are authorized to transact insurance in at least one state of the United States or have in the United States a duly authorized attorney-in-fact to accept service of legal process against the insurer as to any liability which might arise on account of such reinsurance.

(c) No credit shall be allowed, as an asset or as a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is in insurers either licensed in West Virginia to transact insurance of the kind being reinsured or which have been approved by the commissioner in writing; nor unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer nor unless under the reinsurance contract the liability for such reinsurance is assumed by the assuming insurer or insurers as of the same effective date.

(d) Any licensed insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct insurance.

(e) No insurer shall reinsure all or substantially all of its risks on property or lives located in West Virginia, or substantially all of a major class thereof, unless the reinsurance agreement be filed with and approved by the commissioner.
Sec. 16. Limit of Risk.—(a) No insurer shall retain any risk on any one subject of insurance, whether located or to be performed in West Virginia or elsewhere, in an amount exceeding ten percent of its surplus to policyholders.

(b) A “subject of insurance” for the purpose of this section, as to insurance against fire and hazards other than windstorm or earthquake, includes all properties insured by the same insurer which are customarily considered by insurers to be subject to loss or damage from the same fire or other such hazard insured against.

(c) Reinsurance in licensed or approved insurers as authorized by section fifteen of this article shall be deducted in determining risk retained. As to surety risk, deduction shall also be made of the amount assumed by any established incorporated co-surety and the value and security deposited, pledged or held subject to the surety’s consent and for the surety’s protection.

(d) “Surplus to policyholders” for the purpose of this section shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the commissioner or by the last report of examination by the commissioner, whichever is the more recent at time of assumption of such risk.

(e) As to alien insurers this section shall apply only to risks and surplus to policyholders of the insurer’s United States branch.

(f) This section shall not apply to life or accident and sickness insurance, title insurance, insurance of ocean marine risks or marine protection and indemnity risks, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not reasonably ascertainable on issuance of the policy.

Sec. 17. Prohibited Interests of Officers and Directors in Certain Transactions.—(a) No director or officer of an insurer shall accept, except for and on behalf of the
insurer, or be the beneficiary of any fee, commission, brokerage, gift or other emolument or thing of value in addition to his fixed salary or compensation, because of any investment, loan, deposit, purchase, sale, exchange, or other similar transaction made by or for the insurer, or be pecuniarily interested therein in any capacity except on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director or officer from becoming a policyholder of the insurer and enjoying thereunder the rights customarily provided therein for holders of such policies, nor shall this section prohibit a director of an insurer other than a life insurer from receiving his share of the commission earnings of a stock exchange firm of which he is a partner, or a percentage of underwriting profits under a management contract, provided such contract is subject to review and termination by the board of directors, nor shall this section prohibit the payment to a director of a fee for legal services actually rendered to any such insurer provided such compensation is not in excess of the amounts customarily charged for the same type of service.

Sec. 18. Representation of Unlicensed Insurers Prohibited.—(a) No person in West Virginia shall in any manner, directly or indirectly, represent or assist any insurer not then duly licensed to transact insurance in West Virginia, in the soliciting, procuring, placing or maintenance of any insurance coverage upon or with relation to any subject of insurance resident, located, or to be performed in West Virginia, or inspect or examine any risk or collect or receive any premium on behalf of such insurer.

(b) Any person transacting insurance in violation of this section shall be personally liable to the insured for the performance of any contract between the insured and the insurer resulting from such transactions.

(c) This section shall not apply to reinsurance procured in accordance with this chapter, to excess line insurance procured pursuant to the provisions of article twelve of
18 this chapter, to transactions exempt under the provisions
19 of section one of article three of this chapter, or to pro-
20 fessional services of an adjuster or attorney-at-law.

Article 5. Organization and Procedures of Domestic Stock
and Mutual Insurers

Section
1. Scope of article.
2. Application of general laws.
3. Articles of incorporation.
5. Amendment of articles of incorporation.
6. Formation of mutuals, applications for insurance.
7. Same—premium deposit and policy issuance.
8. Same—assets required; temporary capital stock.
10. Mutual quorum.
11. Mutual membership.
12. Corporate rights of mutual members.
13. Contingent liability of mutual members.
15. Mutual nonassessable policies.
16. Participating policies.
17. Dividends to stock holders.
18. Dividends to mutual members.
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20. Borrowed surplus; loans to insurers.
21. Management and exclusive agency contracts.
22. Impairment of capital or assets.
23. Mutualization of stock insurer.
24. Converting mutual insurer.
25. Mergers and consolidations of stock insurers.
26. Reinsurance by stock insurers.
27. Reinsurance by mutual insurers.
28. Mergers and consolidations of mutual insurers.
29. Mutual member's share of assets on liquidation.

Section 1. Scope of Article.—This article shall govern
domestic mutual and stock insurers hereafter formed and
shall govern existing domestic mutual and stock insurers
to the extent applicable.

Sec. 2. Application of General Laws.—The statutes of
this state relating to corporations generally, except where
inconsistent with the provisions of this chapter, shall ap-
ply to domestic stock and mutual insurers.

Sec. 3. Articles of Incorporation.—In addition to the
matters and things required generally in articles of in-
corporation, those of a domestic stock or mutual insurer
shall state:
5 (a) the name of the corporation;
(b) the duration of its existence, which may be perpetual;
(c) the kinds of insurance the corporation is formed to transact according to the definitions thereof in this chapter;
(d) if a stock insurer, its authorized capital, the classes and number of shares into which divided, the par value of each such share, and the respective rights of each such class. Shares without par value shall not be authorized;
(e) if a mutual insurer, the maximum contingent liability of its members (other than as to nonassessable policies) for payment of losses and expenses incurred, which liability shall be as stated in the articles of incorporation but not less than one nor more than six times the premium for the member's policy at the annual premium rate for a term of one year;
(f) the number of directors, not less than five nor more than fifteen, who shall conduct the affairs of the corporation;
(g) the city or town in West Virginia in which is to be located the principal place of business, and states and countries in which business may be transacted;
(h) the limitations, if any, on the corporation's indebtedness;
(i) if a stock insurer, the extent, if any, to which its stock shall be assessable;
(j) such other provisions, not inconsistent with law, as are deemed appropriate.

Sec. 4. Certificate of Incorporation.—The articles of incorporation shall be filed with the secretary of state of this state in the same manner as for other corporations and he shall issue a certificate of incorporation subject to the provisions of section three of article three of this chapter.

Sec. 5. Amendment of Articles of Incorporation.—(a) A stock insurer may amend its articles of incorporation in the same manner as other corporations, but no such amendment shall reduce authorized capital below
the amount required by this chapter for the kinds of
insurance thereafter to be transacted and except that no
such amendment shall be filed with or accepted by the sec-
dretary of state unless approved in writing by the com-
mmissioner.

(b) A mutual insurer may amend its articles of incor-
poration by the affirmative vote of two-thirds of its mem-
bers present in person or by proxy at a regular or special
meeting of members of which notice in writing setting
forth the proposed amendment was mailed to all members
at least thirty days in advance, except that no such amend-
ment shall reduce the surplus below the amount required
by this chapter for the kinds of insurance thereafter to be
transacted and except that no such amendment shall be
filed with or accepted by the secretary of state unless
approved in writing by the commissioner.

Sec. 6. Formation of Mutuals, Applications for Insur-
ance.—(a) Upon issuance of its certificate of incorporation
as provided in section four of this article, the directors
and officers of a domestic mutual corporation formed for
the purpose of becoming a mutual insurer may open books
for the registration of such requisite applications for in-
surance policies as they may accept, and may receive de-
posits of premiums thereon.

(b) All such applications shall be in writing signed by
the applicant, covering subjects of insurance resident,
located, or to be performed in West Virginia.

(c) All such applications shall provide that:

(1) Issuance of the policy is contingent upon comple-
tion of organization of the insurer and issuance to it of
a proper license;

(2) No insurance is provided until the license has been
so issued; and

(3) The prepaid premium or deposit, and membership
or policy fee, if any, shall be refunded in full to the ap-
licant if the organization is not completed and license
issued before a specified reasonable date, which date shall
be not later than one year following date of issuance of
the certificate of incorporation.
(d) All qualifying premiums collected shall be in cash.

(e) Solicitation for such qualifying applications for insurance shall be by licensed agents of the insurer, and the commissioner shall upon application therefor issue temporary agent’s licenses expiring on the date specified pursuant to paragraph (3), above, to individuals appointed by the insurer and qualified as for a resident agent’s license. The commissioner may suspend or revoke any such license for any of the same causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under article twelve.

Sec. 7. Same—Premium Deposit and Policy Issuance.—

(a) All sums collected by a domestic mutual insurer as premiums and fees on qualifying applications for insurance therein shall be deposited in trust in a West Virginia bank or trust company under a written trust agreement consistent with this section and with paragraph (3) of subsection (c) of section six of this article. The corporation shall file an executed copy of such trust agreement with the commissioner.

(b) Upon issuance to the insurer of a license as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall forthwith issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the license.

Sec. 8. Same—Assets Required; Temporary Capital Stock.—No such domestic mutual insurer shall be issued a license until bona fide applications have been received and cash premiums collected in the manner provided in sections six and seven of this article in such sum, which, together with any other funds that may be legally available, will result in the insurer having unencumbered assets over and above all required reserves and other liabilities of at least an amount equal to that required under section five of article three of this chapter for issuance of a license for the kinds of insurance proposed to be transacted. Such other funds may be provided
by the issuance of temporary capital stock in an amount
which together with such premiums collected will pro-
vide the amount necessary under section five of article
three of this chapter, the proceeds of said stock to be
invested in the manner provided for the investment of
other funds of the insurer. In the event such temporary
capital stock shall be issued, the amount of premiums
required to be collected prior to licensing shall be not
less than ten thousand dollars. Out of the net surplus of
the insurer the holders of such temporary capital stock
may receive a dividend of not more than ten percent per
annum, which may be cumulative. The stock shall not be
a liability of the insurer, except that it shall be retired
as soon as the surplus of the insurer becomes sufficient to
pay it at its par value and leave a surplus not less than
the amount of the temporary capital so retired.

Sec. 9. Mutual By-laws.—(a) The initial board or direc-
tors of a domestic mutual insurer shall adopt original
by-laws for the government of the corporation and con-
duct of its business. Such by-laws shall be subject to the
approval of a majority of the insurer’s members who are
present in person or by proxy at the next succeeding
annual meeting of members, and no by-law provision shall
thereafter be effective which is not so approved. By-laws
shall be revoked or modified only by vote of a majority
of the insurer’s members who are present in person or by
proxy at a meeting of which notice was given as provided
in the by-laws.

(b) The by-laws shall provide that each member of the
insurer is entitled to one vote in the election of corporate
directors and on all matters coming before membership
meetings, and that such vote may be exercised in person
or by proxy.

(c) The insurer shall promptly file with the commis-
sioner a copy, certified by the insurer’s secretary, of such
by-laws and of every modification thereof or of addition
thereto. The commissioner shall disapprove any by-law
 provision deemed by him to be unlawful, inadequate, un-
fair, or detrimental to the proper interests and protection
of the insurer’s members or any class thereof. The in-
surer shall not, after receiving written notice of such dis-
approval and during the existence thereof, effectuate any
by-law provision so disapproved.

Sec. 10. Mutual Quorum.—A domestic mutual insurer
may in its by-laws adopt a reasonable provision for de-
determining a quorum of members at any meeting thereof.
This section shall not affect any other provision of law
requiring vote of a larger percentage of members for a
specified purpose.

Sec. 11. Mutual Membership.—Each holder of one or
more insurance policies or contracts issued by a domestic
mutual insurer, other than a contract of reinsurance, is a
member of the insurer with all the rights and obligations
of such membership and each such policy or contract so
issued shall so specify. Any person, government or gov-
ernmental agency, state or political subdivision thereof,
public or private corporation, board, association, firm,
estate, trustee or fiduciary may be a member of a domestic,
foreign, or alien mutual insurer.

Sec. 12. Corporate Rights of Mutual Members.—With
respect to the management, records, and affairs of the
insurer, a member of a domestic mutual insurer shall have
the same character of rights and relationship as a stock-
holder has toward a domestic stock insurer.

Sec. 13. Contingent Liability of Mutual Members.—
(a) Each member of a domestic mutual insurer shall,
except as otherwise hereinafter provided with respect to
nonassessable policies, have a contingent liability, pro
rata and not one for another, for the discharge of its
obligations, which contingent liability shall be in such
maximum amount as is stated in the insurer's articles of
incorporation.

(b) Each policy issued by the insurer shall contain a
statement of the contingent liability, if any, of its mem-
bers.

(c) Termination of the policy of any such member shall
not relieve the member of contingent liability for his pro-
portion, if any, of the obligations of the insurer which
accumed while the policy was in force.
(d) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

Sec. 14. Enforcement of Contingent Liability.—(a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this chapter for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who at any time within the twelve months immediately preceding the date notice of such assessment was mailed to them held policies providing for contingent liability, and such members shall be liable to the insurer for the amount so assessed.

(b) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent of the insurer's liabilities as of the date as of which the amount of such deficiency was determined.

(c) No one policy or member as to such policy shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by the insurer in any one calendar year, in excess of the number of times the premium as stated in the policy as computed solely upon premium earned on such policy during that year.

(d) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

(e) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of such member.
Sec. 15. Mutual Nonassessable Policies.—While a domestic mutual insurer maintains the deposits and surplus funds necessary for the kinds of insurance it is transacting, and is otherwise in compliance with this chapter and in a sound condition, it may extinguish the contingent liability of its members as to all its policies in force and may omit provisions imposing contingent liability in all its policies currently issued upon receiving written approval by the commissioner. The commissioner shall revoke the authority of a domestic mutual insurer to issue policies without contingent liability at any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority, or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that such authority be revoked.

Sec. 16. Participating Policies.—(a) If so provided in its articles of incorporation, a domestic stock or domestic mutual insurer may issue any or all of its policies with or without participation in profits, savings, or unabsorbed portions of premiums, may classify policies issued on a participating or nonparticipating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policyholders within the same such classification. A life insurer may issue both participating and nonparticipating policies only if the right or absence of right to participate is reasonably related to the premium charged.

(b) No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Sec. 17. Dividends to Stockholders.—(a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(b) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus
8 loaned to the insurer pursuant to section twenty of this
9 article.
10 (c) A dividend otherwise proper, may be payable out
11 of the insurer's earned surplus even though its total
12 surplus is then less than the aggregate of its past con-
13 tributed surplus resulting from issuance of its capital
14 stock at a price in excess of the par value thereof.

Sec. 18. Dividends to Mutual Members.—(a) The direc-
2 tors of a domestic mutual insurer may from time to time
3 apportion and pay or credit to its members dividends
4 only out of that part of its surplus funds which represents
5 net realized savings and net realized earnings from its
6 business.
7 (b) A dividend otherwise proper may be payable out
8 of such savings and earnings even though the insurer's
9 total surplus is then less than the aggregate of its con-
10 tributed surplus.

Sec. 19. Illegal Dividends, Penalty.—(a) Any director
2 of a domestic stock or mutual insurer who votes for or
3 concurs in declaration or payment of an illegal dividend
4 to stockholders or members shall upon conviction thereof
5 be guilty of a misdemeanor, and shall be jointly and
6 severally liable, together with other such directors, for
7 any loss thereby sustained by the insurer.
8 (b) The stockholders or members receiving such an
9 illegal dividend shall be liable in the amount thereof to
10 the insurer.
11 (c) The commissioner may revoke or suspend the
12 license of an insurer which has declared or paid an illegal
13 dividend.

Sec. 20. Borrowed Surplus; Loans to Insurers.—(a) A
2 domestic stock or mutual insurer may borrow money to
3 defray the expenses of its organization, provide it with
4 surplus funds, or for any purpose required by its business,
5 upon a written agreement that such money is required to
6 be repaid only out of the insurer's surplus in excess of that
7 stipulated in such agreement. The agreement may provide
8 for interest at the rate agreed upon but not exceeding six
9 percent per annum. Such interest shall not constitute a
liability of the insurer as to its funds other than such excess of surplus unless so stipulated in the agreement.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any set-off; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Such insurer in advance of any such loan shall file with the commissioner a statement of the purposes of the loan and a copy of the proposed loan agreement, which shall be subject to the commissioner's approval. The loan and agreement shall be deemed approved thirty days after date of filing with the commissioner, unless within such thirty day period the insurer is notified in writing of the commissioner's disapproval and the reasons therefor. The commissioner shall so disapprove any such proposed loan or agreement if he finds that the loan is reasonably unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or is not fair to policyholders, or that the information so filed by the insurer is inadequate.

(d) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by a mutual insurer unless in advance approved by the commissioner.

(e) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge of assets.


—(a) No domestic stock or mutual insurer shall make any contract whereby any person or persons is granted or is to enjoy in fact the management of the insurer to
the substantial exclusion of its board of directors, or to have the controlling or preemptive right to produce substantially all insurance business for the insurer, unless such contract is filed with the commissioner for his approval. The contract shall be deemed approved thirty days after filing unless disapproved by the commissioner within such thirty day period, subject to such reasonable extension of time as the commissioner may require by notice given within such thirty days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

(b) The commissioner shall disapprove any such contract if he finds that it:

(1) Subjects the insurer to excessive charges; or
(2) Is to extend for an unreasonable length of time; or
(3) Does not contain fair and adequate standards of performance; or
(4) Contains other inequitable provisions or provisions which impair the proper interests of stockholders, policyholders or members of the insurer.

Sec. 22. Impairment of Capital or Assets.—(a) If the capital stock of a domestic stock insurer becomes impaired, or the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this chapter for authority to transact the kinds of insurance being transacted, the commissioner shall at once determine the amount of the deficiency and serve notice upon the insurer to make good the deficiency within ninety days after service of such notice.

(b) The deficiency may be made good in cash or in assets eligible under this chapter for the investment of the insurer's funds; or if a stock insurer by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of its license to cover only such kind or kinds of insurance for which the insurer has on deposit sufficient surplus.

(c) If the deficiency is not made good and proof thereof filed with the commissioner within such ninety day period,
the insurer shall be deemed insolvent and the commis-
sioner shall institute delinquency proceedings against it
as authorized by this chapter. If such deficiency exists
because of increased loss reserves required by the com-
missioner, or because of disallowance by the commis-
ioner of certain assets or reduction of the value at which
carried in the insurer's accounts, the commissioner may
in his discretion and upon application and good cause
shown, extend for not more than an additional one hun-
dred eighty days the period within which such deficiency
may be so made good and such proof thereof so filed.

Sec. 23. Mutualization of Stock Insurer.—(a) A domes-
tic stock insurer may become a domestic mutual insurer
pursuant to such plan and procedure as may be approved
in advance by the commissioner.
(b) The commissioner shall not approve any such plan,
procedure, or mutualization unless:
(1) It is equitable to both stockholders and policy-
holders;
(2) It is subject to approval by a vote of the holders
of not less than three-fourths of the insurer's capital stock
having voting rights and by a vote of not less than two-
thirds of the insurer's policyholders who vote on such
plan in person, by proxy or by mail, pursuant to such
notice and procedure as may be approved by the com-
missioner;
(3) If a life insurer, the right to vote thereon is limited
to those policyholders whose policies have face amounts
of not less than one thousand dollars and have been in
force for one year or more;
(4) Mutualization will result in retirement of shares
of the insurer's capital stock at a price not in excess of the
fair market value thereof as determined by competent
disinterested appraisers;
(5) The plan provides for definite conditions to be ful-
filled by a designated early date upon which such mutuali-
ization will be deemed effective; and
(6) The mutualization leaves the insurer with surplus
funds reasonably adequate for the security of its policy-
holders and to continue successfully in business in the
states in which it is then authorized to transact insurance,
and for the kinds of insurance included in its license.
(c) This section shall not apply to mutualization under
order of court pursuant to rehabilitation or reorganiza-
tion of an insurer under article ten of this chapter.

Sec. 24. Converting Mutual Insurer.—(a) A domestic
mutual insurer may become a domestic stock insurer
pursuant to such plan and procedure as is approved in
advance by the commissioner.
(b) The commissioner shall not approve any such plan
or procedure unless:
(1) Equitable to the insurer's members;
(2) Subject to approval by vote of not less than three-
fourths of the insurer's current members voting thereon
in person, by proxy, or by mail at a meeting of members
called for the purpose pursuant to such notice and pro-
cedure as may be approved by the commissioner; if a life
insurer, the right to vote may be limited to members
whose policies have face amounts of not less than one
thousand dollars and have been in force one year or more;
(3) The equity of each policyholder in the insurer is
determinable under a fair formula approved by the com-
missioner, which such equity shall be based upon not less
than the insurer's entire surplus (after deducting con-
tributed or borrowed surplus funds) plus a reasonable
present equity in its reserves and in all nonadmitted
assets;
(4) The policyholders entitled to participate in the pur-
chase of stock or distribution of assets shall include all
current policyholders and all existing persons who had
been a policyholder of the insurer within three years
prior to the date such plan was submitted to the com-
missioner;
(5) The plan gives to each policyholder of the insurer
as specified in paragraph (4), above, a preemptive right
to acquire his proportionate part of all of the proposed
capital stock of the insurer, within a designated reason-
able period, and to apply upon the purchase thereof the
amount of his equity in the insurer as determined under paragraph (3), above;

(6) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others nor at more than double the par value of such shares;

(7) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for or upon the purchase price of stock to which preemptively entitled, of cash in the amount of not less than fifty percent of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

(8) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of such required capital.

Sec. 25. **Mergers and Consolidations of Stock Insurers.**—

(a) A domestic stock insurer of any kind may merge or consolidate with another domestic or foreign stock insurer by complying with the provisions of general law governing the merger or consolidation of stock corporations formed for profit, but subject to subsection (b), below.

(b) No such merger or consolidation shall be effectuated unless in advance thereof the plan, agreement and other supporting documents have been filed with and approved in writing by the commissioner. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Is contrary to law; or

(2) Inequitable to the stockholders of any domestic insurer involved; or

(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in West Virginia or elsewhere.

(c) If the commissioner does not approve any such plan
Sec. 26. Reinsurance by Stock Insurers.—(a) A domestic stock insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct insurance, unless such reinsurance is prohibited by its articles of incorporation.

(b) A domestic stock insurer may reinsure all or substantially all its business in force, or substantially all of a major class thereof, with another insurer by an agreement of bulk reinsurance; but no such agreement shall become effective unless filed with and approved in writing by the commissioner.

(c) The commissioner shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the commissioner does not approve the agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 27. Reinsurance by Mutual Insurers.—(a) A domestic mutual insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct insurance unless such reinsurance is prohibited by its articles of incorporation.

(b) A domestic mutual insurer may reinsure all or substantially all of its business in force, or all or substantially all of a major class thereof, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with the following:

(1) In advance of such reinsurance the agreement therefor shall be filed with and be subject to the approval of the commissioner within a reasonable time after such filing. The commissioner shall not approve the agreement unless he finds it to be fair and equitable to each domestic insurer involved, and that such reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the commissioner does not so approve, he shall so notify each insurer involved in writing specifying his reasons therefor.
(2) The plan and agreement for such reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer's members voting thereon at meetings of members called for the purpose, pursuant to such reasonable notice and procedure as the commissioner may approve. If a life insurer, right to vote may be limited to members whose policies have face amounts of not less than one thousand dollars and have been in force one year or more.

Sec. 28. Mergers and Consolidations of Mutual Insurers.

(a) A domestic mutual insurer shall not merge or consolidate with a stock insurer.

(b) A domestic mutual insurer may merge or consolidate with another mutual insurer in accordance with procedures prescribed by general laws applying to corporations formed for profit, except as hereinbelow provided.

(c) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds of the members of each mutual insurer involved voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the commissioner. If a life insurer, right to vote may be limited to members whose policies are in face amount of not less than one thousand dollars and have been in force one year or more.

(d) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with and approved in writing by the commissioner. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Inequitable to the policyholders of any domestic insurer involved; or

(2) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in West Virginia or elsewhere.

If the commissioner does not approve such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.
Sec. 29. Mutual Member’s Share of Assets on Liquidation.—(a) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within thirty-six months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer’s license, whichever date is the earliest.

(b) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership, bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and a life insurer shall, make a reasonable classification of its policies so held by such members and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the commissioner.

Article 6. The Insurance Policy

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Section 1. Scope of Article.—This article shall not apply to reinsurance or ocean marine and foreign trade insurance.

Sec. 2. Insurable Interest With Reference to Personal Insurance.—(a) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representative or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(b) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

(c) "Insurable interest" with reference to personal insurance includes only interests as follows:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection.

(2) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.

(3) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party
to such contract and for the purposes of such contract only,
in addition to any insurable interest which may otherwise
exist as to the life of such individual.

Sec. 3. Insurable Interest in Property.—(a) No insurance
contract on property or of any interest therein or
arising therefrom shall be enforceable as to the insurance
except for the benefit of persons having an insurable
interest in the things insured.

(b) "Insurable interest" as used in this section means
any actual, lawful, and substantial economic interest in
the safety or preservation of the subject of the insurance
free from loss, destruction, or pecuniary damage or im-
pairment.

(c) The measure of an insurable interest in property is
the extent to which the insured might be damnified by loss,
injury, or impairment thereof.

Sec. 4. Power to Contract for Insurance; Power of
Minor.—(a) Any person of competent legal capacity may
contract for insurance.

(b) A minor not less than fifteen years of age as at
nearest birthday, may, notwithstanding such minority,
contract for life or accident and sickness insurance on his
own life or body, for his own benefit or for the benefit of
his father or mother, spouse, child, brother, sister or grand-
parents. Such a minor shall, notwithstanding such minori-
ty, be deemed competent to exercise all rights and powers
with respect to or under any contract of life or accident
and sickness on his own life or body, as though of full
legal age, and may surrender his interest therein and give
a valid discharge for any benefit accruing or money pay-
able thereunder. The minor shall not, by reason of his
minority, be entitled to rescind, avoid or repudiate the
contract, nor to rescind, avoid or repudiate any exercise
of a right or privilege thereunder, except that such minor,
not otherwise emancipated, shall not be bound by any un-
performed agreement to pay, by promissory note or other-
wise, any premium on any such insurance contract.

Sec. 5. Application or Consent Required.—No life or
accident and sickness insurance contract upon an individ-
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3 ual, except a contract of group life insurance or of group
4 accident and sickness insurance, shall be made unless at
5 the time of the making of the contract the individual in-
6 sured, being of competent legal capacity to contract, ap-
7 plies therefor or consents thereto, except in the following
8 cases:
9 (a) A spouse may procure such insurance upon the
10 other spouse.
11 (b) Any person having an insurable interest in the life
12 of a minor, or any person upon whom a minor is dependent
13 for support and maintenance, may procure insurance upon
14 the life of or pertaining to such minor.

Sec. 6. Application as Evidence.—(a) No application
for the issuance of any life or accident and sickness insur-
ance policy or contract shall be admissible in evidence in
any action relative to such policy or contract, unless a true
5 copy of the application was attached to or otherwise made
6 a part of the policy when issued. This paragraph shall not
7 apply to industrial life insurance policies.
8 (b) If any policy of life or accident and sickness insur-
9 ance delivered in this state is reinstated or renewed, and
10 the insured or the beneficiary or assignee of the policy
11 makes written request, together with in the case of a
12 beneficiary evidence of the beneficiary’s vested interest
13 in the policy, to the insurer for a copy of the application,
14 if any, for such reinstatement or renewal, the insurer
15 shall, within thirty days after receipt of such request at
16 its home office or at any of its branch offices, deliver or
17 mail to the person making such request a copy of such
18 application. If such copy is not so delivered or mailed
19 after having been so requested, the insurer shall be pre-
20 cluded from introducing the application in evidence in any
21 action or proceeding based upon or involving the policy
22 or its reinstatement or renewal.
23 (c) As to kinds of insurance other than life and accident
24 and sickness insurance, no application for insurance signed
25 by or on behalf of the insured shall be admissible in evi-
26 dence in any action between the insured and the insurer
27 arising out of the policy so applied for, if the insurer has
28 failed, at expiration of thirty days after receipt by the
Sec. 7. *Representations in Applications.*—All statements and descriptions in any application for an insurance policy or in negotiations therefor, by or in behalf of the insured, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealments of facts, and incorrect statements shall not prevent a recovery under the policy unless:

(a) Fraudulent; or
(b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or
(c) The insurer in good faith would either not have issued the policy, or would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or otherwise.

Sec. 8. *Approval of Forms.*—(a) Except as provided in section eight of article seventeen of this chapter (fire and marine forms), no insurance policy form, no group certificate form, no insurance application form where written application is required and is to be made a part of the policy, and no rider, endorsement or other form to be attached to any policy, shall be delivered or issued for delivery in this state by an insurer unless it has been filed with and approved by the commissioner, except that as to group insurance policies delivered outside this state, only the group certificates to be delivered or issued for delivery in this state shall be filed with the commissioner upon his request. This section shall not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or accident and sickness insurance policies, and are used at the request of the individual policyholder, contract holder, or certificate holder, nor to surety bond forms.
(b) Every such filing shall be made not less than thirty
22 days in advance of any such delivery. At the expiration of
23 such thirty days the form so filed shall be deemed approved
24 unless prior thereto it has been affirmatively approved or
25 disapproved by the commissioner. Approval of any such
26 form by the commissioner shall constitute a waiver of any
27 unexpired portion of such waiting period. The commis-
28 sioner may extend by not more than an additional thirty
days the period within which he may so affirmatively
approve or disapprove any such form, by giving notice of
such extension before expiration of the initial thirty day
period. At the expiration of any such period as so ex-
tended, and in the absence of such prior affirmative
approval or disapproval, any such form shall be deemed
approved. The commissioner may at any time, after notice
and for cause shown, withdraw any such approval.
26 (c) Any order of the commissioner disapproving any
such form or withdrawing a previous approval shall state
the grounds therefor.
28 (d) The commissioner may, by order, exempt from the
requirements of this section for so long as he deems proper
any insurance document or form or type thereof as speci-
fied in such order, to which, in his opinion, this section
may not practicably be applied, or the filing and approval
of which are, in his opinion, not desirable or necessary for
the protection of the public.
(e) This section shall apply also to any form used by
domestic insurers for delivery in a jurisdiction outside
West Virginia, if the insurance supervisory official of such
jurisdiction informs the commissioner that such form is
not subject to approval or disapproval by such official, and
upon the commissioner's order requiring the form to be
submitted to him for the purpose. The applicable same
standards shall apply to such forms as apply to forms for
domestic use.

Sec. 9. Grounds for Disapproval.—The commissioner
shall disapprove any such form of policy, application,
rider, or endorsement or withdraw any previous approval
thereof:
(a) If it is in any respect in violation of or does not comply with this chapter.

(b) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading.

(d) If the purchase of such policy is being solicited by deceptive advertising.

(e) If the benefits provided therein are unreasonable in relation to the premium charged.

(f) If the coverages provided therein are not sufficiently broad to be in the public interest.

Sec. 10. Standard Provisions.—(a) Insurance contracts shall contain such standard provisions as are required by the applicable provisions of this chapter pertaining to contracts of particular kinds of insurance. The commissioner may waive the required use of a particular standard provision in a particular insurance policy form, if he finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and the policy is otherwise approved by him.

(b) No policy shall contain any provision inconsistent with or contradictory to any standard provision used or required to be used, but the commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the standard provisions or optional standard provisions, otherwise required. This section shall not apply to the standard fire insurance policy.

Sec. 11. General Policy Contents.—Every policy, except surety and group policies, shall specify the names of the parties to the contract, the insurer’s name, the subject of the insurance, the risks insured against, the time the insurance coverage becomes effective and the term during which such coverage continues, the premium (or if the exact amount of premium is determinable only at stated
intervals or termination, a statement of the basis and rates
upon which the premium is to be determined), and the
conditions pertaining to the insurance.

Sec. 12. Additional Contents.—A policy may contain
additional provisions not inconsistent with this chapter
and which are:
(a) Required to be inserted by the laws of the insurer's
domicile;
(b) Necessary, because of the manner in which the
insurer is constituted or operated, in order to state the
rights and obligations of the parties; or
(c) Desired by the insurer and not prohibited by law
nor in conflict with any provisions required to be included
therein and which are considered reasonable and just.

Sec. 13. Charter or By-law Provisions.—No policy shall
contain any provision purporting to make any portion of
the charter, by-laws or other constituent document of the
insurer a part of the contract unless such portion is set
forth in full in the policy. Any policy provision in viola-
tion of this section shall be invalid. This section shall not
apply to the subscriber's agreement or power of attorney
of a reciprocal insurer.

Sec. 14. Policy Restrictions Voided.—No policy delivered
or issued for delivery in West Virginia and covering a
subject of insurance resident, located, or to be performed
in West Virginia, shall contain any condition, stipulation
or agreement requiring such policy to be construed ac-
cording to the laws of any other state or country, except
as necessary to meet the requirements of the motor vehicle
financial responsibility laws or compulsory disability bene-
fit laws of such other state or country, or preventing the
bringing of an action against any such insurer for more
than six months after the cause of action accrues, or limit-
ing the time within which an action may be brought to a
period of less than two years from the time the cause of
action accrues in connection with all insurances other than
marine insurances; in marine policies such time shall not
be limited to less than one year from the date of occur-
rence of the event resulting in the loss. Any such condi-
tion, stipulation or agreement shall be void, but such
voidance shall not affect the validity of the other pro-
visions of the policy. This section shall not apply to the
standard fire insurance policy.

Sec. 15. Execution of Policies.—Every insurance policy
shall be executed in the name of and on behalf of the
insurer by its officer, attorney-in-fact, employee, or repre-
sentative duly authorized by the insurer. A facsimile
signature of any such executing individual may be used
in lieu of an original signature, except that in all policies
other than those approved for machine vending the
countersignature shall be in original handwriting. No
insurance contract heretofore or hereafter issued and
which is otherwise valid shall be rendered invalid by
reason of the apparent execution thereof on behalf of the
insurer by the imprinted facsimile signature of an indi-
vidual not authorized so to execute as of the date of the
policy.

Sec. 16. Underwriters' and Combination Policies.—(a)
Two or more licensed insurers may jointly issue, and shall
be jointly and severally liable on, an underwriters' policy
bearing their names. Any one insurer may issue policies
in the name of an underwriter's department and such
policy shall plainly show the true name of the insurer.
(b) Two or more insurers may, with the approval of the
commissioner, issue a combination policy which shall con-
tain provisions substantially as follows:
(1) That the insurers executing the policy shall be
severally liable for the full amount of any loss or damage,
according to the terms of the policy, or for specified per-
centages or amounts thereof, aggregating the full amount
of insurance under the policy, and
(2) That service of process, or of any notice or proof of
loss required by such policy, upon any of the insurers
executing the policy, shall constitute service upon all
such insurers.
(c) This section shall not apply to co-surety obligations.

Sec. 17. Validity of Noncomplying Forms.—Any insur-
ance policy, rider, or endorsement hereafter issued and
otherwise valid which contains any condition or provision not in compliance with the requirements of this chapter, shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this chapter.

Sec. 18. Binders.—(a) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(b) No binder shall be valid beyond the issuance of the policy with respect to which it was given, and no agent or insurer shall issue a binder covering a period in excess of ninety days from its effective date.

(c) If the policy has not been issued a binder may be extended or renewed beyond such ninety days with the written approval of the commissioner, or in accordance with such rules and regulations relative thereto as the commissioner may promulgate.

(d) This section shall not apply to conditional receipts issued by life and accident and sickness insurers, nor to policies of group insurance.

Sec. 19. Renewal by Certificate.—Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefore for a specific additional period or periods by certificate or by endorsement of the policy, and without requiring the issuance of a new policy when such certificate and its use for such purpose have been approved by the commissioner.

Sec. 20. Assignment of Policies.—Whenever the insured in a policy owned by him has reserved to himself the right to change the beneficiary thereunder, the insured shall
have the right to and may assign said policy to the extent permitted by the terms thereof as collateral security for a loan or loans, or for any other purpose without any beneficiary thereunder joining therein or assenting thereto, and such assignment shall subordinate the rights and interests of any beneficiary in the proceeds of the policy to the rights and interests of the assignee as created and defined by such assignment.

Sec. 21. Annulment of Liability Policies.—No insurance policy insuring against loss or damage through legal liability for the bodily injury or death by accident of any individual, or for damage to the property of any person, shall be retroactively annulled by any agreement between the insurer and the insured after the occurrence of any such injury, death, or damage for which the insured may be liable, and any such attempted annulment shall be void.

Sec. 22. Payment Discharges Insurer.—Whenever the proceeds of or payments under a life or accident and sickness policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full release therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

Sec. 23. Release by Minor.—Any minor domiciled in this state who has attained the age of eighteen years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding two thousand dollars in any one
year made by a life insurer as benefits payable to such minor in compliance with the provisions of an insurance policy, annuity contract or settlement agreement. No such minor shall be deemed competent to alienate the right to or to anticipate such payments. This section shall not be deemed to restrict the rights of minors set forth in paragraph (b) of section four of this article.

Sec. 24. Simultaneous Deaths.—Where the individual insured or the annuitant and the beneficiary designated in a life policy or policy insuring against accidental death or in an annuity contract have died and there is not sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy or contract shall be distributed as if the insured or annuitant had survived the beneficiary, unless otherwise specifically provided in the policy or contract.

Sec. 25. Proof of Loss Forms.—An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person.

Sec. 26. Defenses Not Waived.—Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(a) Acknowledgment of the receipt of notice of loss or claim under the policy.

(b) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(c) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Sec. 27. Life Insurance Proceeds Exempt From Creditors.—(a) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to
defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person.

(b) Subject to the statute of limitations, the amount of any premiums for such insurance paid in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, but the insurer issuing the policy shall be discharged of all liability thereon by payment of the proceeds in accordance with its terms, unless before such payment the insurer received written notice by or in behalf of some creditor, with specification of the amount claimed, claiming to recover for certain premiums paid in fraud of creditors.

(c) For the purposes of paragraph (a), above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligations after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

Sec. 28. Group Life Insurance Proceeds Exempt From Creditors.—(a) A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy.

(b) This section shall not apply to group life insurance issued to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose for which the insurance was so issued.
Sec. 29. Policies to Cover Injuries to Guest Passengers.

No insurer shall issue any policy of bodily injury or property damage liability insurance which excludes coverage to the owner or operator of a motor vehicle on account of bodily injury or property damage to any guest or invitee who is a passenger in such motor vehicle.

Sec. 30. Construction of Policies.—Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application attached to and made a part of the policy.

Article 7. Assets and Liabilities

Section

1. Assets defined.
2. Deductions from assets and liabilities.
3. Assets not allowed.
4. Reporting assets not allowed.
5. Liabilities.
6. Unearned premium reserve.
7. Reserves for accident and sickness insurance.
8. Increased reserves.
10. Valuation of bonds.
11. Valuation of other securities.
12. Valuation of real property.
13. Valuation of mortgages.

Section 1. Assets Defined.—In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(a) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(b) Investments, securities, properties and loans acquired or held in accordance with this chapter, and in connection therewith the following items:

(1) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(2) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.
(3) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(4) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset.

(5) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of eighteen months be allowed as an asset.

(6) Rent due or accrued on real property if such rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(7) The unaccrued portion of taxes paid prior to the due date on real property.

(c) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and interest due and accrued thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(d) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(e) Premiums in the course of collection, other than for life insurance, not more than three months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities.

(f) Instalment premiums other than life insurance premiums, in accordance with regulations prescribed by the commissioner.

(g) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the
extent of the unearned premium reserves carried thereon.

(h) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under this chapter.

(i) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(j) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him.

(k) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein.

(l) Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by him.

Sec. 2. Deductions From Assets and Liabilities.—Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the commissioner, or otherwise in his discretion.

Sec. 3. Assets Not Allowed.—In addition to assets impliedly excluded by the provisions of section one of this article, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer;

(a) Good will, trade names and other like intangible assets.

(b) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents, and other persons on personal security only.

(c) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate
interest in such stock acquired or held through the own-
ership by such insurer of an interest in another firm,
corporation or business unit.

(d) Furniture, fixtures, furnishings, safes, vehicles,
libraries, stationery, literature and supplies, and except,
in the case of any insurer, such personal property as the
insurer is permitted to hold pursuant to article eight of
this chapter, or which is acquired through foreclosure of
chattel mortgages acquired pursuant to article eight of
this chapter, or which is reasonably necessary for the
maintenance and operation of real estate lawfully ac-
quired and held by the insurer other than real estate used
by it for home office, branch office and similar purposes.

(e) The amount, if any, by which the aggregate book
value of investments as carried in the ledger assets of
the insurer exceeds the aggregate value thereof as de-
termined under this chapter.

Sec. 4. Reporting Assets Not Allowed.—All assets not
allowed and all other assets of doubtful value or character
included as assets in any statement by an insurer to the
commissioner, or in any examiner's report to him, shall
also be reported, to the extent of the value disallowed,
as deductions from the gross assets of such insurer except
where the commissioner permits a reserve to be carried
among the liabilities of such insurer in lieu of any such
deduction.

Sec. 5. Liabilities.—In any determination of the finan-
cial condition of an insurer, capital stock and liabilities
to be charged against its assets shall include:

(a) The amount of its capital stock outstanding, if any;
(b) The amount, estimated consistent with the pro-
visions of this chapter, necessary to pay all of its unpaid
losses and claims incurred on or prior to the date of
statement, whether reported or unreported, together with
the expenses of adjustment or settlement thereof;

(c) With reference to life and accident and sickness
insurance and annuity contracts:

(1) The amount of reserves on life insurance policies
and annuity contracts in force, valued according to the
tables of mortality, rates of interest, and methods adopted pursuant to this chapter which are applicable thereto,
(2) Reserves for disability benefits, for both active and disabled lives,
(3) Reserves for accidental death benefits, and
(4) Any additional reserves which may be reasonably required by the commissioner on account of such insurance.
(d) With reference to insurance other than specified in paragraph (c) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this article.
(e) Taxes, expenses and other obligations due or accrued at the date of the statement.

Sec. 6. Unearned Premium Reserve.—(a) With reference to insurance against loss or damage to property (except as provided in paragraph (e) of this section) and with reference to all general casualty insurance, and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.
(b) The commissioner may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting reinsurance in solvent insurers effected in the manner provided in this chapter as computed on each respective risk from the policy's date of issue.
(c) All of such reserves may be computed, at the option of the insurer, on a yearly or more frequent pro rata basis.
(d) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the commissioner.
(e) With reference to marine insurance, premiums on trip risks not terminated shall be deemed unearned, and the commissioner may require the insurer to carry a reserve thereon equal to one hundred percent on trip risks written during the month ended as of the date of statement.
Sec. 7. Reserves for Accident and Sickness Insurance.—
For all accident and sickness policies the insurer shall
maintain an active life reserve which shall place a sound
value on its liabilities under such policies and which shall
not be less than the reserve according to standards set
forth in regulations issued by the commissioner and, in
no event, less than the pro rata gross unearned premium
reserve for such policies.

Sec. 8. Increased Reserves.—(a) If the commissioner
determines that an insurer's unearned premium reserve,
however computed, is inadequate, he may require the
insurer to compute such reserve or any part thereof ac­
cording to such other method or methods as are pre­
scribed in this article.

(b) If the loss experience of an insurer shows that its
loss reserves, however estimated, are inadequate, the
commissioner shall require the insurer to maintain loss
reserves in such increased amount as is needed to make
them adequate.

Sec. 9. Standard Valuation Law for Life Policies.—
(1) The commissioner shall annually value, or cause to
be valued, the reserve liabilities (hereinafter called re­
serves) for all outstanding life insurance policies and an­
uity and pure endowment contracts of every life insurer
transacting insurance in this state, except that in the case
of an alien insurer such valuation shall be limited to its
United States business, and may certify the amount of any
such reserves, specifying the mortality table or tables,
rate or rates of interest and methods (net level premium
method or other) used in the calculation of such reserves.

All valuations made by him or by his authority shall
be made upon the net premium basis.

In every case the standard of valuation employed shall
be stated in his annual report.

In calculating such reserves, he may use group methods
and approximate averages for fractions of a year or other­
wise. In lieu of the valuation of the reserves herein re­
quired of any foreign or alien insurer, he may accept any
valuation made, or caused to be made, by the insurance
21 supervisory official of any state or other jurisdiction when
22 such valuation complies with the minimum standard
23 herein provided and if the official of such state or juris-
24 diction accepts as sufficient and valid for all legal pur-
25 poses the certificate of valuation of the commissioner
26 when such certificate states the valuation to have been
27 made in a specified manner according to which the aggre-
28 gate reserves would be at least as large as if they had
29 been computed in the manner prescribed by the law of
30 that state or jurisdiction.
31 Any such insurer which at any time shall have adopted
32 any standard of valuation producing greater aggregate
33 reserves than those calculated according to the minimum
34 standard herein provided may, with the approval of the
35 commissioner, adopt any lower standard of valuation, but
36 not lower than the minimum herein provided.
37 (2) This subsection shall apply to only those policies
38 and contracts issued prior to the original operative date
39 of the Standard Nonforfeiture Law (now section thirty
40 of article thirteen of this chapter). All valuations shall
41 be according to the standard of valuations adopted by the
42 insurer for the obligations to be valued. Any insurer
43 may adopt different standards for obligations of different
44 dates or classes, but if the total value determined by any
45 such standard for the obligations for which it has been
46 adopted shall be less than that determined by the legal
47 minimum standard hereinafter prescribed, or if the in-
48 surer adopts no standard, said legal minimum standard
49 shall be used.
50 The legal minimum standard for contracts issued before
51 the first day of January, in the year one thousand nine
52 hundred one, shall be actuaries' or combined experience
53 table of mortality with interest at four percent per annum,
54 and for contracts issued on or after said date shall be the
55 "American Experience Table" of mortality with interest
56 at three and one-half percent per annum. Policies issued
57 by insurers doing business in this state may provide for
58 not more than one year preliminary term insurance: Pro-
59 vided, however, That if the premium charged for term
60 insurance under a limited payment life preliminary term
policy providing for the payment of all premiums thereof in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a twenty payment life preliminary term policy and a full reserve at such time of such a limited payment life or endowment policy.

The commissioner may vary the standards of interest and mortality in the case of alien insurers and in particular cases of invalid lives and other extra hazards.

Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(3) This subsection shall apply to only those policies and contracts issued on or after the original operative date of the Standard Nonforfeiture Law (now section thirty of article thirteen of this chapter).

(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in paragraph (b), three and one-half percent interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the Commissioners 1941 Standard Ordinary Mortality Table.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 Standard Industrial Mortality Table.
(iii) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,—the 1937 Standard Annuity Mortality Table.

(iv) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—Class (3) Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(v) For accidental death benefits in or supplementary to policies—the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(b) Reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due: Provided, however, That such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount
at an age one year higher than the age at issue of such policy.

(B) A net one year term premium for such benefits provided for in the first policy year.

Reserves according to the commissioner's reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph (b).

(c) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in paragraph (b) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(d) Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein: Provided, however, That reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half percent the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.
182 (e) If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the re-
serve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or con-
tract the deficiency reserve shall be the present value, according to such standard of an annuity of the differ-
ence between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Sec. 10. Valuation of Bonds.—(a) All bonds or other evidences of debt having a fixed term and rate of interest held by any insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of pur-
chase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(4) Unless otherwise provided by valuation established or approved by the commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(b) The commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section.

Sec. 11. Valuation of Other Securities.—(a) Securities, other than those referred to in section ten of this article, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their
fairst market value, all consistent with any current method
for the valuation of any such security formulated or
approved by the commissioner.

(b) Preferred or guaranteed stocks or shares while
paying full dividends may be carried at a fixed value in
lieu of market value, at the discretion of the commissioner
and in accordance with such method of computation as he
may approve.

Sec. 12. Valuation of Real Property.—(a) Real property
acquired pursuant to a mortgage loan or contract for sale,
in the absence of a recent appraisal deemed by the com-
missioner to be reliable, shall not be valued at an amount
greater than the unpaid principal of the defaulted loan or
contract at the date of such acquisition, together with any
taxes and expenses paid or incurred in connection with
such acquisition, and the cost of improvements thereafter
made by the insurer and any amounts thereafter paid by
the insurer on assessments levied for improvements in
connection with the property.

(b) Other real property held by an insurer shall not be
valued at an amount in excess of fair value as determined
by recent appraisal. If valuation is based on an appraisal
more than three years old, the commissioner may at his
discretion call for and require a new appraisal in order
to determine fair value.

Sec. 13. Valuation of Mortgages.—Mortgages or deeds
of trust on real property shall be valued in an amount
equal to the unpaid balance but not exceeding sixty-six
and two-thirds percent of the fair value of such real
property, except that any amount in excess of sixty-six
and two-thirds percent may be included to the extent the
loan evidenced by such deed of trust or mortgage is
guaranteed by an agency of the federal government.

Article 8. Investments

Section
1. Scope of article.
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5. Limitation of investments in one person.
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20. Personal liability of officers, directors, employees and investment committee; misdemeanor.
21. Stock of other insurers; investment in insurer's own stock; state and national bank stocks.
22. Investments of foreign and alien insurers.

Section 1. Scope of Article.—Except for section twenty-two of this article which relates to investments of foreign and alien insurers, this article applies to domestic insurers only.

Sec. 2. Authorized Investments.—The capital, surplus, assets and all other funds of insurers shall be invested only as provided in this article. The eligibility of an investment shall be determined as of the date of its making or acquisition. Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to assets or funds as shown by the insurer's annual statement as of the December thirty-first last preceding date of investment.

Sec. 3. General Qualifications.—(a) No security or investment (other than real property acquired pursuant to section sixteen of this article) shall be eligible for acquisition unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon. Defaults in interest or income occurring subsequent to acquisition of an investment shall not affect allowance thereof as an asset.

(b) No security or investment shall be eligible for purchase at a price above its market value.

(c) No provision of this article shall prohibit the acquisition by an insurer of other or additional securities or
property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so acquired through bulk reinsurance, merger, or consolidation, which is not otherwise eligible under this article, shall be disposed of pursuant to section seventeen of this article if securities, or pursuant to section sixteen of this article if real property.

Sec. 4. Approval of Investments.—No investment or loan shall be made by an insurer unless the same has been authorized or approved by the insurer's board of directors or by a committee authorized thereby and charged with the duty of supervising or making such investment or loan. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors. This section does not apply to loans made by a life insurer on policies or annuity contracts.

Sec. 5. Limitation of Investments in One Person.—An insurer shall not, except with the consent of the commissioner, have at one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one person, institution or corporation, aggregating an amount exceeding five percent of the insurer's assets. This restriction shall not apply to investments in or loans upon the security of general obligations of the United States or fully guaranteed by the United States or the District of Columbia or any state of the United States or of political subdivisions of the state of West Virginia or other states of the United States, made pursuant to section seven of this article, or include policy loans made under section nineteen of this article or investments in foreign securities pursuant to section eight of this article.

Sec. 6. Class Limitations on Investments.—(a) Every insurer shall invest and maintain invested funds to the amount of the minimum paid-in capital or surplus required under this chapter to transact like kinds of insurance only in cash and the securities described in section seven of this article (government obligations).
(b) The remaining assets of any insurer may be invested in the classes of securities described in the following sections of this article, and subject to restrictions or limitations contained in such sections: section seven (government securities), section eight (foreign securities) for those insurers who qualify under said section, section nine (bills of exchange, etc.), section eleven (corporate obligations), section twelve (building and loan shares, etc.), section thirteen (preferred or guaranteed stock), section fifteen (real property mortgages), section sixteen (real property), section eighteen (revenue bonds), and, subject to the limitations of paragraph (c) of this section, section ten (loans upon pledge of securities) and section fourteen (common stocks).

(c) No insurer shall invest in more than five per centum of the total number of shares of any one corporation, nor more than two per centum of the assets of such insurer in the shares of any one corporation, nor shall any insurer invest in shares and securities of corporations in the aggregate exceeding the capital and/or surplus of such insurer, the foregoing limitations to apply to all investments made pursuant to sections ten and fourteen of this article.

Sec. 7. Government Obligations.—An insurer may invest any of its funds in:

(a) Bonds or securities which are the direct obligation of or which are secured or guaranteed in whole or in part as to principal and interest by the United States, any state or territory of the United States, or the District of Columbia, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness, and, in bonds issued by the federal land banks.

(b) Bonds or evidences of indebtedness which are direct general obligations of any county, district, city, town, village, school district, park district, or other political subdivision of this state or any other state or territory of the United States, or the District of Columbia, which shall not be in default in the payment of any of its general obligation bonds, either principal or interest, at the date
of such investment; where they are payable from ad
valorem taxes levied on all the taxable property located
therein and the total indebtedness after deducting sink-
ing funds and all debts incurred for self-sustaining public
works does not exceed ten per centum of the actual value
of all taxable property therein on the basis of which the
last assessment was made before the date of such invest-
ment.

Sec. 8. Foreign Securities.—(a) An insurer authorized
to transact insurance in a foreign country may invest any
of its funds, in aggregate amount not exceeding by more
than five percent its deposit and reserve obligations in-
curred in such country, in securities of or in such country
possessing characteristics and of a quality similar to those
required pursuant to this chapter for investments in the
United States.

(b) An insurer may invest any of its funds, in an ag-
gregate amount not exceeding five percent of its assets,
in addition to any amount permitted pursuant to para-
graph (a) of this section, in obligations of the govern-
ments of Canadian provinces or municipalities, and in
obligations of Canadian corporations which are otherwise
of equal quality to like United States public or corporate
securities as prescribed in this article.

Sec. 9. Certificates, Acceptances and Bills of Exchange.
---Subject to the limit set forth in sections five and six of
this article, an insurer may invest in bank certificates of
deposit and bankers' acceptances, and other bills of ex-
change of the kind and maturities made eligible by law
for purchase in the open market by federal reserve banks.

Sec. 10. Loans Upon Pledge of Securities.—An insurer
may invest in loans upon the pledge of bonds, mortgages,
preferred or guaranteed stocks, debentures, securities or
evidence of indebtedness acceptable as investments for
the lending insurer under the provisions of this article
and subject to the same limits as to each security as is
provided in this article for investment therein, if the face
or current market value, whichever is less, of such mort-
gages is more than the amount loaned thereon, and the
current market value of such bonds, preferred or guaranteed stocks, debentures, securities or evidences of indebtedness is at least twenty per centum more than the amount loaned thereon. These restrictions do not apply to loans on the pledge of bonds or securities of or guaranteed by the United States.

Sec. 11. Corporate Obligations.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in bonds or evidence of indebtedness of any solvent corporation or corporations (other than those organized and chartered for the sole purpose of holding the stock of other corporations), including public utility corporations and bonds or evidence of indebtedness issued or guaranteed by railroad corporations (including certificates of an equipment trust created on behalf of any such railroad corporation), created under the laws of the United States or of any state of the United States or the District of Columbia.

Sec. 12. Building and Savings and Loan Shares, International Bank.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in shares of insured state chartered building and loan associations and federal savings and loan associations, if such shares are insured by the Federal Savings and Loan Insurance Corporation and may invest in obligations issued or guaranteed by the International Bank for Reconstruction and Development.

Sec. 13. Preferred or Guaranteed Stock.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in preferred or guaranteed stock issued or guaranteed by any solvent corporation or corporations created under the laws of the United States or any state, if such stock is not in default as to payment of any current dividends.

Sec. 14. Common Stocks.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in the nonassessable shares of capital stock of any solvent corporation created under the laws of the United States or of any state if such corporation has paid
cash dividends of not less than four percent per annum on the average market price of such common stock for a period of five fiscal years next preceding the date of acquisition by such insurer or shall have earned, during such period, an aggregate sum applicable to dividends on its common stock equal at least to an aggregate sum which would have been sufficient to pay dividends of four percent per annum on the average market price of all its common stocks outstanding during such period.

Sec. 15. Real Property Mortgages.—(a) An insurer may invest in entire first mortgages on improved unencumbered real estate or the entire issue of bonds secured thereby located within any state worth at least fifty per centum more than the amount loaned thereon, based on sound appraisal by a competent appraiser and duly certified by him, provided that the investment in any one mortgage or any one issue of bonds or any one contract for deed does not exceed twenty thousand dollars or two per centum of the insurer's assets, whichever is the greater.

(b) "Improved real estate", as used in this section, means all farm land which has been reclaimed and is used for the purpose of husbandry, whether for tillage or pasture, and all real property on which permanent buildings suitable for residence or commercial use are situated.

(c) Real property shall not be deemed to be encumbered within the meaning of this section by reason of the existence of instruments reserving or excepting mineral rights and interests, rights-of-way, sewer rights and rights in walls or easements, nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it is subject to lease under which rents or profits are reserved to the owners: Provided, That the security for such investment is a full and unrestricted first lien upon such real property and that there is no condition nor right of re-entry or forfeiture under which such investments can be cut off, subordinated or otherwise disturbed.

(d) Notwithstanding the restrictions set forth in this
section any insurer may invest (1) in bonds or notes secured by mortgage or trust deed insured by the federal housing administration or in debentures issued by it under the terms of an act of Congress of the United States entitled the “National Housing Act”, as heretofore or hereafter amended and (2) in securities issued by national mortgage associations established by or under the authority of the National Housing Act, and (3) in bonds or notes secured by mortgage or trust deed guaranteed as to principal by the administrator of veterans' affairs pursuant to the provisions of Title III of act of Congress of the United States as of June twenty-two, one thousand nine hundred forty-four, entitled the “Servicemen’s Re-Adjustment Act of one thousand nine hundred forty-four”, as heretofore or hereafter amended.

(e) Notwithstanding the restrictions herein set forth the amount of any first mortgage investment as limited by paragraph (a) of this section may be exceeded if and to the extent that such excess shall be guaranteed by the administrator of veterans' affairs pursuant to the provisions of Title III of an act of Congress of the United States of June twenty-two, one thousand nine hundred forty-four, entitled the “Servicemen’s Re-Adjustment Act of one thousand nine hundred forty-four”, as heretofore or hereafter amended.

(f) No such insurer shall in any manner, either directly or indirectly, by means of corporations, holding companies, trustees or otherwise, invest in real estate securities junior to first mortgages unless the first mortgage in its entirety is owned by the insurer.

Sec. 16. Real Property.—(a) No insurer may acquire or hold real property except as follows:

(1) Such as shall be requisite for the convenient accommodation of the transaction of its own business; the amount invested in such real property shall not exceed ten per centum of the investing insurer’s assets but the commissioner may grant permission to the insurer to invest in real property for such purpose, in such increased amount as he may deem proper on the showing made if, upon a hearing held before him, he shall find that the
amount represented by such percentage of the insurer's assets is insufficient to provide convenient accommodations for the insurer's business;

(2) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for monies due;

(3) Such as shall have been conveyed to it in satisfaction of debts previously contracted in course of its dealings;

(4) Such as shall have been purchased at sales or judgments, decrees or mortgages obtained or made for such debts; and

(5) Such unencumbered real property as shall have been acquired in whole or in part, in exchange for real property of approximately the same value theretofore legally acquired and held by it;

(6) Such as shall be held as security for contracts for deeds;

(7) (A) Such as may be acquired for the purpose of leasing the same to any person, firm, or corporation, or real estate already leased under the following conditions:

a. Where there has already been erected on said property a building or other improvements satisfactory to the purchaser, or where the lessee shall at its own cost erect thereon, free of liens, a building or other improvements satisfactory to the lessor, or where the lessor under the terms and conditions of a lease executed and entered into simultaneously with the purchaser of the property agrees to erect a building or other improvements on said property.

b. That the said improvements shall remain on the said property during the period of the lease, and in cases where the said improvements are put upon said property at the cost of the lessee the said improvements at the termination of the lease shall vest, free of liens, in the owner of the real estate.

c. That during the term of the lease the lessee shall keep and maintain the said improvements in good repair.

Real estate acquired pursuant to the provisions of this part (A) shall not be valued in any amount exceeding
the amount actually invested reduced each year by equal
decrements sufficient to write off at least seventy-five per-
cent of the investment at the normal termination of the
lease or at the end of thirty years should the term of
the lease be for a longer period. The total investments
of any insurer under this part (A) shall not exceed five
percent of its assets, nor more than the sum of its capital
and surplus, whichever is less.

(B) Subject to approval of the commissioner, real
estate for recreation, hospitalization, convalescence and
retirement purposes of its employees. Such investment
shall not exceed five percent of the company’s surplus.

(C) No investment shall be made by any insurer pur-
suant to this subparagraph (7) which will cause such
insurer’s investment in all real property owned or held
by it directly or indirectly to exceed ten percent of its
assets.

(b) All real property acquired for purposes, or in the
manner, specified in subparagraphs other than subpara-
graphs (1), (6) and (7) of paragraph (a) of this section
may be held for a period of five years after the insurer
shall have acquired title to the same and thereafter until
the date specified in an order issued by the commissioner
directing the insurer to dispose of the same. The date
specified in such order shall be not less than six months
from the date of the service of the said order upon the
insurer. No such order shall be issued without a hearing
and a determination by the commissioner that the inter-
ests of the insurer will not suffer materially by the sale
of the same within the period to be specified.

Sec. 17. Disposal of Ineligible Securities.—(a) Secu-
rities or other assets not proper investments under this
article, but lawfully acquired through merger or consoli-
dation with any other insurer or through a reinsurance
agreement, if such assets when originally acquired consti-
tuted legal investments for the merging, consolidating or
ceding insurer which acquired them, and securities, obli-
gations or other assets incident to the adjustment of any
debt or investment when deemed by the board of directors
or investment committee to be in the best interests of the
insurer, shall not be considered to be acquired in violation of this article; but all such securities, obligations or other assets so acquired or accepted shall be disposed of not later than five years after the date of such acquisition or acceptance.

(b) The commissioner may, upon application by the insurer, extend the time for the disposition of such securities, obligations or other assets described in paragraph (a) of this section, if he is satisfied that such insurer will suffer materially by the forced sale thereof.

(c) Any ineligible investment unlawfully acquired by an insurer shall be disposed of forthwith.

Sec. 18. Revenue Bonds.—Any insurer may invest, subject to the limits prescribed by sections five and six of this article, in revenue bonds issued by any state or the United States, or any agency or instrumentality thereof, or any county, city, town, village or district of any state, if by statutory or other legal requirements applicable thereto such revenue bonds are payable as to both principal and interest from special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment (but not including any obligations payable solely out of special assessments on properties benefited by local improvements): Provided, That such revenue bonds constitute a first and paramount lien upon such special revenues and that such bonds are not in default as to any payment of principal or interest. No insurer shall invest in more than five percent of any one issue of such revenue bonds, nor more than two percent of its assets in such revenue bonds payable from any one public project, nor shall any insurer invest in such revenue bonds in the aggregate exceeding ten percent of its assets, except that any insurer holding a valid license in this state on the first day of January, one thousand nine hundred fifty-six, and on such date possessed of such revenue bonds in excess of such limits, may apply to the commissioner for an extension of time for such period as the commissioner deems proper for the disposal of such bonds under the provisions of section seventeen of this article.
Sec. 19. Policy Loans.—A life insurer may lend to its policyholders upon pledge of the policy as collateral security a sum not exceeding the applicable cash surrender value specified in the policy.

Sec. 20. Personal Liability of Officers, Directors, Employees and Investment Committee; Misdemeanor.—Any officer, director, employee, or member of the investment committee of an insurer, who knowingly consents to a loan or investment in violation of this article shall be personally liable to the insurer for any loss resulting therefrom and in addition thereto shall be guilty of a misdemeanor.

Sec. 21. Stock of Other Insurers; Investment in Insurer’s Own Stock; State and National Bank Stocks.—
(a) In addition to such insurance stocks as may be otherwise eligible under this article, an insurer may, upon receiving the written consent of the commissioner, use its funds for the purchase of the controlling capital stock interest or of all the outstanding capital stock of another insurer.
(b) No insurer shall invest in or loan any of its funds on its own stocks nor invest in or loan any of its funds on the stocks of any state or national bank.

Sec. 22. Investments of Foreign and Alien Insurers.—
(a) Foreign and alien insurers transacting insurance in West Virginia shall have assets of the same general quality as specified in this article for domestic insurers, except that other investments authorized by the laws of such foreign or alien insurer’s state or country of domicile may be recognized as assets in the discretion of the commissioner.
(b) A foreign insurer domiciled in a state that requires West Virginia domiciled insurers to invest in the securities of such state a stipulated percentage or amount of its reserves under its policies in force in such state, shall likewise be required to invest in similar securities of West Virginia a like percentage or amount of its reserves under its policies in force in West Virginia.
Article 9. Administration of Deposits

Section 1. Deposits of Insurers.—The state treasurer of West Virginia shall accept and hold in trust, when made through the commissioner, deposits of securities or funds by insurers as follows:

(a) Deposits required for a license to transact insurance in West Virginia.

(b) Deposits of domestic, foreign, or alien insurers when made pursuant to the laws of other states, provinces, and countries as prerequisite for authority to transact insurance in such state, province, or country.

(c) Deposits in such additional amounts as are permitted to be made by section six of this article.

Sec. 2. Purpose of Deposits.—Such deposits shall be held for purposes as follows:

(a) When the deposit is required for authority to transact insurance in West Virginia the deposit shall be held for the protection of all the insurer’s policyholders and creditors within the United States.

(b) When the deposit is required pursuant to the laws of another state, province, or country, the deposit shall be held for such purposes as is required by such laws, and as specified by the commissioner at the time the deposit is made.

(c) When the deposit is required pursuant to the retaliatory provisions, section sixteen of article three of this chapter, the deposit shall be held for purposes as specified in the commissioner’s order requiring the deposit.

Sec. 3. Assets Eligible for Deposit.—(a) All such deposits required for a license to transact insurance in West Virginia shall consist of cash or any combination of the...
government obligations described in section seven of article eight of this chapter.

(b) All such deposits required pursuant to the laws of another state, province, or country, or pursuant to the retaliatory provision, section sixteen of article three of this chapter, shall consist of such assets as are required or permitted by such laws, or as required pursuant to such retaliatory provision.

Sec. 4. Trust Companies as Depositories; State of West Virginia Responsible.—(a) Upon request of the insurer, the state treasurer may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state as the treasurer's depository to receive and hold any such deposit. Any such deposit so held shall be at the expense of the insurer.

(b) The state of West Virginia shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this chapter with the state treasurer or in any depository so designated by him.

Sec. 5. Rights of Insurer During Solvency.—So long as the insurer remains solvent and complies with this chapter it may:

(a) Demand, receive, sue for and recover the income from the securities or cash deposited,

(b) Exchange and substitute for the deposited cash or securities, or any part thereof, cash or eligible securities of equivalent or greater value, and

(c) Inspect, at reasonable times, any such deposit.

Sec. 6. Excess Deposits.—An insurer may so deposit cash or eligible securities in an amount exceeding its deposit required or otherwise permitted under this chapter, such excess deposit to be held for the protection of such insurer's policyholders and creditors. During the solvency of the insurer any such excess deposit or part thereof shall be released to the insurer upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section seven of this article.

Sec. 7. Release of Deposits Generally.—Any deposit
made in this state under this chapter shall be released and returned:

(a) To the insurer upon extinguishment by authorized reinsurance or otherwise of substantially all liability of the insurer for the security of which the deposit is held;

(b) To the insurer to the extent such deposit is in excess of the amount required; or

(c) Upon proper order of a court of competent jurisdiction to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

Sec. 8. Release Only on Order.—No such release of deposited funds shall be made except upon application to and written order of the commissioner. The commissioner shall have no personal liability for any such release of any such deposit or part thereof so made by him in good faith.

Sec. 9. Deposit Not Subject to Levy.—No judgment creditor or other claimant of an insurer shall levy upon any deposit held pursuant to this chapter, or upon any part thereof; except, that such levy may be permitted if so specified in the commissioner's order requiring the deposit pursuant to the retaliatory provision, section sixteen of article three of this chapter.

Article 10. Rehabilitation and Liquidation

Section

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3. Commencement of delinquency proceedings.
4. Injunctions.
5. Grounds for rehabilitation of domestic insurers.
7. Grounds for conserving assets of foreign insurers.
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14. Conduct of delinquency proceedings against domestic and alien insurers.
15. Conduct of delinquency proceedings against foreign insurers.
16. Claims of nonresidents against domestic insurers.
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19. Priority of certain claims.
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31. Report for assessment against members or subscribers of mutual or reciprocal insurers.
32. Levy of assessment.
33. Order to pay assessment.
34. Publication and service of assessment order.
35. Judgment upon the assessment.

Section 1. Definitions.—For the purpose of this article:
(a) “Impairment” or “insolvency”. The capital of a stock insurer, or the surplus of a mutual or reciprocal insurer shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer shall not be possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer, required by this chapter to be maintained for the kind or kinds of insurance it is then licensed to transact.
(b) “Insurer” means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the commissioner or the equivalent insurance supervisory official of another state.
(c) “Delinquency proceeding” means any proceeding commenced against an insurer pursuant to this article for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.
(d) “State” means any state of the United States and also the District of Columbia, Alaska, Hawaii, and Puerto Rico.
(e) “Foreign country” means territory not in any state.
(f) "Domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

(g) "Ancillary state" means any state other than a domiciliary state.

(h) "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section twenty-one of this article, are in force, including the provisions requiring that the insurance commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(i) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(j) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

(k) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(l) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claim or claims
against general assets. The term also includes claims
which more than four months prior to the commencement
of delinquency proceedings in the state of the insurer's
domicile have become liens upon specific assets by reason
of judicial process.

(m) "Receiver" means receiver, liquidator, rehabilita-
tor, or conservator as the context may require.

Sec. 2. Jurisdiction, Venue and Appeal of Delinquency
Proceedings; Exclusive Remedy.—(a) The circuit courts
of this state or the judges thereof in vacation are vested
with exclusive original jurisdiction of delinquency pro-
ceedings under this article, and are authorized to make
all necessary and proper orders to carry out the purposes
of this article.

(b) The venue of delinquency proceedings against a
domestic insurer shall be in the circuit court of the county
of the insurer's principal place of business. The venue of
such proceedings against foreign and alien insurers shall
be in the circuit court of Kanawha County.

(c) Delinquency proceedings pursuant to this article
shall constitute the sole and exclusive method of liquidat-
ing, rehabilitating, reorganizing or conserving an insurer,
and no court shall entertain a petition for the commence-
ment of such proceedings unless the same has been filed
in the name of the state on the relation of the insurance
commissioner.

(d) An appeal shall lie to the supreme court of appeals
from an order granting or refusing rehabilitation, liquida-
tion, or conservation, and from every other order in de-
linquency proceedings having the character of a final
order as to the particular portion of the proceedings em-
braced therein.

Sec. 3. Commencement of Delinquency Proceedings.—
The insurance commissioner shall commence any such
proceeding by an application to the court for an order
directing the insurer to show cause why the commissioner
should not have the relief prayed for. On the return of
such order to show cause, and after a full hearing, the
court shall either deny the application or grant the appli-
cation, together with such other relief as the nature of
the case and the interests of policyholders, creditors,
stockholders, members, subscribers, or the public may
require.

Sec. 4. Injunctions.—(a) Upon application by the com-
missioner for such an order to show cause, or at any time
thereafter, the court may without notice issue an injunc-
tion restraining the insurer, its officers, directors, stock-
holders, members, subscribers, agents and all other per-
sons from the transaction of its business or the waste or
disposition of its property until the further order of the
court.

(b) The court may at any time during a proceeding
under this article issue such other injunctions or orders
as may be deemed necessary to prevent interference with
the commissioner or the proceeding, or waste of the assets
of the insurer, or the commencement or prosecution of any
actions, or the obtaining of preferences, judgments, attach-
ments or other liens, or the making of any levy against
the insurer or against its assets or any part thereof.

(c) Notwithstanding any other provision of law, no
bond shall be required of the commissioner as a prerequi-
site for the issuance of any injunction or restraining order
pursuant to this section.

Sec. 5. Grounds For Rehabilitation of Domestic Insurers.
—The commissioner may apply to the court for an order
appointing him as receiver of and directing him to reha-
bilitate a domestic insurer upon one or more of the follow-
ing grounds. That the insurer:

(a) Is impaired or insolvent.

(b) Has refused to submit its books, records, accounts
or affairs to reasonable examination by the commissioner.

(c) Has failed to comply with an order of the commis-
sioner to make good an impairment of capital or surplus
or both.

(d) Has transferred or attempted to transfer substan-
tially its entire property or business, or has entered into
any transaction the effect of which is to merge substan-
tially its entire property or business in that of any other
16 insurer without having first obtained the written approval
17 of the commissioner.
18  (e) Has wilfully violated its charter or any law of this
19 state.
20  (f) Has an officer, director, or manager who has refused
21 to be examined under oath concerning its affairs, for
22 which purpose the commissioner is hereby authorized to
23 conduct and to enforce by all appropriate and available
24 means any such examination under oath in any other
25 state or territory of the United States, in which any such
26 officer, director, or manager may then presently be, to the
27 full extent permitted by the laws of such other state or
28 territory, this special authorization considered.
29  (g) Has been the subject of an application for the
30 appointment of a receiver, trustee, custodian, or sequestra-
31 tor of the insurer or its property otherwise than pursuant
32 to the provisions of this chapter, but only if such appoint-
33 ment has been made or is imminent and its effect is or
34 would be to oust the courts of this state of jurisdiction
35 hereunder.
36  (h) Has consented to such an order through a majority
37 of its directors, stockholders, members or subscribers.
38  (i) Has failed to pay a final judgment rendered against
39 it in this state upon any insurance contract issuer or
40 assumed by it, within thirty days after the judgment
41 became final or within thirty days after the time for
42 taking an appeal has expired or within thirty days after
43 dismissal of an appeal before final determination, which-
44 ever date is the later.

Sec. 6. *Grounds for Liquidation.*—The commissioner
2 may apply to the court for an order appointing him as
3 receiver (if his appointment as receiver shall not be then
4 in effect) and directing him to liquidate the business of a
domestic insurer or of the United States branch of an
alien insurer having trusteeed assets in this state, regard-
less of whether or not there has been a prior order direct-
ing him to rehabilitate such insurer, upon any of the
grounds specified in section five of this article, or if such
insurer:
(a) Has ceased transacting business for a period of one year, or
(b) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this chapter.

Sec. 7. Grounds for Conserving Assets of Foreign Insurers.—The commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of a foreign insurer upon any of the following grounds:
(a) Upon any of the grounds specified in sections five or six of this article, or
(b) Upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty.

Sec. 8. Grounds for Conserving Assets of Alien Insurers.—The commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of any alien insurer upon any of the following grounds:
(a) Upon any of the grounds specified in sections five or six of this article.
(b) Upon the ground that the insurer has failed to comply, within the time designated by the commissioner, with an order made by him to make good an impairment of its trusteed funds, or
(c) Upon the ground that the property of the insurer has been sequestrated in its domiciliary sovereignty or elsewhere.

Sec. 9. Grounds for Ancillary Liquidation of Foreign Insurers.—The commissioner may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business, or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver,
liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

Sec. 10. Order of Rehabilitation.—(a) An order to rehabilitate a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.
(b) If at any time the commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.
(c) The commissioner, or any interested person upon due notice to the commissioner, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be granted except when, after a full hearing, the court has determined that the purposes of the proceeding have been fully accomplished.

Sec. 11. Order of Liquidation of Domestic Insurers.—
(a) An order to liquidate the business of a domestic insurer shall direct the commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as insurance commissioner or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.
(b) The commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

Sec. 12. Order of Liquidation of Alien Insurers.—An order to liquidate the business of a United States branch of an alien insurer having trustee assets in this state shall be in the same terms as those prescribed for domestic insurers, save and expect only that the assets of the busi-
ness of such United States branch shall be the only assets
included therein.

Sec. 13. Order of Conservation or Ancillary Liquidation
of Foreign or Alien Insurers.—(a) An order to conserve
the assets of a foreign or alien insurer shall require the
commissioner forthwith to take possession of the property
of the insurer within this state and to conserve it, subject
to the further direction of the court.

(b) An order to liquidate the assets in this state of a
foreign insurer shall require the commissioner forthwith
to take possession of the property of the insurer within
this state and to liquidate it subject to the orders of the
court and with due regard to the rights and powers of the
domiciliary receiver, as provided in this article.

Sec. 14. Conduct of Delinquency Proceedings Against
Domestic and Alien Insurers.—(a) Whenever under this
article a receiver is to be appointed in delinquency pro­
cedings for a domestic or alien insurer, the court shall
appoint the insurance commissioner as such receiver. The
court shall order the commissioner forthwith to take pos­
session of the assets of the insurer and to administer the
same under the orders of the court.

(b) As domiciliary receiver, the commissioner shall be
vested by operation of law with the title to all of the
property, contracts, and rights of action and all of the
books and records of the insurer, wherever located, as of
the date of entry of the order directing him to rehabilitate
or liquidate a domestic insurer or to liquidate the United
States branch of an alien insurer domiciled in this state,
and he shall have the right to recover the same and reduce
the same to possession; except that ancillary receivers in
reciprocal states shall have, as to assets located in their
respective states, the rights and powers which are herein
prescribed for ancillary receivers appointed in this state
as to assets located in this state.

(c) The recording of a certified copy of the order direct­
ing possession to be taken in the office of the clerk of the
county court of the county where the proceedings are
pending and in the office of the clerk of the county court
of any county wherein the insurer has property or other assets, recorded in the same manner as deeds to real property are recorded, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly recorded or filed.

(d) The commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this article for the purpose of rehabilitating, liquidating, or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners of insurance to act for him and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

Sec. 15. Conduct of Delinquency Proceedings Against Foreign Insurers.—(a) Whenever under this article an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the insurance commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment on the grounds set forth in section nine of this article if he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver, or if ten or more
persons resident in this state having claims against such
insurer file a petition with the commissioner requesting
the appointment of such ancillary receiver.

(b) The domiciliary receiver for the purpose of liqui-
dating an insurer domiciled in a reciprocal state shall be
vested by operation of law with the title to all of the
property, contracts, and rights of action and all of the
books and records of the insurer located in this state, and
he shall have the immediate right to recover balances due
from local agents and to obtain possession of any books
and records of the insurer found in this state. He shall
also be entitled to recover the other assets of the insurer
located in this state, except that upon the appointment of
an ancillary receiver in this state, the ancillary receiver
shall during the ancillary receivership proceedings have
the sole right to recover such other assets. The ancillary
receiver shall, as soon as practicable, liquidate from their
respective securities those special deposit claims and
secured claims which are proved and allowed in the
ancillary proceedings in this state, and shall pay the
necessary expenses of the proceedings. All remaining
assets he shall promptly transfer to the domiciliary re-
ceiver. Subject to the foregoing provisions, the ancillary
receiver and his deputies shall have the same powers and
be subject to the same duties with respect to the adminis-
tration of such assets as a receiver of an insurer domiciled
in this state.

(c) The domiciliary receiver of an insurer domiciled
in a reciprocal state may sue in this state to recover any
assets of such insurer to which he may be entitled under
the laws of this state.

Sec. 16. Claims of Nonresidents Against Domestic Ins-
surers.—(a) In a delinquency proceeding begun in this
state against a domestic insurer, claimants residing in
reciprocal states may file claims either with the ancillary
receivers, if any, in their respective states, or with the
domiciliary receiver. All such claims must be filed on or
before the last date fixed for the filing of claims in the
domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants resid-
ing in reciprocal states may either be proved in this state, or if ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this state as provided in section seventeen of this article with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Sec. 17. Claims Against Foreign Insurers.—(a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this state may either be proved in the domiciliary state as provided by the law of that state, or if ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim. The final allowance of the claim by the courts of
this state shall be accepted as conclusive as to its amount
and shall also be accepted as conclusive as to its priority,
if any, against special deposits or other security located
within this state.

Sec. 18. Proof of Claims.—(a) All claims against an
insurer against which delinquency proceedings have been
begun shall set forth in reasonable detail the amount of
the claim, or the basis upon which such amount can be
ascertained, the facts upon which the claim is based, and
the priorities asserted, if any. All such claims shall be
verified by the affidavit of the claimant, or someone au-
thorized to act on his behalf and having knowledge of
the facts, and shall be supported by such documents as
may be material thereto.

(b) All claims filed in this state shall be filed with the
receiver, whether domiciliary or ancillary, in this state,
on or before the last date for filing as specified in this
article.

(c) Within ten days of the receipt of any claim, or
within such further period as the court may, for good
cause shown, fix, the receiver shall report the claim to
the court, specifying in such report his recommendation
with respect to the action to be taken thereon. Upon
receipt of such report, the court shall fix a time for hear-
ing the claim and shall direct that the claimant or the
receiver, as the court shall specify, shall give such notice
as the court shall determine to such persons as shall
appear to the court to be interested therein. All such
notices shall specify the time and place of the hearing
and shall concisely state the amount and nature of the
claim, the priorities asserted, if any, and the recommenda-
tion of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be en-
titled to appear and the court shall enter an order allow-
ing, allowing in part, or disallowing the claim. Any such
order shall be deemed to be an appealable order.

Sec. 19. Priority of Certain Claims.—(a) In a delin-
quency proceeding against an insurer domiciled in this
state, claims owing to residents of ancillary states shall
be preferred claims if like claims are preferred under the laws of this state. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(b) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this state shall be preferred if like claims are preferred by the laws of that state.

(c) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(d) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this article or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

Sec. 20. Attachment or Garnishment of Assets.—During the pendency of delinquency proceedings in this or
any reciprocal state, no action or proceeding in the nature
of an attachment, garnishment or execution shall be com-
enced or maintained in the courts of this state against
the delinquent insurer or its assets. Any lien obtained
by any such action or proceeding within four months
prior to the commencement of any such delinquency pro-
ceeding or at any time thereafter shall be void as against
any rights arising in such delinquency proceeding.

Sec. 21. Uniform Insurers Liquidation Act.—(a) Para-
graphs (b) to (m), inclusive, of section one of this article,
together with sections three, four, and fourteen to twenty,
inclusive, of this article constitute and may be referred
to as the uniform insurers liquidation act.
(b) The uniform insurers liquidation act shall be so
interpreted and construed as to effectuate its general pur-
pose to make uniform the law of those states that enact
it. To the extent that its provisions when applicable con-
flict with other provisions of this article the provisions of
such act shall control.

Sec. 22. Deposit of Monies Collected.—The monies col-
lected by the commissioner in a proceeding under this
article shall be from time to time deposited in one or
more state or national banks, savings banks, or trust
companies, and in the case of the insolvency or voluntary
or involuntary liquidation of any such depository which
is an institution organized and supervised under the laws
of this state, such deposits shall be entitled to priority
of payment on an equality with any other priority given
by the banking laws of this state. The commissioner may
in his discretion deposit such monies or any part thereof
in a national bank or trust company as a trust fund.

Sec. 23. Exemption From Fees.—The commissioner shall
not be required to pay any fee to any public officer in
this state for filing, recording, issuing a transcript or cer-
tificate or authenticating any paper or instrument per-
taining to the exercise by the commissioner of any of
the powers or duties conferred upon him under this ar-
ticle, whether or not such paper or instrument be exe-
cuted by the commissioner or his deputies, employees or
attorneys of record and whether or not it is connected
with the commencement of any action or proceeding by
or against the commissioner, or with the subsequent con-
duct of such action or proceeding.

Sec. 24. Borrowing on Pledge of Assets.—For the pur-
pose of facilitating the rehabilitation, liquidation, con-
servation or dissolution of an insurer pursuant to this
article, the commissioner may, subject to the approval
of the court, borrow money and execute, acknowledge
and deliver notes or other evidences of indebtedness
therefor and secure the repayment of the same by the
mortgage, pledge, assignment, transfer in trust, or hy-
pothecation of any or all of the property, whether real,
personal or mixed, of such insurer, and the commissioner,
subject to the approval of the court, shall have power to
take any and all other action necessary and proper to
consummate any such loan and to provide for the repay-
ment thereof. The commissioner shall be under no obli-
gation personally or in his official capacity to repay any
loan made pursuant to this section.

Sec. 25. Date Rights Fixed on Liquidation.—The rights
and liabilities of the insurer and of its creditors, policy-
holders, stockholders, members, subscribers, and all other
persons interested in its estate shall, unless otherwise
directed by the court, be fixed as of the date on which
the order directing the liquidation of the insurer is en-
tered in the office of the clerk of the court which made
the order, subject to the provisions of this article with
respect to the rights of claimants holding contingent
claims.

Sec. 26. Voidable Transfers.—(a) Any transfer of, or
lien upon, the property of an insurer which is made or
created within four months prior to the granting of an
order to show cause under this article with the intent
of giving to any creditor or of enabling him to obtain a
greater percentage of his debt than any other creditor
of the same class and which is accepted by such creditor
having reasonable cause to believe that such preference
will occur, shall be voidable.

(b) Every director, officer, employee, stockholder,
member, subscriber, and any other person acting on be-
half of such insurer who shall be concerned in any such
act or deed and every person receiving thereby any
property of such insurer or the benefit thereof shall be
personally liable therefor and shall be bound to account
to the insurance commissioner.

(c) The insurance commissioner as a receiver in any
proceeding under this article may avoid any transfer of
or lien upon the property of an insurer which any creditor,
stockholder, subscriber or member of such insurer might
have avoided and may recover the property so trans-
ferred unless such person was a bona fide holder for value
prior to the date of the granting of an order to show
cause under this article. Such property or its value may
be recovered from anyone who has received it except a
bona fide holder for value as herein specified.

Sec. 27. Priority of Claims for Compensation.—(a)
Compensation actually owing to employees other than
officers of an insurer, for services rendered within three
months prior to the commencement of a proceeding
against the insurer under this article, but not exceeding
three hundred dollars for each such employee, shall be
paid prior to the payment of any other debt or claim,
and in the discretion of the commissioner may be paid
as soon as practicable after the proceeding has been com-
menced; except that at all times the commissioner shall
reserve such funds as will in his opinion be sufficient for
the expenses of administration.

(b) Such priority shall be in lieu of any other similar
priority which may be authorized by law as to wages or
compensation of such employees.

Sec. 28. Offsets.—(a) In all cases of mutual debts or
mutual credits between the insurer and another person
in connection with any action or proceeding under this
article, such credits and debts shall be set off and the
balance only shall be allowed or paid, except as provided
in subsection (b), below.

(b) No offset shall be allowed in favor of any such
person where (1) the obligation of the insurer to such
person would not at the date of the entry of any liquida-
tion order or otherwise, as provided in section twenty-five of this article, entitle him to share as a claimant in the assets of the insurer, or (2) the obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

Sec. 29. Allowance of Certain Claims.—(a) No contingent claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this article, except that such claim shall be considered, if properly presented, and may be allowed to share where:

(1) Such claim becomes absolute against the insurer on or before the last day for filing proof of claims against the assets of such insurer, or
(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(b) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and
(2) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made, and
(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no
greater than its maximum liability would be were it not in liquidation.

(c) No judgment against such an insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

(d) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for determining rights and liabilities as provided in section twenty-five of this article unless the claimant shall surrender his security to the commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

Sec. 30. Time to File Claims.—(a) If upon the granting of an order of liquidation under this article or at any time thereafter during the liquidation proceeding, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon regardless of any prior notice which may have been given to creditors, the commissioner shall notify all persons who may have claims against such insurer and who have not filed proper proofs thereof to present the same to him, at a place specified in such notice, within four months from the date of entry of such order, or if the commissioner shall certify that it is necessary, within such longer time as the court shall prescribe. The last day for filing of proofs of claims shall be specified in the notice, and notice shall be given in a manner to be determined by the court.

(b) Proofs of claim may be filed subsequent to the date specified, but no such claim shall share in the dis-
tribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

Sec. 31. Report for Assessment Against Members of Subscribers of Mutual or Reciprocal Insurers.—Within three years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was entered in the office of the clerk of the court by which such order was made, the commissioner may make a report to the court setting forth:

(a) the reasonable value of the assets of the insurer,
(b) The insurer’s probable liabilities, and
(c) The probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

Sec. 32. Levy of Assessment.—(a) Upon the basis of the report provided for in section thirty-one of this article, including any amendments thereof, the court, ex parte, may levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one year prior to the date of issuance of the order to show cause under section three of this article.

(b) Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with estimated cost of collection and percent of uncollectibility thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this article or pursuant to any other provision of this chapter, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this chapter, except that if the court finds that the policy was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

(c) No assessment shall be levied against any member
or subscriber with respect to any nonassessable policy issued in accordance with this chapter.

Sec. 33. Order to Pay Assessment.—After levy of assessment as provided in section thirty-two of this article, upon the filing of a further detailed report by the commissioner the court shall issue an order directing each member (if a mutual insurer) or each subscriber (if a reciprocal insurer), if he shall not pay the amount assessed against him to the commissioner on or before a day to be specified in the order, to show cause why he should not be held liable to pay such assessment, together with costs as provided in section thirty-five of this article, and to show cause why the commissioner should not have judgment therefor.

Sec. 34. Publication and Service of Assessment Order.—The commissioner shall cause a notice of such assessment order, setting forth a brief summary of the contents of such order, to be (a) published in such manner as shall be directed by the court, and (b) enclosed in a sealed envelope, addressed and mailed postage prepaid, to each member or subscriber liable thereunder at his last known address as it appears on the records of the insurer, at least twenty days before the return day of the order to show cause provided for in section thirty-three of this article.

Sec. 35. Judgment Upon the Assessment.—(a) Upon the return day of the order to show cause provided for in section thirty-three of this article, if the member or subscriber does not appear and serve duly verified objections upon the commissioner, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him, together with costs, and that the commissioner may have judgment against the member or subscriber therefor.

(b) If, on such return day, the member or subscriber shall appear and serve duly verified objections upon the commissioner, there shall be a full hearing before the court which, after such hearing, shall make such order as the facts shall warrant.
15 (c) Any such order shall have the same force and effect, shall be entered and docketed and may be appealed from, as if it were a judgment in an original action brought in the court in which the proceeding is pending.

Article 11. Unfair Practices and Frauds

Section 1. Declaration of purpose.
2. Unfair practices prohibited.
3. Misrepresentations and false advertising of policies.
4. False information and advertising generally.
5. Defamation.
7. False financial statements.
8. Unfair discrimination.
9. Rebates on life or accident and sickness policies.
10. Exceptions to discrimination and rebate provisions for life and accident and sickness policies.
11. Rebates on insurance other than life and accident and sickness.
12. Inducements.
13. Interlocking ownership or management; multiple directorship.
14. Violations; cease and desist orders.
15. Undefined acts or practices.

Section 1. Declaration of Purpose.—The purpose of this article is to regulate trade practice 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. Unfair 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. 3. Misrepresentations and False Advertising of Policies.—No person shall make, issue, circulate, or cause 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 make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof, or make any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

Sec. 4. False Information and Advertising Generally.—No person shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station; or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

Sec. 5. Defamation.—No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer and which is calculated to injure any person engaged in the business of insurance.

Sec. 6. Boycott, Coercion and Intimidation.—(a) No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(b) No person engaged in the business of financing the purchase of real or personal property or of lending money
on the security of real or personal property, nor any agent, servant or employee of such person, shall directly or indirectly impose or require as a condition of any such financing or loaning of money, whether the financing or the security to be taken shall be in the form of a mortgage, deed of trust, contract, pledge or otherwise, or as a condition to the renewal or extension of any such loan or financing or to the performance of any other act in connection therewith, that the purchaser or borrower, or his successors, shall negotiate for or procure any policy of insurance or renewal thereof covering the property involved in the transaction from or through a particular insurer, agent, solicitor, broker or other person; but the foregoing shall not be deemed to prevent such lender from reasonably exercising the right to approve or disapprove the sufficiency of any policy or renewal thereof or insurer issuing same tendered in connection with such transaction by the person seeking or obtaining such financing or loan.

Sec. 7. False Financial Statements.—(a) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

(b) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

Sec. 8. Unfair Discrimination.—(a) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in
4 the rates charged for any contract of life insurance or
5 of life annuity or in the dividends or other benefits pay-
6 able thereon, or in any other of the terms and conditions
7 of such contract.
8 (b) No person shall make or permit any unfair dis-
9 crimination between individuals of the same class and
10 of essentially the same hazard in the amount of premium,
11 policy fees, or rates charged for any policy or contract
12 of accident and sickness insurance or in the benefits pay-
13 able thereunder, or in any of the terms or conditions of
14 such contract, or in any other manner whatever.
15 (c) As to kinds of insurance other than life and acci-
16 dent and sickness, no person shall make or permit any
17 unfair discrimination in favor of particular persons, or
18 between insureds or subjects of insurance having sub-
19 stantially like insuring, risk, and exposure factors, or
20 expense elements, in the terms or conditions of any in-
21 surance contract, or in the rate or amount of premium
22 charged therefor. This subsection shall not apply as to
23 any premium or premium rate in effect pursuant to ar-
24 ticle twenty of this chapter (rate laws).

Sec. 9. Rebates on Life or Accident and Sickness Poli-
2 cies.—Except as otherwise expressly provided by law,
3 no person shall knowingly permit or offer to make or
4 make any contract of life insurance, life annuity, or ac-
5 cident and sickness insurance, or agreement as to such
6 contract other than as plainly expressed in the contract
7 issued thereon, or pay or allow, or give or offer to pay,
8 allow, or give, directly or indirectly, as an inducement
9 to such insurance or annuity, any rebate of premiums
10 payable on the contract, or any special favor or advan-
11 tage in the dividends or other benefits thereon, or any
12 valuable consideration or inducement whatever not speci-
13 fied in the contract.

Sec. 10. Exceptions to Discrimination and Rebate Pro-
2 visions for Life and Accident and Sickness Policies.—
3 Nothing in sections eight or nine of this article shall be
4 construed as including within the definition of discrimi-
5 nation or rebates any of the following practices:
(a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or part out of surplus accumulated from nonparticipating insurance: Provided, That any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

(b) In the case of life insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(c) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(d) Issuing life or accident and sickness policies on a salary savings or payroll deduction plan at a reduced rate commensurate with the savings made by the use of such plan.

Sec. 11. Rebates on Insurance Other Than Life and Accident and Sickness.—No insurer or employee, agent or representative thereof, or broker shall knowingly charge, demand or receive a premium for any policy of insurance, other than life or accident and sickness insurance and ocean marine and marine protection and indemnity insurance, except in accordance with an applicable filing on file with the commissioner. No such insurer, employee, agent, representative, or broker shall pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any relative, representative or employee of such insured shall know-
ingly receive or accept directly or indirectly, any such re-
bate, discount, abatement, credit or reduction of premium,
or any such special favor or advantage or valuable consid-
eration or inducement. Nothing in this section shall be
construed as prohibiting the payment of commissions or
other compensation to duly licensed agents and brokers,
nor as prohibiting any insurer from allowing or returning
to its participating policyholders, members, or subscri-
ers, dividends, savings, or unabsorbed premium deposits.
As used in this section the word “insurance” includes
suretyship and the word “policy” includes bond.

Sec. 12. Inducements.—No insurer, agent, broker, solici-
tor, or other person shall, as an inducement to insurance,
directly or indirectly, offer, sell, buy, or offer or promise
to buy, sell, give, promise, or allow to the insured or
prospective insured or to any other person in his behalf
in any manner whatsoever:
(a) Any employment.
(b) Any shares of stock or other securities issued or
at any time to be issued or any interest therein or rights
thereto.
(c) Any advisory board contract, or any similar con-
tract, agreement or understanding, offering, providing
for, or promising any special profits.
(d) Any prizes, goods, wares, merchandise, or tangible
property.
(e) Any loans except those made solely for the pur-
pose of paying policy premiums, or policy loans pursuant
to section nineteen of article eight of this chapter.

Sec. 13. Interlocking Ownership or Management; Mul-
tiple Directorship.—(a) Any insurer may retain, invest
in or acquire the whole or any part of the capital stock
of any other insurer or insurers, or have a common man-
agement with any other insurer or insurers, unless such
retention, investment, acquisition or common management
is inconsistent with any other provision of this chapter,
or unless by reason thereof the business of such insurers
with the public is conducted in a manner which substan-
10 tially lessens competition generally in the insurance business or tends to create a monopoly therein.
11 (b) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to substantially lessen competition between insurers generally or tends to create a monopoly.

Sec. 14. Violations; Cease and Desist Orders.—If, after notice and hearing, the commissioner determines that any person has engaged in or is engaging in any method of competition, act or practices in violation of the provisions of this article or any rules or regulations promulgated by the commissioner thereunder, the commissioner shall issue an order directing such person to cease and desist from engaging in such method of competition, act or practice. No order of the commissioner pursuant to this section or order of court to enforce it, or holding of a hearing, shall in any manner relieve or absolve any person affected by such order or hearing from any other liability, penalty or forfeiture under law.

Sec. 15. Undefined Acts or Practices.—If, after notice and hearing, the commissioner determines that any person transacting insurance is engaging in this state in any method of competition or act or practice in the transaction of such insurance which is not defined in this article, and that such method of competition is unfair or such act or practice is unfair or deceptive, the commissioner shall issue an order directing such person to cease and desist from engaging in such method of competition, act or practice.

Article 12. Agents, Brokers, Solicitors and Excess Line
Section
1. License required.
2. General qualifications.
3. Application.
4. Broker's requirements and restrictions.
5. Issuance of license.
6. Fees.
7. Countersignature.
8. Nonresident life and accident and sickness agents.
9. Agent resident in contiguous municipalities.
10. Excess lines.
11. Excess line broker's affidavit and report.
12. Excess line insurance valid.
13. Licensing of excess line brokers.
Section 1. License Required.—(a) No person shall in West Virginia act as or hold himself out to be an agent, broker or solicitor nor shall any person in any manner solicit, negotiate, make or procure insurance covering subjects of insurance resident, located or to be performed in West Virginia, unless then licensed therefor pursuant to this article.

(b) No agent, broker or solicitor or any representative or employee thereof shall solicit or take application for, negotiate, procure or place for others any kind of insurance for which he is not then licensed.

(c) No insurer shall accept any business from any agent who does not then hold an appointment as agent for such insurer pursuant to this article.

Sec. 2. General Qualifications.—For the protection of the people of West Virginia, the commissioner shall not issue, renew or permit to exist any agent's, broker's or solicitor's license except to an individual who:

(a) Is twenty-one years of age or more, except that present licensees who otherwise qualify may secure renewal even though they be less than twenty-one.

(b) Is a resident of West Virginia, except that a broker's license shall be issued only to nonresidents, and except for nonresident life and accident and sickness agents as provided in section eight of this article.

(c) Is, in the case of an agent applicant, appointed as agent by a licensed insurer for the kind or kinds of insurance for which application is made, subject to issuance of license, or, in the case of a solicitor applicant, appointed as
solicitor by a licensed resident agent, subject to issuance of license.

(d) Does not intend to use the license principally for the purpose, in the case of life or accident and sickness insurance, of procuring insurance on himself, members of his family or his relatives; or, as to insurance other than life and accident and sickness, upon his property or insurable interests or those of his family or his relatives or those of his employer, employees, or firm; or corporation in which he owns a substantial interest, or of the employees of such firm or corporation, or on property or insurable interests for which the applicant or any such relative, employer, firm or corporation is the trustee, bailee or receiver. For the purposes of this provision, a vendor's or lender's interest in property sold or being sold under contract or which is the security for any loan, shall not be deemed to constitute property or an insurable interest of such vendor or lender.

(e) Satisfies the commissioner that he is trustworthy and competent.

Sec. 3. Application.—(a) Application for an agent's, broker's or solicitor's license or renewal thereof shall be made to the commissioner upon a form prescribed by him and shall contain such information and be accompanied by such supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath.

(b) If for an agent's license, the application shall show the kinds of insurance to be transacted, and shall be accompanied by the written appointment of the applicant as agent by at least one licensed insurer for each kind of insurance for which application is made.

(c) If for a solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed agent.

(d) If for a broker's license, the application shall be accompanied by a statement upon a form prescribed by the commissioner as to the trustworthiness and competency of the applicant, signed by at least three licensed resident agents of this state.
(e) Wilful misrepresentation of any fact in any such application or any documents in support thereof is a violation of this chapter.

Sec. 4. Broker's Requirements and Restrictions.—(a) Broker's licenses shall be issued only to non-residents as provided in section two of this article and only to such applicants as are licensed agents or brokers in a state other than West Virginia and furnish to the commissioner satisfactory proof thereof.

(b) No license shall be issued to any such broker unless he shall file with the commissioner a power of attorney appointing the auditor of this state and his successors in office the agent of such broker for the service of process in any suit or proceeding arising in this state out of or in connection with the exercise of such license, and such service of process shall be of the same legal force and validity as personal service of process in this state upon such broker.

(c) No such license shall be issued to any person who is an employer, employee or partner of a licensed agent of this state, nor shall such license be issued to any person who is a salaried employee of any insurer.

(d) No such broker shall solicit, negotiate, make or procure within this state, or aid in any manner in soliciting, negotiating, making or procuring within this state, any insurance contracts covering subjects of insurance resident, located, or to be performed in this state, either on account of any person desiring to procure insurance or on account of any insurer.

(e) A licensed broker lawfully soliciting, negotiating, making or procuring outside this state, or aiding in soliciting, negotiating, making or procuring outside this state, insurance contracts covering subjects of insurance resident, located, or to be performed in this state, shall place all such contracts only with licensed resident agents of this state for insurers licensed in this state.

Sec. 5. Issuance of License.—The commissioner may issue a license to any individual as agent, broker or solicitor who complies with the applicable provisions of this
chapter and who in the opinion of the commissioner is trustworthy and competent.

Sec. 6. Fees.—The fee for an agent’s license shall be five dollars as provided in section thirteen of article three of this chapter, the fee for a solicitor’s license shall be five dollars, and the fee for a broker’s license shall be ten dollars, except that when any other state imposes a tax, bond, fine, penalty, license fee or other obligation or prohibition on agents resident in this state, the same tax, bond, fine, penalty, license fee or other obligation or prohibition shall be imposed upon agents (where licensing of non-resident agents is permitted under this article) or brokers of such other state licensed or seeking a license in this state. All fees and monies so collected shall be deposited in the fund for the purposes set forth in section thirteen of article three of this chapter.

Sec. 7. Countersignature.—No contract of insurance covering a subject of insurance, resident, located, or to be performed in this state, shall be executed, issued or delivered by any insurer unless the contract, or in the case of an interstate risk a countersignature endorsement carrying full information as to the West Virginia risk, is signed or countersigned in writing by a licensed resident agent of the insurer, except that excess line insurance shall be countersigned by a duly licensed excess line broker. This section does not apply to: reinsurance; credit insurance; any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation thereof; any contract of insurance covering any property in interstate or foreign commerce, or any liability or risks incident thereto. Countersignature of a duly licensed resident agent of the company originating a contract of insurance participated in by other companies as co-sureties or co-indemnitors shall satisfy all countersignature requirements in respect to such contract of insurance.

Sec. 8. Nonresident Life and Accident and Sickness
Agents.—(a) Nonresidents otherwise complying with the provisions of this chapter may be licensed as a life agent but all policies issued as a result of solicitation on the part of such nonresident in this state shall be reported, placed, countersigned, and consummated by and through a duly licensed resident agent of the issuing insurer.

(b) Individuals otherwise complying with the provisions of this chapter, who are residents of a county in another state adjoining a county in this state, and a licensed accident and sickness agent of such state, may be licensed as a nonresident accident and sickness agent in this state, if the state of residence of such nonresident has established, by law or regulation, like requirements for licensing of residents of counties in this state adjoining a county in such state as nonresident accident and sickness agents. All policies issued as a result of solicitation by such nonresident accident and sickness agents shall be reported, placed, countersigned and consummated by and through a duly licensed resident agent of the issuing insurer.

Sec. 9. Agent Resident in Contiguous Municipalities.—An agent who has his residence in an urban community composed of two immediately contiguous municipal corporations not separated by a river or other stream, one of which is located in this state and the other located in another state, shall be considered a resident of this state for the purposes of this article if his residence is in any part of such urban community and the state wherein the other municipal corporation is located has established by law or regulation like requirements as to residence of agents in such urban community.

Sec. 10. Excess Lines.—Any portion or all of an insurance coverage against loss or damage to property or person from any cause which cannot be procured from licensed insurers, which coverages are hereinafter designated as "excess line", may be procured from unlicensed insurers subject to the following conditions:

(a) The insurance must be procured only through a licensed excess line broker.
(b) The insurance coverage must not be procurable, after diligent effort has been made to do so, from licensed insurers authorized to transact that kind of insurance in this state, or has been procured to the full extent such insurers are willing to insure, and the placing of insurance with an unlicensed insurer must not be for the purpose of securing advantages either as to premium rate or terms of the insurance contract.

Sec. 11. Excess Line Broker's Affidavit and Report.—At the time of procuring any excess line insurance, the excess line broker shall execute and file with the commissioner his report thereof in duplicate and under oath, setting forth facts from which it may be determined whether the requirements of section ten of this article have been met, and in addition thereto the following:

(a) Name and address of the insurer.
(b) Number of the policy issued.
(c) Name and address of the insured.
(d) Nature and amount of liability assumed by the insurer.
(e) Premium, and premium rate if applicable.
(f) Other information reasonably required by the commissioner.

Sec. 12. Excess Line Insurance Valid.—Insurance contracts procured as excess line coverage from unlicensed insurers in accordance with this article shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by licensed insurers.

Sec. 13. Licensing of Excess Line Brokers.—(a) Any licensed insurance agent deemed by the commissioner to be competent and trustworthy for the purpose, may be licensed as an excess line broker.
(b) The license fee shall be fifty dollars, all fees so collected to be deposited in the fund for the purposes set forth in section thirteen of article three of this chapter.
(c) Prior to issuance of the license, the applicant therefor shall file with the commissioner and thereafter main-
tain in force for so long as the license or any renewal thereof remains in effect, a bond in favor of the state of West Virginia in the penal sum of two thousand dollars. with an authorized corporate surety approved by the commissioner, conditioned that he will conduct business under the license in accordance with this article, that he will promptly remit the taxes provided by section sixteen of this article, and that he will properly account to the person entitled thereto for funds received by him through transactions under the license. No such bond shall be terminated unless at least thirty-days' prior written notice thereof is filed with the commissioner.

Sec. 14. May Accept Business from Agents.—A licensed excess line broker may accept and place authorized excess line business from any insurance agent or broker licensed in this state for the kind of insurance involved, and may compensate such agent or broker therefor. The excess line broker shall have the right to receive from the insurer the customary commission.

Sec. 15. Records of Excess Line Brokers.—Each excess line broker shall keep in his office a full and true record of each excess line contract procured by him, and such record may be examined at any time thereafter by the commissioner. The record shall include such of the following items as are applicable:

(a) Name and address of the insurer,
(b) Name and address of the insured,
(c) Amount of insurance,
(d) Gross premium charged,
(e) Return premium paid, if any,
(f) Rate of premium charged on the several items of coverage,
(g) Effective date of the contract and the terms thereof, and
(h) Brief general description of the risks insured against and the property insured.

Sec. 16. Annual Return of and Tax on Excess Line Brokers.—Every excess line broker licensed pursuant to
the provisions of this article shall make a return annually,
under oath, on or before the first day of March to the com-
missioner of the gross amount of premiums charged the
insureds by the insurers for insurance procured by such
licensee, pursuant to such license during the previous
calendar year, together with the amount of tax due there-
on. The annual tax required to be paid, under the pro-
visions of this section, shall be a sum equal to two percent
of the gross premiums received on the gross business pro-
cured by such licensee on subjects of insurance, resident,
located or to be performed in this state and obtained
pursuant to the provisions of this article, including any
so-called dividends on participating insurance policies
applied in reduction of premiums, less premiums return-
able for cancellation. All such taxes paid to the commis-
ioner shall be paid by him into the state treasury for the
benefit of the state fund.

Sec. 17. Service of Process on Excess Line Insurers and
Brokers.—As to every unlicensed insurer issuing or de-
ivering an excess line policy through an excess line
broker in this state, the state auditor of West Virginia
shall be, and is hereby constituted the attorney-in-fact of
each such insurer and broker for service of process in the
same manner as for licensed insurers as provided in sec-
tion twelve of article four of this chapter.

Sec. 18. Term of Licenses.—All licenses of agents, solici-
tors, brokers and excess line brokers shall expire at mid-
night on the March thirty-first next following the date of
issuance. The commissioner shall renew annually the
license of all such licensees who qualify and make appli-
cation therefor.

Sec. 19. Agent to Deal Only With Licensed Insurer,
Broker or Solicitor.—(a) No agent shall accept any risk,
place any insurance or issue any policy except with an
insurer licensed in this state and for which insurer such
agent has been appointed and licensed.
(b) No agent shall accept any contract of insurance
from any broker not licensed in this state.
(c) No agent shall employ or accept the services of any
solicitor not duly appointed and licensed as solicitor for such agent.

Sec. 20. Solicitor to Act Only Through Appointing Agent.—A solicitor shall solicit and receive applications for insurance only for the duly licensed agent who appointed such solicitor, and shall report all business through such agent. The expiration, cancellation, suspension or revocation of the license of the appointing agent shall automatically expire, cancel, suspend or revoke the solicitor’s license in like manner, and the appointing agent may cancel a solicitor’s license at any time by written request to the commissioner. No agent may apply for licenses for more than two solicitors. No solicitors shall be permitted for life insurance agents.

Sec. 21. Personal Liability of Agent or Broker.—Any agent or broker who participates directly or indirectly in effecting any insurance contract, except authorized reinsurance, upon any subject of insurance resident, located or to be performed in this state, where the insurer is not licensed to transact insurance in this state, shall be personally liable upon such contract as though such agent or broker were the insurer thereof. This section shall not apply to excess line insurance procured in the manner provided in sections ten to seventeen, inclusive, of this article, nor to ocean marine insurance or marine protection and indemnity insurance.

Sec. 22. Solvent Insurer Required.—No agent, broker or excess line broker shall knowingly place any coverage in an insolvent insurer.

Sec. 23. Person Soliciting Insurance is Agent of Insurer.—Any person who shall solicit within this state an application for insurance shall, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, be regarded as the agent of such insurer and not the agent of the insured.

Sec. 24. Payment of Commissions.—(a) The entire commission payable by any insurer licensed to transact insurance in this state on any insurance policy shall be paid directly to the licensed resident agent who counter-
signs the policy. The countersigning agent shall not pay any part of such commission to any person other than a licensed agent or broker: Provided, That the portion of such commission paid to any licensed broker or brokers shall not exceed ten percent of the gross policy premium or fifty percent of the commission payable by the insurer as provided herein, whichever is the lesser amount. The term "commission" as used herein shall include engineering fees, service fees or any other compensation incident to the issuance of a policy payable by or to any insurer, agent or broker. It shall be unlawful for any insurer or agent to pay, and any person to accept, directly or indirectly, any commission except as provided in this section.

(b) This section shall not apply to reinsurance, accident and sickness insurance, or life insurance; nor to excess line insurance procured in accordance with the provisions of this article relating thereto; nor to credit insurance, any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, any liability or other risks incident to the ownership, maintenance or operation thereof, any contract of insurance covering any property in interstate or foreign commerce, or any liability or risks incident thereto.

Sec. 25. Revocation, Suspension or Refusal to Renew License; Fine in Lieu Thereof.—Whenever, after notice and hearing, the commissioner is satisfied that any agent, solicitor, broker or excess line broker has violated any provision of this chapter, or is incompetent or untrustworthy, he shall revoke, suspend, or, if renewal of license is pending, refuse to renew the license of such agent, solicitor, broker or excess line broker. In lieu of revoking, suspending or refusing to renew such license, the commissioner may in his discretion order such licensee to pay to the state of West Virginia a penalty in a sum not to exceed one hundred dollars and upon the failure of such licensee to pay such penalty by delivery of such sum to the commissioner within thirty days of notice thereof, the commissioner shall revoke, suspend or refuse to renew such license.
Sec. 26. Insurance Vending Machines.—(a) A licensed resident agent may solicit applications for and issue policies for trip accident insurance by means of mechanical vending machines supervised by him, if:

(1) The commissioner finds that the kind of insurance and form of policy to be so sold is reasonably suited for sale and issuance through vending machines and otherwise complies with this chapter, and that use of such machines therefor would be of convenience to the public, and

(2) The commissioner finds that the type of vending machines to be used is reasonably suitable and practical for the purpose.

(b) The commissioner shall issue to the agent a special vending machine license as to each such machine to be used. The license shall specify name and address of the insurer and agent, kind of insurance and type of policy to be sold, and the place where the machine is to be in operation. The license shall expire, be renewable, and be suspended or revoked, coincidentally with that of the agent. The license fee shall be five dollars for each year or part thereof for each vending machine. Proof of existence of the license shall be displayed on or about each such machine in such manner as the commissioner may reasonably require. Fees so collected are subject to the provisions of section thirteen of article three of this chapter.

Sec. 27. Payment of Commission Under an Assigned Risk Plan.—An insurer participating in a plan for assignment of personal injury liability insurance or property damage liability insurance on owner's automobiles or operators, which plan has been approved by the commissioner, may pay a commission to a qualified agent who is licensed to act as agent for any insurer participating in such plan when such agent is designated by the insured as the producer of record under an automobile assigned risk plan pursuant to which a policy is issued under such plan, and sections seven and twenty-four of this article shall not be applicable thereto.
Article 13. Life Insurance

Section

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45. Same—application of provisions to term or specified insurance.
46. Same—prohibited provisions in policies.
47. Burial insurance.

Section 1. Scope of Article.—This article applies to life insurance (including annuities), other than reinsurance and group life insurance (including group annuities); except that sections sixteen (contestability as to excluded or restricted coverage), twenty-five (limitation of liability), twenty-six (incontestability after reinstatement), twenty-nine (dual pay policies), thirty (standard non-
forfeiture law) and sections thirty-one to forty-six, inclusive (which specifically relate only to industrial life insurance), shall be the only sections of this article which apply to industrial life insurance.

Sec. 2. Standard Provisions Required.—(a) No policy of life insurance other than industrial, group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in West Virginia unless it contains in substance all of the provisions required by sections three to fifteen, inclusive, of this article. This section shall not apply to annuity contracts nor to any provision of a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(b) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

Sec. 3. Grace Period.—There shall be a provision that a grace period of thirty-one days shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace before the overdue premium is paid the amount of such premium may be deducted from the policy proceeds.

Sec. 4. Incontestability.—There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 5. Entire Contract.—There shall be a provision that the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements con-
tained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Sec. 6. Misstatement of Age.—There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 7. Dividends.—There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend so apportioned shall at the option of the party entitled to elect such option be either (a) payable in cash or (b) applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (a) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six years from the date of apportionment and that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

Sec. 8. Loans on New Policies.—(a) There shall be a
provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment of pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding six percent per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect. (b) This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemented policy provision.

Sec. 9. Nonforfeiture Benefits.—There shall be provisions for nonforfeiture benefits and cash surrender values as required by section thirty of this article.

Sec. 10. Table of Values.—There shall be a table showing in figures the loan value and the options available under the policy each year upon default in premium payments, during the first twenty years or during the term of the policy, whichever is shorter.
Sec. 11. *Table of Instalments.*—In case the policy provides that the proceeds may be payable in instalments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed instalments.

Sec. 12. *Reinstatements.*—There shall be a provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six percent per annum compounded annually.

Sec. 13. *Payment of Premiums.*—There shall be a provision that all premiums after the first shall be payable in advance.

Sec. 14. *Payment of Claims.*—There shall be a provision that when a policy shall become a claim by the death of the insured settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

Sec. 15. *Title.*—There shall be a title on the face of the policy, briefly describing the same.

Sec. 16. *Excluded or Restricted Coverage.*—A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.
Sec. 17. Annuity Contracts — Standard Provisions. —
(a) No annuity or pure endowment contract, other than
reversionary annuities, survivorship annuities or group
annuities and except as stated herein, shall be delivered
or issued for delivery in this state unless it contains in
substance each of the provisions specified in sections
eighteen to twenty-three, inclusive, of this article. Any
of such provisions not applicable to single premium an-
nuities or single premium pure endowment contracts shall
not, to that extent, be incorporated therein.
(b) This section shall not apply to contracts for de-
ferred annuities included in, or upon the lives of bene-
ficiaries under, life insurance policies.

Sec. 18. Same—Grace Period.—In an annuity or pure
endowment contract, other than a reversionary, survivor-
ship or group annuity, there shall be a provision that
there shall be a period of grace of not less than thirty-one
days, within which any stipulated payment to the insurer
falling due after the first may be made, subject at the
option of the insurer to an interest charge thereon at a
rate to be specified in the contract but not exceeding six
percent per annum for the number of days of grace
elapsing before such payment, during which period of
grace the contract shall continue in full force; but in
case a claim arises under the contract on account of death
prior to expiration of the period of grace before the over-
due payment to the insurer or the deferred payments of
the current contract year, if any, are made, the amount
of such payments, with interest on any overdue pay-
ments, may be deducted from any amount payable under
the contract in settlement.

Sec. 19. Same—Incontestability.—If any statements,
other than those relating to age, sex and identity are
required as a condition to issuing an annuity or pure
endowment contract, other than a reversionary, survivor-
ship, or group annuity, and subject to section twenty-one
of this article, there shall be a provision that the contract
shall be incontestable after it has been in force during
the lifetime of the person or of each of the persons as
to whom such statements are required, for a period of
two years from its date of issue, except for nonpayment
of stipulated payments to the insurer; and at the option
of the insurer such contract may also except any pro-
visions relative to benefits in the event of disability and
any provisions which grant insurance specifically against
death by accident or accidental means.

Sec. 20. Same—Entire Contract.—In an annuity or
pure endowment contract, other than a reversionary, sur-

vivorship, or group annuity, there shall be a provision
that the contract shall constitute the entire contract be-
tween the parties or, if a copy of the application is en-
dorsed upon or attached to the contract when issued, a
 provision that the contract and the application therefor
shall constitute the entire contract between the parties.

Sec. 21. Same—Misstatement of Age or Sex.—In an
annuity or pure endowment contract, other than a re-
versionary, survivorship, or group annuity, there shall
be a provision that if the age or sex of the person or
persons upon whose life or lives the contract is made,
or of any of them, has been misstated, the amount pay-
able or benefits accruing under the contract shall be such
as the stipulated payment or payments to the insurer
would have purchased according to the correct age or
sex; and that if the insurer shall make or has made any
overpayment or overpayments on account of any such
misstatement, the amount thereof with interest at the
rate to be specified in the contract but not exceeding six
percent per annum, may be charged against the current
or next succeeding payment or payments to be made by
the insurer under the contract.

Sec. 22. Same—Dividends.—If any annuity or pure
endowment contract, other than a reversionary, survivor-
ship, or group annuity, is participating, there shall be a
provision that the insurer shall annually ascertain and
apportion any divisible surplus accruing on the contract.

Sec. 23. Same—Reinstatement.—In an annuity or pure
endowment contract, other than a reversionary, survivor-
ship, or group annuity, there shall be a provision that the
contract may be reinstated at any time within one year
from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

Sec. 24. Standard Provisions of Reversionary Annuities.—(a) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this state unless it contains in substance each of the following provisions:

(1) Any such reversionary annuity contract shall contain the provisions specified in sections eighteen, nineteen, twenty, twenty-one and twenty-two of this article, except that under said section eighteen the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(2) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six percent per annum compounded annually.

(b) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.
Sec. 25. Limitation of Liability.—(a) No policy of life insurance shall be delivered or issued for delivery in this state if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

1. Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

2. Death as a result of aviation;

3. Death as a result of a specified hazardous occupation or occupations;

4. Death while the insured is outside continental United States and Canada;

5. Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

(b) A policy which contains any exclusion or restriction pursuant to subsection (a) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioners' reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(c) This section shall not apply to group life insurance, accident and sickness insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to
disability benefits or to additional benefits in the event of death by accident or accidental means.

(d) Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section.

Sec. 26. Incontestability After Reinstatement.—The reinstatement of any policy of life insurance or annuity contract hereafter delivered or issued for delivery in this state may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

Sec. 27. Policy Settlements.—Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

Sec. 28. Indebtedness Deducted From Proceeds.—In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

(a) Any unpaid premiums or instalments thereof for the current policy year due under the terms of the policy, and of

(b) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

Sec. 29. Dual or Multiple Pay Policies Prohibited.—No life insurance policy shall be delivered or issued for de-
livery in this state if it provides that on the death of anyone not insured thereunder, the owner or beneficiary of the policy shall receive the payment or granting of anything of value.

Sec. 30. Standard Nonforfeiture Law.—(1) In the case of policies issued on or after the original operative date of this provision, no policy of life insurance, except as stated in subsection six, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified;

(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default;

(d) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified;

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value,
if any, and paid-up nonforfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy;

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof, not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(2) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection one, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-
up additions, if there had been no default, over the sum of (i) the then present value of the adjusted premiums as defined in subsection four, corresponding to premiums which would have fallen due on and after such anniversary, and (ii) the amount of any indebtedness to the insurer on the policy. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection one, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions decreased by any indebtedness to the insurer on the policy.

(3) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(4) The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent of the adjusted premium for the first policy year; (iv) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent
uniform amount with uniform premiums for the whole
of life issued at the same age for the same amount of
insurance, whichever is less: Provided, however, That in
applying the percentages specified in (iii) and (iv) above,
no adjusted premium shall be deemed to exceed four
percent of the amount of insurance or level amount
equivalent thereto. The date of issue of a policy for the
purpose of this subsection shall be the date as of which
the rated age of the insured is determined.

In the case of a policy providing an amount of insur-
ance varying with duration of the policy, the equivalent
uniform amount thereof for the purpose of this subsec-
tion shall be deemed to be the level amount of insurance
provided by an otherwise similar policy, containing the
same endowment benefit or benefits, if any, issued at the
same age and for the same term, the amount of which does
not vary with duration and the benefits under which have
the same present value at the date of issue as the benefits
under the policy.

All adjusted premiums and present values referred to in
this section shall be calculated on the basis of the commis-
sioners 1941 Standard Ordinary Mortality Table for ordi-
nary insurance and the 1941 Standard Industrial Mor-
tality Table for industrial insurance and the rate of in-
terest, not exceeding three and one-half percent per an-
um, specified in the policy for calculating cash surrender
values and paid-up nonforfeiture benefits: Provided,
That in calculating the present value of any paid-up term
insurance with accompanying pure endowment, if any,
offered as a nonforfeiture benefit, the rate of mortality as-
sumed may be not more than one hundred and thirty per-
cent of the rates of mortality according to such applicable
table: Provided further, That for insurance issued on a
substandard basis, the calculation of any such adjusted
premiums and present values may be based on such other
table of mortality as may be specified by the insurer and
approved by the commissioner.

(5) Any cash surrender value and any paid-up non-
forfeiture benefit, available under the policy in the event
of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections two, three and four may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends paid to provide such additions. Notwithstanding the provisions of subsection two, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply and (e) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(6) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection four, is less than the adjusted premium so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows—for ages at issue fifty and under the term shall be fifteen years, thereafter, the terms shall decrease one year for each year of age beyond fifty, nor to any policy for which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.
Sec. 31. *Industrial Life Insurance—Required Provisions.*

—No policy of industrial life insurance, which is that form of life insurance provided by an individual insurance contract under which premiums are payable monthly or oftener, and bearing the words “industrial policy” or “weekly premium policy” printed upon the policy as a part of the descriptive matter, shall be delivered or be issued for delivery in this state unless it complies with sections sixteen, twenty-five, twenty-six, twenty-nine, and thirty of this article, nor unless such policy contains in substance the applicable provisions set forth in sections thirty-two to forty-four, inclusive, of this article.

Sec. 32. *Same—Grace Period.*—There shall be a provision in each industrial life insurance policy that the insured is entitled to a grace period of four weeks within which the payment of any premium after the first may be made, except that in policies the premiums for which are payable monthly, the period of grace shall be not less than thirty-one days, and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

Sec. 33. *Same—Entire Contract; Statements in Application.*—There shall be a provision in each industrial life insurance policy that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

Sec. 34. *Same—Incontestability.*—There shall be a provision in each industrial life insurance policy that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except
for non-payment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 35. Same—Misstatement of Age.—There shall be a provision in each industrial life insurance policy that if it is found that the age of the individual insured, or the age of any other individual considered in determining the premium, has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 36. Same—Dividends.—If any industrial life insurance policy is a participating policy, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy, except that at the option of the insurer such participation may be deferred to the end of the fifth policy year. This provision shall not prohibit the payment of additional dividends on default of payment of premiums or termination of the policy.

Sec. 37. Same—Nonforfeiture Benefits; Cash Surrender Values.—There shall be in each policy of industrial life insurance provisions for nonforfeiture benefits and cash surrender values as required by section thirty of this article.

Sec. 38. Same—Reinstatement.—There shall be in each industrial life insurance policy a provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within two years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six percent per annum compounded annually.

Sec. 39. Same—Settlement.—There shall be a provision in each industrial insurance policy that when the policy
becomes a claim by the death of the insured, settlement
shall be made upon surrender of the policy and receipt of
due proof of death.

Sec. 40. Same—Beneficiary and Facility of Payment
Clause.—(a) Each such industrial life insurance policy
shall have a space on the front or back page of the policy
for the name of the beneficiary designated with a reserva-
tion of the right to designate or change the beneficiary
after the issuance of the policy.

(b) The policy may also provide that no designation or
change of beneficiary shall be binding on the insurer unless
endorsed on the policy by the insurer, and that the insurer
may refuse to endorse the name of any proposed benefi-
ciary who does not appear to the insured to have an
insurable interest in the life of the insured. Such a policy
may also provide that if the beneficiary designated in the
policy does not surrender the policy with due proof of
death within the period stated in the policy, which shall
be not less than thirty days after the death of the insured,
or if the beneficiary is the estate of the insured or is a
minor, or dies before the insured, or is not legally compe-
tent to give a valid release, then the insurer may make
payment thereunder to the executor or administrator of
the insured, or to any of the insured's relatives by blood
or legal adoption or connection by marriage, or to any per-
son appearing to the insurer to be equitably entitled
thereto by reason of having been named beneficiary, or
by reason of having incurred expense for the maintenance,
medical attention or burial of the insured. Such policy
may also include a similar provision applicable to any
other payment due under the policy.

Sec. 41. Same—Direct Payment of Premiums.—In the
case of weekly premium industrial life insurance policies,
there may be a provision that upon proper notice to the
insurer, while premiums on the policy are not in default
beyond the grace period, of the intention to pay future
premiums directly to the insurer at its home office or any
office designated by the insurer for the purpose, the in-
surer will, at the end of each period of a year from the
due date of the first premium so paid, for which period
such premiums are so paid continuously without default
a stated percentage of the premiums in an amount which
fairly represents the savings in collection expense.

Sec. 42. Same—Conversion of Weekly Policies.—There
shall be a provision in the case of weekly premium in-
dustrial life insurance policies granting to the insured,
upon proper written request and upon presentation of
evidence of insurability satisfactory to the insurer, the
privilege of converting a weekly premium industrial in-
surance policy to any form of life insurance with less
frequent premium payments regularly issued by the in-
surer, in accordance with terms and conditions agreed
upon with the insurer. The privilege of making such con-
version need be granted only if the insurer's weekly
premium industrial policies on the life insured, in force
as premium paying insurance and on which conversion is
requested, grant benefits in event of death, exclusive of
additional accidental death benefits and exclusive of any
dividend additions, in an amount not less than the mini-
imum amount of such insurance with less frequent pre-
mium payments issued by the insurer at the age of the
insured on the plan of industrial or ordinary insurance
desired.

Sec. 43. Same—Conversion of Monthly Policies.—There
shall be a provision, in the case of monthly premium in-
dustrial life insurance policies, granting, upon proper
written request and upon presentation of evidence of in-
surability satisfactory to the insurer, the privilege of con-
verting a monthly premium industrial life insurance
policy to any form of ordinary life insurance regularly
issued by the insurer, in accordance with terms and con-
ditions agreed upon with the insurer. The privilege of
making such conversion need be granted only if the in-
surer's monthly premium industrial policies on the life
insured, in force as premium paying insurance and on
which conversion is requested, grant benefits in event of
death, exclusive of additional accidental death benefits
and exclusive of any dividend additions, in an amount
not less than the minimum amount of ordinary insurance
issued by the insurer at the age of the insured on the plan
of ordinary insurance desired.

Sec. 44. Same—Title of Policies.—There shall be a title
on the face of each industrial life insurance policy briefly
describing its form.

Sec. 45. Same—Application of Provisions to Term or
Specified Insurance.—Any of the provisions required in
industrial life insurance policies by sections thirty-two to
forty-four, inclusive, of this article or any portion thereof
which are not applicable to single premium or term pol-
cies or to policies issued or granted pursuant to nonfor-
feiture provisions shall to that extent not be incorporated
therein.

Sec. 46. Same—Prohibited Provisions in Policies.—No
policy of industrial life insurance shall contain any of the
following provisions:

(a) A provision by which the insurer may deny liability
under the policy for the reason that the insured has pre-
viously obtained other insurance from the same insurer.

(b) A provision giving the insurer the right to declare
the policy void because the insured has had any disease
or ailment, whether specified or not, or because the in-
sured has received institutional, hospital, medical or sur-
gical treatment or attention, except a provision which
gives the insurer the right to declare the policy void if
the insured has, within two years prior to the issuance
of the policy, received institutional, hospital, medical or
surgical treatment or attention and if the insured or
claimant under the policy fails to show that the condition
occasioning such treatment or attention was not of a
serious nature or was not material to the risk.

(c) A provision giving the insurer the right to declare
the policy void because the insured has been rejected for
insurance, unless such right be conditioned upon a show-
ing by the insurer that knowledge of such rejection would
have led to a refusal by the insurer to make such contract.

Sec. 47. Burial Insurance.—(a) Burial insurance is that
type of insurance whereby an insurer agrees to pay for
any or all of the incidents of the burial of the body of a
named or designated person, whether such insurance is
evidenced or effected by any kind of agreement, policy,
contract, bond, assurance, guarantee, by-law, regulation,
or otherwise. No provision of this article except this sec-
tion shall apply to burial insurance, and no provision of
article fourteen of this chapter shall apply to burial in-
surance.

(b) Burial insurance shall be transacted only by in-
surers licensed in this state to transact life insurance.

(c) All burial insurance benefits shall be paid in cash
to the beneficiary. No insurer issuing burial insurance
shall contract to pay or pay such benefits or any part
thereof to any official undertaker, designated undertaker
or undertaking concern, or to any particular tradesman
or businessman.

(d) This section shall not apply to fraternal benefit
societies operating under article twenty-three of this
chapter or to any organization of employees under a
common employer.

Article 14. Group Life Insurance

Section

1. Contracts must meet group requirements.
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17. Conversion on termination of policy.
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21. Application of dividends; rate reductions.
22. Group annuity contracts—standard provisions.
23. Same—grace period.
24. Same—entire contract.
25. Same—misstatements.
26. Same—termination benefits.
27. Same—group annuity certificates.
Section 1. Contracts Must Meet Group Requirements.—

(a) No life insurance policy or certificate shall be delivered or issued for delivery in this state insuring the lives of more than one individual unless to one of the groups as provided for in sections two to five, inclusive, of this article, and unless in compliance with the other applicable provisions of those sections.

(b) Paragraph (a), above, shall not apply to life insurance policies:

(1) Insuring only individuals related by marriage, blood or legal adoption;

(2) Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(3) Insuring only individuals otherwise having an insurable interest in each other's lives.

(c) Nothing in this article validates any charge or practice illegal under any rule of law or regulation governing usury, small loans, retail instalment sales, or the like, or extends the application of any such rule of law or regulation to any transaction not otherwise subject thereto.

Sec. 2. Employee Groups.—The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term “employees” shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common
control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to trustees may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees, except that the entire premium may be paid from funds contributed by the insured employees if the amount of insurance does not exceed one thousand dollars on the life of any employee. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
The policy must cover at least ten employees at date of issue.

The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

Sec. 3. Debtor Groups.—The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either (i) in instalments, or (ii) in one sum at the end of a period not in excess of eighteen months from the initial date of debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term “debtors” shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors, or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise.

No debtor shall be eligible unless the indebtedness constitutes an obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor’s funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must in-
(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in instalments to the creditor, or ten thousand dollars, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen months except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or ten thousand dollars, whichever is less.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

Sec. 4. Labor Union Groups.—The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.
(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, except that the entire premium may be paid from funds contributed by the insured members specifically for their insurance if the amount of insurance does not exceed one thousand dollars on the life of any member. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five percent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least twenty-five members at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

Sec. 5. Trustee Groups.—The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholders, to insure employees of the employers or members of the union for the benefit of persons other than the employers or the unions, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partner if an
employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one hundred persons and not less than an average of five persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if (A) either (1) the participating employers constitute at date of issue at least sixty percent of those employer members whose employees are not already covered for group life insurance or (2) the total number of persons covered at date of issue exceeds six
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hundred; and (B) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Sec. 6. Limit as to Amount.—No such policy of group life insurance may be issued to an employer, or to a labor union, or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds twenty thousand dollars, unless one hundred and fifty percent of the annual compensation of such person from his employer or employers exceeds twenty thousand dollars, in which event all such term insurance shall not exceed forty thousand dollars or one hundred and fifty percent of such annual compensation, whichever is the lesser.

Sec. 7. Dependent Coverage.—Any policy issued pursuant to sections two, four and five of this article may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or funds contributed by the employer or union, or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least seventy-
five percent of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(b) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer or union, and shall not exceed, with respect to any spouse or child, the amount shown in the following schedule:

<table>
<thead>
<tr>
<th>Age of Family Member at Death of Insurance</th>
<th>Maximum Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 6 months</td>
<td>$100.00</td>
</tr>
<tr>
<td>6 months and under 2 years</td>
<td>200.00</td>
</tr>
<tr>
<td>2 years and under 3 years</td>
<td>400.00</td>
</tr>
<tr>
<td>3 years and under 4 years</td>
<td>600.00</td>
</tr>
<tr>
<td>4 years and under 5 years</td>
<td>800.00</td>
</tr>
<tr>
<td>5 years and over</td>
<td>1,000.00</td>
</tr>
</tbody>
</table>

(c) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one days after such termination, subject to the requirements of paragraphs (a), (b) and (c) of section sixteen of this article. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under section seventeen of this article, the spouse shall also be entitled to have issued by the insurer an individual policy,
subject to the conditions and limitations provided above.

If the spouse dies within the period during which he
would have been entitled to have an individual policy
issued in accordance with this provision, the amount of life
insurance which he would have been entitled to have
issued under such individual policy shall be payable as a
claim under the group policy, whether or not application
for the individual policy or the payment of the first
premium therefor has been made.

(d) Notwithstanding section fifteen of this article, only
one certificate need be issued for delivery to an insured
person if a statement concerning any dependent's cover-
age is included in such certificate.

Sec. 8. Group Life Standard Provisions.—(a) Except as
set forth in subsection (b), below, no policy of group life
insurance shall be delivered in this state unless it con-
tains in substance the standard provisions as required by
sections nine to eighteen, inclusive, of this article, or pro-
visions which in the opinion of the commissioner are more
favorable to the persons insured, or at least as favorable
to the persons insured and more favorable to the policy-
holder.

(b) The provisions of sections fourteen to eighteen,
inclusive, of this article shall not apply to policies issued
to a creditor to insure debtors of such creditor. The
standard provisions required for individual life insurance
policies shall not apply to group life insurance policies.
If the group life insurance policy is on a plan of insurance
other than the term plan, it shall contain a nonforfeiture
provision or provisions which in the opinion of the com-
missioner is or are equitable to the insured persons and
to the policyholder, but nothing herein shall be construed
to require that group life insurance policies contain the
same nonforfeiture provisions as are required for indi-
vidual life insurance policies.

Sec. 9. Grace Period.—In group life policies there shall
be a provision that the policyholder is entitled to a grace
period of thirty-one days for the payment of any premium
due except the first, during which grace period the death
benefit coverage shall continue in force, unless the policy-
holder shall have given the insurer written notice of dis-
continuance in advance of the date of discontinuance and
in accordance with the terms of the policy. The policy
may provide that the policyholder shall be liable to the
insurer for the payment of a pro rata premium for the
time the policy was in force during such grace period.

Sec. 10. Incontestability.—In group life policies there
shall be a provision that the validity of the policy shall
not be contested, except for nonpayment of premiums,
after it has been in force for two years from its date of
issue; and that no statement made by any person insured
under the policy relating to his insurability shall be used
in contesting the validity of the insurance with respect to
which such statement was made after such insurance has
been in force prior to the contest for a period of two years
during such person’s lifetime nor unless it is contained in
a written instrument signed by him.

Sec. 11. Application; Representations.—In group life
policies there shall be a provision that a copy of the appli-
cation, if any, of the policyholder shall be attached to the
policy when issued, that all statements made by the
policyholder or by the persons insured shall be deemed
representations and not warranties, and that no state-
ment made by any person insured shall be used in any
contest unless a copy of the instrument containing the
statement is or has been furnished to such person or to
his beneficiary.

Sec. 12. Insurability.—In group life policies there shall
be a provision setting forth the conditions, if any, under
which the insurer reserves the right to require a person
eligible for insurance to furnish evidence of individual
insurability satisfactory to the insurer as a condition to
part or all of his coverage.

Sec. 13. Misstatement of Age.—In group life policies
there shall be a provision specifying an equitable adjust-
ment of premiums or of benefits or of both to be made in
the event the age of a person insured has been misstated,
such provision to contain a clear statement of the method
of adjustment to be used.

Sec. 14. Beneficiary.—In group life policies there shall
be a provision that any sum becoming due by reason of
the death of the person insured shall be payable to the
beneficiary designated by the person insured, subject to
the provisions of the policy in the event there is no desig-
nated beneficiary, as to all or any part of such sum, living
at the death of the person insured, and subject to any
right reserved by the insurer in the policy and set forth
in the certificate to pay at its option a part of such sum
not exceeding five hundred dollars to any person appear-
ing to the insurer to be equitably entitled thereto by rea-
son of having incurred funeral or other expenses incident
to the last illness or death of the person insured.

Sec. 15. Certificates.—In group life policies there shall
be a provision that the insurer will issue to the policy-
holder for delivery to each person insured an individual
certificate setting forth a statement as to the insurance
protection to which he is entitled, to whom the insurance
benefits are payable, and the rights and conditions set
forth in sections sixteen, seventeen, and eighteen of this
article.

Sec. 16. Conversion on Termination of Eligibility.—In
group life policies there shall be a provision that if the
insurance, or any portion of it, on a person covered under
the policy, other than the child of an employee insured
pursuant to section seven of this article, ceases because of
termination of employment or of membership in the class
or classes eligible for coverage under the policy, such per-
son shall be entitled to have issued to him by the insurer,
without evidence of insurability, an individual policy of
life insurance without disability or other supplementary
benefits, provided application for the individual policy
shall be made, and the first premium paid to the insurer,
within thirty-one days after such termination: Provided
further, That

(a) The individual policy shall, at the option of such
person, be on any one of the forms of insurance then
17 customarily issued by the insurer, except term insurance,
18 at the age and for the amount applied for, except that
19 there shall be available to a person whose term insurance
20 under the group policy ceases, as provided above, pre-
21 liminary or interim term insurance for not more than one
22 year from such termination;
23 (b) The individual policy shall be in an amount not in
24 excess of the amount of life insurance which ceases
25 because of such termination, provided that any amount of
26 insurance which shall have matured on or before the date
27 of such termination as an endowment payable to the per-
28 son insured, whether in one sum or in instalments or in
29 the form of an annuity, shall not, for the purposes of this
30 provision, be included in the amount which is considered
31 to cease because of such termination; and
32 (c) The premium on the individual policy shall be at
33 the insurer's then customary rate applicable to the form
34 and amount of the individual policy, to the class of risk to
35 which such person then belongs, and to his age attained
36 on the effective date of the individual policy.

Sec. 17. Conversion on Termination of Policy.—In group
2 life policies there shall be a provision that if the group
3 policy terminates or is amended so as to terminate the
4 insurance of any class of insured persons, every person
5 insured thereunder at the date of such termination, other
6 than a child of an employee insured pursuant to section
7 seven of this article, whose insurance terminates and who
8 has been so insured for at least three years under a group
9 policy issued five years or more prior to such termination
10 date, shall be entitled to have issued to him by the insurer
11 an individual policy of life insurance, subject to the same
12 conditions and limitations as are provided by section six-
13 teen of this article, except that term insurance shall not
14 be available and, except that the group policy may provide
15 that the amount of such individual policy shall not exceed
16 the smaller of (a) the amount of the person’s life insur-
17 ance protection ceasing because of the termination or
18 amendment of the group policy, less the amount of any
19 life insurance for which he is or becomes eligible under
20 any group policy issued or reinstated by the same or
another insurer within thirty-one days after such termination, and (b) two thousand dollars.

Sec. 18. Death Pending Conversion.—In group life policies there shall be a provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections sixteen and seventeen of this article and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

Sec. 19. Certificate or Statement of Coverage to Debtor.—In the case of a group life policy issued to a creditor to insure debtors of such creditor, there shall be a provision in such policy that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a certificate or statement of coverage form which shall contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

Sec. 20. Notice of Conversion Rights.—If any individual insured under a group life insurance policy hereafter delivered in this state becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing contained in this section shall be construed to continue any insurance beyond the period provided in such policy. Such additional period shall expire fifteen days next after the individual is given such notice but
in no event shall such additional period extend beyond sixty days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

Sec. 21. Application of Dividends; Rate Reductions.—Any policy dividends hereafter declared, or reduction in rate of premiums hereafter made or continued for the first or any subsequent year of insurance, under any policy of group life insurance heretofore or hereafter issued to any policyholder may be applied to reduce the policyholder’s part of the cost of such insurance, except that if the aggregate dividends or refunds or credits under such group life policy and any other group policy or contract issued to the policyholder exceed the aggregate contributions of the policyholder toward the cost of the coverages, including expenditures made in connection with administration of such policies, such excess shall be applied by the policyholder for the sole benefit of insured employees or members.

Sec. 22. Group Annuity Contracts—Standard Provisions.—No group annuity contract shall be delivered or issued for delivery in this state and no certificate shall be used in connection therewith unless it contains in substance the provisions set forth in sections twenty-three to twenty-seven, inclusive, of this article, to the extent that such provisions are applicable to such contract or to such certificate, as the case may be, or provisions which in the opinion of the commissioner are more favorable to annuitants, or not less favorable to annuitants and more favorable to the holders.

Sec. 23. Same—Grace Period.—In group annuity contracts there shall be a provision that there shall be a period of grace of thirty-one days within which any stipulated payment to be remitted by the holder to the insurer, falling due after one year from date of issue, may be made,
subject, at the option of the insurer, to an interest charge thereon at a rate to be specified in the contract, which shall not exceed six percent per annum for the number of days of grace elapsing before such payment.

Sec. 24. Same—Entire Contract.—In group annuity contracts there shall be a provision specifying the document or documents which shall constitute the entire contract between parties. The document or documents so specified shall be only (a) the contract, (b) the contract together with the application of the holder of which a copy is attached thereto, or (c) the contract together with the application of the holder of which a copy is attached thereto, and the individual applications of annuitants on file with the insurer and referred to therein.

Sec. 25. Same—Misstatements.—In group annuity contracts there shall be a provision, with an appropriate reference thereto in the certificate, for the equitable adjustment of the benefits payable under the contract or of the stipulated payments thereunder, if it be found that the sex, age, service, salary or any other fact determining the amount of any stipulated payment or the amount or date or dates of payment of any benefit with respect to any annuitant covered thereby has been misstated.

Sec. 26. Same—Termination Benefits.—In group annuity contracts there shall be a provision or provisions, with an appropriate reference thereto in the certificate, specifying the nature and basis of ascertainment of the benefits which will be available to an annuitant who contributes to the cost of the annuity and the conditions of payment thereof in the event of either the termination of employment of the annuitant, except by death, or the discontinuance of stipulated payments under the contract. Such provision or provisions shall, in either of such events, make available to an annuitant who contributed to the cost of the annuity a paid-up annuity payable commencing at a fixed date in an amount at least equal to that purchased by the contributions of the annuitant, determinable as of the respective dates of payment of the several contributions, as shown by a schedule
in the contract for that purpose, based upon the same mortality table, rate of interest and loading formula used in computing the stipulated payments under such contract. Such provision or provisions may, by way of exception to the foregoing, provide that if the amount of the annuity determined as aforesaid from such fixed commencement date would be less than one hundred twenty dollars annually, the insurer may at its option, in lieu of granting such paid-up annuity, pay a cash surrender value at least equal to that hereinafter provided.

If a cash surrender value, in lieu of such paid-up annuity, is allowed to the annuitant by the terms of such contract, it may be either in a single sum or in equal instalments over a period of not more than twelve months and it shall at least equal either (a) or (b), whichever is less:

(a) The amount of reserve attributable to the annuitant’s contributions less a surrender charge not exceeding thirty-five percent of the average annual contribution made by the annuitant; or

(b) The amount which would be payable as a death benefit at the date of surrender.

Such contract shall also provide that in case of the death of an annuitant before the commencement date of the annuity, the insurer shall pay a death benefit at least equal to the aggregate amount of the annuitant’s contributions without interest. If any benefits are available to the holder in either of such events, the contract shall contain a provision or provisions specifying the nature and basis of ascertainment of such benefits.

Sec. 27. Same—Group Annuity Certificates.—In group annuity contracts there shall be a provision that the insurer will issue to the holder of the contract for delivery to each annuitant who contributes thereunder an individual certificate setting forth a statement in substance of the benefits to which he is entitled under such contract.

Article 15. Accident and Sickness Insurance

Section

1. Scope of article.
2. Scope and format of policy.
3. Age limit.
4. Required policy provisions.
5. Optional policy provisions.
6. Inapplicable or inconsistent provisions.
7. Order of certain provisions.
8. Third party ownership.
9. Requirements of other jurisdictions.
10. Franchise insurance.

Section 1. Scope of Article.—Nothing in this article shall apply to or affect:

(a) Any policy of liability or workmen’s compensation insurance.

(b) Any group accident and sickness policy issued in accordance with article sixteen of this chapter.

(c) Life insurance (including endowment or annuity contracts), or contracts supplemental thereto, which contain only such provisions relating to accident and sickness insurance as (1) provide additional benefits in case of death by accidental means, or as (2) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured shall become totally and permanently disabled as defined by the contract or supplemental contract.

(d) Reinsurance.

Sec. 2. Scope and Format of Policy.—No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(a) The entire money and other considerations therefor are expressed therein; and

(b) The time at which the insurance takes effect and terminates is expressed therein; and

(c) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and

(d) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the
text, and unless every printed portion of the text of the
policy and of any endorsements or attached papers is
plainly printed in light-faced type of a style in general
use, the size of which shall be uniform and not less than
ten-point with a lower-case unspaced alphabet length not
less than one hundred and twenty-point (the "text" shall
include all printed matter except the name and address
of the insurer, name or title of the policy, the brief
description, if any, and captions and subcaptions), the
policy shall clearly indicate on the first page its optionally
renewable nature; and

(e) The exceptions and reductions of indemnity are set
forth in the policy and, except those which are set forth
in sections four and five of this article, are printed, at
the insurer's option, either included with the benefit pro-
vision to which they apply, or under an appropriate
caption such as "Exceptions", or "Exceptions and Re-
ductions": Provided, That if an exception or reduction
specifically applies only to a particular benefit of the
policy, a statement of such exception or reduction shall
be included with the benefit provision to which it applies;
and

(f) Each such form, including riders and endorsements,
shall be identified by a form number in the lower left-
hand corner of the first part thereof; and

(g) It contains no provision purporting to make any
portion of the charter, rules, constitution, or by-laws of
the insurer a part of the policy unless such portion is set
forth in full in the policy, except in the case of the in-
corporation of, or reference to, a statement of rates or
classification of risks, or short-rate table filed with the
commissioner.

Sec. 3. *Age Limit.*—If any such policy contains a pro-
vision establishing as an age limit or otherwise, a date
after which the coverage provided by the policy will not
be effective, and if such date falls within a period for
which premium is accepted by the insurer or if the insurer
accepts a premium after such date, the coverage provided
by the policy will continue in force until the end of the
period for which premium has been accepted. In the
event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Sec. 4. Required Policy Provisions.—Except as provided in section six of this article, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this section in the words in which the same appear in this section: Provided, however, That the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of the different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows:

“Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.”

(b) A provision as follows:

“Time Limit on Certain Defenses: (1) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two year period.”

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a
policy or denial of a claim during such initial two year period, nor to limit the application of clauses (a), (b), (c), (d) and (e) of section five of this article in the event of misstatement with respect to age or occupation or other insurance. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (i) until at least age fifty, or (ii) in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "Incontestable":

"(2) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

(c) A provision as follows:

"Grace Period: A grace period of .................. (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

A policy in which the insurer reserves the right to refuse renewal shall have at the beginning of the above provision, "Unless not less than thirty days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted. . . ."
(d) A provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy: Provided, however, That if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty, or, (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue.

(e) A provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary
112 to the insurer at ......................... (insert the location of such
113 office as the insurer may designate for the purpose), or
114 to any authorized agent of the insurer, with information
115 sufficient to identify the insured, shall be deemed notice
116 to the insurer."

117 In a policy providing a loss-of-time benefit which may
118 be payable for at least two years, an insurer may at its
119 option insert the following between the first and second
120 sentences of the above provision:

121 "Subject to the qualifications set forth below, if the
122 insured suffers loss of time on account of disability for
123 which indemnity may be payable for at least two years,
124 he shall, at least once in every six months after having
125 given notice of claim give to the insurer notice of con-
126 tinuance of said disability, except in the event of legal
127 incapacity. The period of six months following any filing
128 of proof by the insured or any payment by the insurer
129 on account of such claim or any denial of liability in
130 whole or in part by the insurer shall be excluded in
131 applying this provision. Delay in the giving of such
132 notice shall not impair the insured's right to any indem-
133 nity which would otherwise have accrued during the pe-
134 riod of six months preceding the date on which such
135 notice is actually given."

136 (f) A provision as follows:

137 "Claim Forms: The insurer, upon receipt of a notice of
138 claim, will furnish to the claimant such forms as are
139 usually furnished by it for filing proofs of loss. If such
140 forms are not furnished within fifteen days after the
141 giving of such notice the claimant shall be deemed to have
142 complied with the requirements of this policy as to proof
143 of loss upon submitting, within the time fixed in the
144 policy for filing proofs of loss, written proof covering the
145 occurrence, the character and the extent of the loss for
146 which claim is made."

147 (g) A provision as follows:

148 "Proof of Loss: Written proof of loss must be furnished
149 to the insurer at its said office in case of claim for loss
150 for which this policy provides any periodic payment con-
151 tingent upon continuing loss within ninety days after the
termination of the period for which the insurer is liable
and in case of claim for any other loss within ninety days
after the date of such loss. Failure to furnish such proof
within the time required shall not invalidate nor reduce
any claim if it was not reasonably possible to give proof
within such time, provided such proof is furnished as
soon as reasonably possible and in no event, except in the
absence of legal capacity, later than one year from the
time proof is otherwise required.”

(h) A provision as follows:

“Time of Payment of Claims: Indemnities payable un-
der this policy for any loss other than loss for which this
policy provides any periodic payment will be paid im-
mediately upon receipt of due written proof of such loss.
Subject to due written proof of loss, all accrued indem-
nities for loss for which this policy provides periodic pay-
ment will be paid .................. (insert period for payment
which must not be less frequently than monthly) and
any balance remaining unpaid upon the termination of
liability will be paid immediately upon receipt of due
written proof.”

(i) A provision as follows:

“Payment of Claims: Indemnity for loss of life will be
payable in accordance with the beneficiary designation
and the provisions respecting such payment which may
be prescribed herein and effective at the time of payment.
If no such designation or provision is then effective, such
indemnity shall be payable to the estate of the insured.
Any other accrued indemnities unpaid at the insured’s
death may, at the option of the insurer, be paid either
to such beneficiary or to such estate. All other indemnities
will be payable to the insured.”

The following provisions, or either of them, may be
included with the foregoing provisions at the option of
the insurer:

“If any indemnity of this policy shall be payable to the
estate of the insured, or to an insured or beneficiary who
is a minor or otherwise not competent to give a valid
release, the insurer may pay such indemnity, up to an
amount not exceeding $ .................. (insert an amount
which shall not exceed one thousand dollars), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

“Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital nursing, medical, or surgical services may, at the insurer’s option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.”

(j) A provision as follows:

“Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.”

(k) A provision as follows:

“Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.”

(l) A provision as follows:

“Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.”

The first clause of this provision, relating to the irrevo-
cable designation of beneficiary, may be omitted at the insurer's option.

(m) In addition each policy, except accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision thereof or in an endorsement thereon or in a rider attached thereto (entitled "Renewability"), that subject to the right to terminate the policy upon nonpayment of premiums when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each anniversary, or in the case of lapse and reinstatement at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force.

Sec. 5. Optional Policy Provisions.—Except as provided in section six of this article, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section: Provided, however, That the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the
25 insurer for such more hazardous occupation. If the in-
26 sured changes his occupation to one classified by the
27 insurer as less hazardous than that stated in this policy,
28 the insurer, upon receipt of proof of such change of occu-
29 pation, will reduce the premium rate accordingly, and
30 will return the excess pro rata unearned premium from
31 the date of change of occupation or from the policy anni-
32 versary date immediately preceding receipt of such proof,
33 whichever is the more recent. In applying this provision,
34 the classification of occupational risk and the premium
35 rates shall be such as have been last filed by the insurer
36 prior to the occurrence of the loss for which the insurer
37 is liable or prior to date of proof of change in occupation
38 with the state official having supervision of insurance
39 in the state where the insured resided at the time this
40 policy was issued; but if such filing was not required,
41 then the classification of occupational risk and the pre-
42 mium rates shall be those last made effective by the
43 insurer in such state prior to the occurrence of the loss
44 or prior to the date of proof of change in occupation."
45
46 (b) A provision as follows:
47 "Misstatement of Age: If the age of the insured has
48 been misstated, all amounts payable under this policy
49 shall be such as the premium paid would have purchased
50 at the correct age."
51
52 (c) A provision as follows:
53 "Other Insurance in This Insurer: If an accident or
54 sickness or accident and sickness policy or policies pre-
55 viously issued by the insurer to the insured be in force
56 concurrently herewith, making the aggregate indemnity
57 for (insert type of coverage or coverages) in
58 excess of $ (insert maximum limit of indemnity
59 or indemnities) the excess insurance shall be void and all
60 premiums paid for such excess shall be returned to the
61 insured or to his estate."
62
63 Or, in lieu thereof:
64 "Insurance effective at any one time on the insured
65 under a like policy or policies in this insurer is limited
66 to the one such policy elected by the insured, his bene-
ficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Provided that no policy hereafter issued for delivery in this state which provides, with or without other benefits, for the payment of benefits or reimbursement for expenses with respect to hospitalization, nursing care, medical or surgical examination or treatment, or ambulance transportation shall contain any provision for a reduction of such benefits or reimbursement, or any provision for avoidance of the policy, on account of other insurance of such nature carried by the same insured with the same or another insurer.

(d) A provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."

The insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured any amount of benefit provided for such insured pursuant
to any compulsory benefit statute (including any work-
men’s compensation or employer’s liability statute)
whether provided by a governmental agency or other-
wise shall in all cases be deemed to be “other valid cover-
age” of which the insurer has had notice. In applying the
foregoing policy provision no third party liability cover-
age shall be included as “other valid coverage.”

(e) A provision as follows:

“Relation of Earnings to Insurance: If the total monthly
amount of loss of time benefits promised for the same
loss under all valid loss of time coverage upon the in-
sured, whether payable on a weekly or monthly basis,
shall exceed the monthly earnings of the insured at the
time disability commenced or his average monthly earn-
ings for the period of two years immediately preceding
a disability for which claim is made, whichever is the
greater, the insurer will be liable only for such propor-
tionate amount of such benefits under this policy as the
amount of such monthly earnings or such average monthly
earnings of the insured bears to the total amount of
monthly benefits for the same loss under all such cover-
age upon the insured at the time such disability com-
ences and for the return of such part of the premiums
paid during such two years as shall exceed the pro rata
amount of the premiums for the benefits actually paid
hereunder; but this shall not operate to reduce the total
monthly amount of benefits payable under all such cover-
age upon the insured below the sum of two hundred
dollars or the sum of the monthly benefits specified in
such coverages, whichever is the lesser, nor shall it op-
erate to reduce benefits other than those payable for loss
of time.”

The foregoing policy provision may be inserted only
in a policy which the insured has the right to continue
in force subject to its terms by the timely payment of
premiums (1) until at least age fifty or, (2) in the case
of a policy issued after age forty-four, for at least five
years from its date of issue. The insurer may, at its op-
tion, include in this provision a definition of “valid loss
of time coverage”, approved as to form by the commis-
(f) A provision as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premiums then due and unpaid or covered by any note or written order may be deducted therefrom."

(g) A provision as follows:

"Return of Premium on Cancellation: If the insured cancels this policy, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

(h) A provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

(i) A provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

(j) A provision as follows:

"Intoxicants and Narcotics: The insurer shall not be
liable for any loss sustained or contracted in consequence
of the insured's being intoxicated or under the influence
of any narcotic unless administered on the advice of a
physician.

Sec. 6. *Inapplicable or Inconsistent Provisions.*—If any
provision of this article is in whole or in part inapplicable
to or inconsistent with the coverage provided by a par-
ticular form of policy, the insurer, with the approval of
the commissioner, shall omit from such policy any in-
applicable provision or part of a provision, and shall
modify any inconsistent provision or part of the provision
in such manner as to make the provision as contained in
the policy consistent with the coverage provided by the
policy.

Sec. 7. *Order of Certain Provisions.*—The provisions
which are the subject of sections four and five of this
article or any corresponding provisions which are used
in lieu thereof in accordance with such sections, shall be
printed in consecutive order of the provisions in such
sections or, at the option of the insurer, any such pro-
visions may appear as a unit in any part of the policy,
with other provisions to which it may be logically re-
lated, provided the resulting policy shall not be in whole
or in part unintelligible, uncertain, ambiguous, abstruse,
or likely to mislead a person to whom the policy is offered,
delivered or issued.

Sec. 8. *Third Party Ownership.*—The word “insured”
as used in this article, shall not be construed as prevent-
ing a person other than the insured with a proper insur-
able interest from making application for and owning a
policy covering the insured or from being entitled under
such a policy to any indemnities, benefits and rights pro-
vided therein.

Sec. 9. *Requirements of Other Jurisdictions.*—(a) Any
policy of a foreign or alien insurer, when delivered or
issued for delivery to any person in this state, may con-
tain any provision which is not less favorable to the in-
sured or the beneficiary than the provisions of this article
and which is prescribed or required by the law of the
state under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued
for delivery in any other state or country, contain any
 provision permitted or required by the laws of such other
state or country.

Sec. 10. Franchise Insurance.—Accident and sickness
insurance on a franchise plan is hereby declared to be
that form of accident and sickness insurance issued to:

(a) Five or more employees of any corporation, co-
 partnership or individual employer or any governmental
corporation, agency or department thereof, or

(b) Five or more members of any trade or professional
association or of a labor union or of any other association
having had an active existence for at least two years
where such association or union has a constitution or by-
laws and is formed in good faith for purposes other than
that of obtaining insurance; where such persons, with or
without their dependents, are issued the same form of an
individual policy varying only as to amounts and kinds of
coverage applied for by such persons, under an arrange-
ment whereby the premiums on such policies may be paid
to the insurer periodically by the employer, with or with-
out payroll deductions, or by the association or union for
its members, or by some designated person acting on be-
half of such employer or association or union. The term
“employees” as used in this section shall be deemed to
include the officers, managers, employees and retired em-
ployees of the employer and the individual proprietor or
partners if the employer is an individual proprietor or
partnership.

Article 16. Group Accident and Sickness Insurance

Section
1. Scope of article.
2. Eligible groups.
3. Required policy provisions.
4. Size of type.
5. Expense reimbursement permitted.
6. Rider changing individual policy to group policy prohibited.

Section 1. Scope of Article.—(a) Nothing in this article
shall apply to or affect any policy of liability or work-
men’s compensation insurance, or any policy of individual accident and sickness insurance issued in accordance with article fifteen of this chapter, or any policy issued by a fraternal benefit society.

(b) Nothing in this article shall apply to or in any way affect life insurance, endowment or annuity contracts or contracts supplemental thereto which contain no provisions relating to accident or sickness insurance except (a) such as provide additional benefits in case of death by accidental means and except (b) such as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled as defined by the contract or supplemental contract.

(c) No accident and sickness policy or certificate shall be delivered or issued for delivery in this state insuring more than one individual (subject to the same exceptions provided for group life insurance in section one of article fourteen of this chapter) unless to one of the groups set forth in section two of this article and unless otherwise in compliance with this article.

Sec. 2. Eligible Groups.—Any insurer licensed to transact accident and sickness insurance in this state may issue group accident and sickness policies 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 thereof determined by conditions pertaining to the employment, or

(2) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy percent of all employees of the employer or not less than seventy-five percent of
all employees of any class or classes thereof determined
by conditions pertaining to the employment.

(3) The term "employee" as used herein shall be deemed to include the officers, managers, and employees of the employer, the partners, if the employer is a partnership, the officers, managers, and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms, the business of which is controlled by the insured employer through stock ownership, contract, or otherwise. The term "employer" as used herein may be deemed to include any municipal or governmental corporation, unit, agency or department thereof and the proper officers, as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships and corporations.

(b) A policy issued to an association which has a constitution and by-laws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least ten members of the association for the benefit of persons other than the association or its officers or trustees, as such;

(c) A policy issued to a college, school or other institution of learning or to the head or principal thereof, insuring at least ten students, or students and employees, of such institution;

(d) A policy issued to or in the name of any volunteer fire department, insuring all of the members of such department or all of any class or classes thereof against any one or more of the hazards to which they are exposed by reason of such membership but in each case not less than ten such members;

(e) A policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state, to insure any class or classes of individuals that could be insured under such group life policy.

Sec. 3. Required Policy Provisions.—Each such policy hereafter delivered or issued for delivery in this state shall contain in substance the following provisions:
(a) A provision that the policy, the application of the policyholder, a copy of which shall be attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application.

(b) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in substance the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(c) A provision that all new employees or members, as the case may be, in the groups or classes eligible for insurance, shall from time to time be added to such groups or classes eligible to obtain such insurance in accordance with the terms of the policy.

(d) No provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy shall be less favorable to the insured than would be permitted in the case of an individual policy by the provisions set forth in article fifteen of this chapter.

Sec. 4. **Size of Type.**—Every printed portion of every such policy shall be plainly printed in type of which the face shall be not smaller than ten point, and the exceptions shall be printed with the same prominence as the benefits to which they apply.

Sec. 5. **Expense Reimbursement Permitted.**—Any such policy 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 re-
imbursement for expenses with respect to any one or
more of the following contingencies: Hospitalization,
nursing care, medical or surgical examination or treat-
ment, or ambulance transportation, of insured employees
or members, or of their spouses or children, or of depend-
ents living with them.

Sec. 6. Rider Changing Individual Policy to Group
Policy Prohibited.—No endorsement or rider shall here-
after be used in this state to transform an individual
policy issued under article fifteen of this chapter into a
group policy.

Article 17. Fire and Marine Insurance

Section
1. Scope of article.
2. Standard fire policy.
3. Arrangement of policy.
4. Information as to insurer.
5. Provisions required by charter or laws of other states.
6. Riders; endorsements; additional perils.
7. Designation as standard policy; agent's name.
8. Approval of forms.
9. Total or partial fire loss.
10. Auditing and stamping office.

Section 1. Scope of Article.—This article shall apply to
fire insurance and marine insurance, except that it shall
not apply to reinsurance.

Sec. 2. Standard Fire Policy.—No policy of fire insur-
ance covering property located in West Virginia shall be
made, issued or delivered unless it conforms as to all pro-
visions and the sequence thereof with the basic policy
commonly known as the New York standard fire policy,
edition of one thousand nine hundred forty-three, which
is designated as the West Virginia standard fire policy;
except that with regard to multiple line coverages pro-
viding casualty insurance combined with fire insurance
this section shall not apply if the policy contains, with
respect to the fire portion thereof, language at least as
favorable to the insured as the applicable portions of the
standard fire policy and such multiple line policy has been
approved by the commissioner. As of the effective date
of this chapter, the commissioner shall file in his office,
and thereafter maintain on file in his office, a true copy of
such West Virginia standard fire policy, designated as such and bearing the commissioner's authenticating certificate and signature and the date of filing. Provisions to be contained on the first page of the policy may be rewritten, and rearranged to facilitate policy issuance and to include matter which may otherwise properly be added by endorsement. The standard fire insurance policy shall not be required for casualty insurance, marine insurance nor insurance on growing crops.

Sec. 3. Arrangement of Policy.—The pages of the standard fire insurance policy may be renumbered and the format rearranged for convenience in the preparation of individual contracts, and to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be conveniently included for duplication on daily reports for office records.

Sec. 4. Information as to Insurer.—There shall be printed on such standard fire insurance policy the name of the insurer or insurers issuing the policy, the location of the home office or United States office of the insurer or insurers, a statement whether such insurer or insurers be stock corporations, mutual corporations, reciprocal insurers, or otherwise, and there may be added thereto such device or emblem as the insurer or insurers issuing such policy may desire. If the policy is issued by a mutual or reciprocal insurer having special regulations with respect to the payment of assessments by the policyholder or subscriber, such regulations shall be printed on the policy, and any such insurer may print upon the policy such regulations as may be appropriate to or required by its form of organization. Any insurer organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state. There may be substituted for the word “company” a more accurate descriptive term for the type of insurer. There may also be added a statement of the group of insurers with which the insurer is financially affiliated. In lieu of the facsimile signatures of the president and secretary of the insurer there may be used the name or names of such
Sec. 5. **Provisions Required by Charter or Laws of Other States.**—A domestic insurer may print in the standard fire policy any provisions which it is authorized or required by law to insert therein; a foreign or alien insurer may print in the policy any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state.

Sec. 6. **Riders; Endorsements; Additional Perils.**—Appropriate forms of additional contracts, riders or endorsements, insuring against indirect or consequential loss or damage, or against any one or more perils other than those of fire and lightning, or providing coverage which the insurer issuing the policy is authorized by the laws of this state and by its license to assume or issue, may be used in connection with the standard fire policy. Such other perils or coverages may include those excluded in the standard fire insurance policy, and may include any of the perils or coverages permitted to be insured against or issued by fire, marine and casualty insurers. Such forms of contracts, riders and endorsements may contain provisions and stipulations inconsistent with such standard fire insurance policy, if such provisions and stipulations are applicable only to such additional coverage or to the additional peril or perils insured against.

Sec. 7. **Designation as Standard Policy; Agent's Name.**—There may be printed upon the standard fire policy the words, “Standard Fire Insurance Policy for West Virginia”, and there may be inserted before and after the words “West Virginia” a designation of any state or states in which such form of policy is standard. There may be endorsed on any such policy the name, with the word “agent” or “agents” and place of business, of any insurance agent or agents, either by writing, printing, stamping or otherwise.

Sec. 8. **Approval of Forms.**—(a) No fire or marine policy, rider, or endorsement to be attached to any policy,
covering any risk located or to be performed in West Virginia shall be delivered or issued for delivery in this state unless either (1) filed with and approved by the commissioner, or (2) conforms to applicable rules approved by the commissioner or is identical as to language to a policy, rider or endorsement approved by the commissioner. If the use of any such form under the provisions of clause (2) above by any insurer or by the members and subscribers of any rating organization shall be so extensive that in the opinion of the commissioner the public interest requires, the commissioner may require that such form be filed with him by such insurer or by such rating organization on behalf of its members and subscribers.

(b) The procedure for filing and approval or disapproval of forms under this section shall be that provided in paragraphs (b), (c), (d), and (e) of section eight of article six of this chapter. Grounds for disapproval shall be those set forth in section nine of article six of this chapter. Such filings may be made on behalf of any insurer by a rating organization licensed as such under the provisions of article twenty of this chapter. This section shall not apply to ocean marine policies, riders or endorsements, or to forms on specially rated inland marine risks.

Sec. 9. **Total or Partial Fire Loss.**—All insurers issuing policies providing fire insurance on real property situate in West Virginia, shall be liable, in case of total loss by fire or otherwise, as stated in the policy, for the whole amount of insurance stated in the policy, upon such real property; and in case of partial loss by fire or otherwise, as aforesaid, of the real property insured, the liability shall be for the total amount of such partial loss, not to exceed the whole amount of insurance upon such real property as stated in the policy. This section shall not apply where such insurance has been procured from two or more insurers covering the same interest in such real property.

Sec. 10. **Auditing and Stamping Office.**—Every insurer licensed in West Virginia and effecting insurance against
the risk of loss or damage by fire shall maintain or be a
member or subscriber of an auditing and stamping office.
Any insurance rating organization licensed under the pro-
visions of article twenty of this chapter may establish and
maintain such office and any advisory organization of the
type described in section ten of article twenty of this chap-
ter may establish and maintain such office, subject to the
provisions of this section. Each such office serving more
than one insurer shall admit to membership or as a sub-
scriber any licensed fire insurer applying therefor, and
where such office is maintained by a rating organization
or advisory organization any such insurer, whether or not
a member or subscriber for other services of such rating
organization or advisory organization, may subscribe to
any of the services of such office for auditing and stamp-
ing separately, without being a member or subscriber of
such rating organization or advisory organization for
rate filings of the business to be audited and stamped.
Every such insurer shall submit to such office daily re-
ports of all policies written, and copies of binders, renewal
certificates, endorsements or other evidence of insurance,
containing any coverage against loss or damage by fire,
or allied lines, including any type or kind of insurance
written as a part of, or as an endorsement to, or in con-
nection with, a fire insurance policy, and reports of the
cancellation or termination thereof. Each such office shall
examine all such documents so submitted and shall report
all errors and omissions to the insurer and the representa-
tive or agent of the insurer to whom the error or omission
is charged. In the event any such insurer shall fail to
furnish to such auditing and stamping office within sixty
days of receipt of a report of errors or omissions, satis-
factory evidence that all errors or omissions so reported
have been corrected, it shall be the duty of such office
promptly to report such failure to the commissioner.
Each such office shall promulgate rules governing the
writing and examining of such coverages and shall distri-
bute same to its members and subscribers. The expenses
of such office shall be borne by its members and sub-
scribers under reasonable rules and regulations of such
office. Every such insurer shall, in its annual application
for license, specify the auditing and stamping office of
which it is, or will upon receiving such license become, a
member. Each such office shall be subject to examination
by the commissioner at such times as he deems necessary
and if the commissioner finds that the operation of such
office involves any act or practice which is unfair, unrea-
sonable or discriminatory, he may issue a written order
specifying in what respects such operations are unfair,
unreasonable or discriminatory and such office shall com-
ply with all orders so issued. This section shall not apply
to marine insurance or automobile or aircraft physical
damage insurance.

Article 18. Casualty Insurance

Section
1. Article reserved.

Section 1. Article Reserved.—The number and location
of this article in this chapter is reserved to accommodate
future legislation governing casualty insurance.

Article 19. Surety Insurance

Section
1. Article reserved.

Section 1. Article Reserved.—The number and location
of this article in this chapter is reserved to accommodate
future legislation governing surety insurance.

Article 20. Rates and Rating Organizations

Section
1. Purpose and interpretation of article.
2. Scope of article.
4. Rate filings.
5. Disapproval of filings.
6. Rating organizations.
7. Deviations.
8. Appeal by minority.
9. Information to be furnished insureds; hearings and appeals of
insureds.
10. Advisory organizations.
11. Joint underwriting or joint reinsurance.
12. Examinations.
13. Rate administration.
14. False or misleading information.
15. Assigned risks.
16. Penalties.
Section 1. Purpose and Interpretation of Article.—The purpose of this article is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this article. Nothing in this article is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This article shall be liberally interpreted to carry into effect the provisions of this section.

Sec. 2. Scope of Article.—(a) This article applies to fire, marine, casualty, and surety insurance, on risks or operations in this state.

(b) This article shall not apply:

1. To reinsurance, other than joint reinsurance to the extent stated in section eleven of this article;
2. To life or accident and sickness insurance;
3. To insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
4. To insurance against loss of or damage to aircraft, including their accessories and equipment, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;
5. To title insurance.

(c) If any kind of insurance, subdivision or combination thereof, or type of coverage, is subject to both the provisions of this article expressly applicable to casualty and surety insurance and to those expressly applicable to fire and marine insurance, the commissioner may apply to filings made for such kind of insurance the provisions of this article which are in his judgment most suitable.

Sec. 3. Making of Rates.—All rates shall be made in accordance with the following provisions:
(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state.

(b) Rates shall not be excessive, inadequate or unfairly discriminatory.

(c) Rates for casualty and surety insurance to which this article applies shall also be subject to the following provisions:

1. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

2. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

3. Due consideration shall be given to such factors as expense, management, individual experience, underwriting judgment, degree or nature of hazard or any other reasonable considerations, provided such factors apply to all risks under the same or substantially the same circumstances or conditions.

(d) Rates for fire and marine insurance to which this article applies shall also be subject to the following provisions:

1. Manual, minimum, class rates, rating schedules or
rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

(2) Due consideration shall be given to the conflagration hazard, and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.

(e) Except to the extent necessary to meet the provisions of paragraph (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(f) Rates made in accordance with this section may be used subject to the provisions of this article.

Sec. 4. Rate Filings.—(a) (1) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use for casualty insurance to which this article applies.

(2) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use for fire and marine insurance to which this article applies. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(b) Every such filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this article, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished.
The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(c) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf: Provided, That nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(d) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this article.

(e) Subject to the exceptions specified in paragraphs (f) and (g) of this section, each filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period or any extension thereof.

(f) Any special filing with respect to a surety bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this
article until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(g) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this article until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(h) Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in paragraph (b) of section three of this article.

(i) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(j) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in this article or in accordance with paragraphs (h) or (i) of this section. This paragraph shall not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 5. Disapproval of Filings.—(a) If within the waiting period or any extension thereof as provided in paragraph (e) of section four of this article, the commissioner finds that a filing does not meet the requirements of this article, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this article and stating that such filing shall not become effective.
(b) If within thirty days after a special surety filing subject to paragraph (f) of section four of this article or if within thirty days after a specific inland marine rate on a risk specially rated by a rating organization subject to paragraph (g) of section four of this article has become effective, the commissioner finds that such filing does not meet the requirements of this article, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this article and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in paragraphs (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this article, he shall, after notice and hearing to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may demand a hearing thereon. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.
(e) Any insurer or rating organization, in respect to any filing made by it which is not approved by the commissioner, may demand a hearing thereon.

(f) No manual of classifications, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, in the case of casualty insurance to which this article applies and no manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing, in the case of fire insurance to which this article applies, and which has been filed pursuant to the requirements of section four of this article, shall be disapproved if the rates thereby produced meet the requirements of this article.

Sec. 6. Rating Organizations.—(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of casualty insurance or subdivisions thereof, or for such kinds of fire and marine insurance or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state as attorney-in-fact upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be
27 granted or denied in whole or in part by the commissioner
28 within sixty days of the date of its filing with him.
29 Licenses issued pursuant to this section shall remain in
30 effect for three years unless sooner suspended or revoked
31 by the commissioner. The fee for said license shall be
32 twenty-five dollars, and said fee shall be in lieu of all
33 other fees, licenses or taxes to which a rating organiza-
34 tion might otherwise be subject, all fees so collected to
35 go into the fund provided and for the purposes specified
36 in section thirteen of article three of this chapter. Licenses
37 issued pursuant to this section may be suspended or re-
38 voked by the commissioner, after notice and hearing, in
39 the event the rating organization ceases to meet the re-
40 quirements of this article. Every rating organization shall
41 notify the commissioner promptly of every change in
42 (1) its constitution, its articles of agreement or associa-
43 tion or its certificate of incorporation, and its by-laws,
44 rules and regulations governing the conduct of its busi-
45 ness, (2) its list of members and subscribers and (3) the
46 name and address of the resident of this state designated
47 as attorney-in-fact by it upon whom notices or orders
48 of the commissioner or process affecting such rating or-
49 ganization may be served.
50 (b) Subject to rules and regulations which have been
51 approved by the commissioner as reasonable, each rating
52 organization shall permit any insurer, not a member, to
53 be a subscriber to its rating services for any kind of
54 casualty insurance or subdivision thereof, or for any kind
55 of fire and marine insurance or subdivision or class of
56 risk or a part or combination thereof, or any kind of
57 surety insurance or subdivision thereof, for which it is
58 authorized to act as a rating organization. Notice of pro-
59 posed changes in such rules and regulations shall be given
60 to subscribers. Each rating organization shall furnish its
61 rating services without discrimination to its members and
62 subscribers. The reasonableness of any rule or regulation
63 in its application to subscribers, or the refusal of any
64 rating organization to admit an insurer as a subscriber,
65 shall, at the request of any subscriber or any such in-
66 surer, be reviewed by the commissioner. If, after notice
67 and hearing, the commissioner finds that such rule or
regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscriber-ship within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If, after notice and hearing, the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this article is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this article which are applicable to filings generally. The commissioner may review such cooperative activities and practices, and if after a hearing he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

(e) Any rating organization for casualty, marine or surety insurance may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organiza-
tion of the correction of any error or omission previously
called to its attention by the rating organization, it shall
be the duty of the rating organization to notify the com-
missioner thereof. All information so submitted for ex-
amination shall be confidential. Such services for fire
insurance shall be governed by the provisions of section
ten of article seventeen of this chapter.

(f) Any rating organization may subscribe for or pur-
chase actuarial, technical or other services, and such serv-
ices shall be available to all members and subscribers
without discrimination.

Sec. 7. Deviations.—(a) Every member of or subscriber
to a rating organization shall adhere to the filings made
on its behalf by such organization except that:

(1) In the case of casualty and surety insurance to
which this article applies any such insurer may make
written application to the commissioner for permission
to file a uniform percentage decrease or increase to be
applied to the premiums produced by the rating system
so filed for a kind of insurance, or for a class of insurance
which is found by the commissioner to be a proper rating
unit for the application of such uniform percentage de-
crease or increase, or for a subdivision of a kind of insur-
ance (a) comprised of a group of manual classifications
which is treated as a separate unit for rate making pur-
poses, or (b) for which separate expense provisions are
included in the filings of the rating organization. Such
application shall specify the basis for the modification
and shall be accompanied by the data upon which the
applicant relies. A copy of the application and data shall
be sent simultaneously to such rating organization; and

(2) In the case of fire and marine insurance to which
this article applies any such insurer may make written
application to the commissioner for permission to file a
deviation from the class rates, schedules, rating plans
or rules respecting any kind of insurance, or class of risk
within a kind of insurance or combination thereof. Such
application shall specify the basis for the modification
and a copy thereof shall also be sent simultaneously to
such rating organization. In considering the application
for permission to file such deviation the commissioner shall give consideration to the available statistics and the applicable principles for rate making as provided in section three of this article.

(b) The commissioner shall, after notice to such insurer and rating organization, and hearing, unless hearing is waived by such insurer and rating organization, issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective or issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

Sec. 8. Appeal by Minority.—(a) Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after notice and hearing, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

(b) In the case of casualty and surety insurance to which this article applies, if such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subdivision (1) of paragraph (c) of section three of this article, from the system of expense provisions included in a filing made by the rating
organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section three of this article.

Sec. 9. Information to be Furnished Insureds; Hearings and Appeals of Insureds.—(a) Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(b) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after notice and hearing, may affirm or reverse such action.

Sec. 10. Advisory Organizations.—(a) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this article, shall be known as an advisory organization.

(b) Every advisory organization shall file with the commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing
its activities, (2) a list of its members, (3) the name and address of a resident of this state as its attorney-in-fact upon whom notices or orders of the commissioner or process may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section twelve of this article.

(c) If after notice and hearing the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such act or practice.

(d) No insurer which makes it own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under paragraph (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this paragraph he may issue an order requiring the discontinuance of such violation.

Sec. 11. Joint Underwriting or Joint Reinsurance.—

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this article and, with respect to joint reinsurance, to section twelve of this article.

(b) If after notice and hearing the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or
otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

Sec. 12. Examinations.—(a) The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed under the provisions of section six of this article and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section ten of this article and of each group, association or other organization referred to in section eleven of this article. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, managers, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The commissioner shall furnish two copies of the examination report to the organization, group or association examined not less than ten days prior to filing same in his office. If such organization, group or association so requests in writing, within such ten-day period, the commissioner shall consider the objections, if any, to such report as proposed, and shall not file such report until such modifications, if any, have been made therein as the commissioner deems proper. The report when so filed shall be admissible in any action or proceeding brought by the commissioner against the organization, group or association examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein. The commissioner may withhold the report of any such examination for such time as he may deem proper.

(b) In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.
Sec. 13. Rate Administration.—(a) Recording the Reporting of Loss and Expense Experience. The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section three of this article. Such rules and plans may also provide for the recording and reporting of loss and expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

(b) Interchange of Rating Plan Data. Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) Consultation with Other States. In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with
respect to rate making and the application of rating systems.

Sec. 14. False or Misleading Information.—No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this article.

Sec. 15. Assigned Risks.—With respect to casualty insurance to which this article applies, agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

Sec. 16. Penalties.—(a) The commissioner may suspend, revoke or refuse to renew the license of any rating organization which violates any provision of this article or chapter or which fails to comply with an order of the commissioner issued pursuant to this chapter, within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

(b) No license shall be suspended or revoked except upon a written order of the commissioner made after notice and hearing. The commissioner shall not suspend or revoke the license of any rating organization for failure to comply with an order of the commissioner until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed.
Article 21. Reciprocal Insurers

Section 1. Scope of Article.—This article applies to reciprocal insurers and reciprocal insurance. Foreign and alien reciprocal insurers shall be governed by all provisions of this article not expressly made applicable only to domestic reciprocal insurers, and domestic reciprocal insurers shall be governed by all the provisions of this article.

Sec. 2. General Laws Applicable.—Except as otherwise provided, and except where the context clearly requires otherwise, all the provisions of this chapter relating to insurers generally, and all the provisions of this chapter relating to insurers transacting the same kinds of insurance which reciprocal insurers are permitted to transact, are applicable to reciprocal insurers, except that article twelve of this chapter shall not apply to reciprocal insurers.

Sec. 3. Kinds of Insurance.—A reciprocal insurer, upon being licensed therefor as provided in this article, when possessed of and maintaining on deposit surplus funds equal to the minimum capital required of a stock in-
surer to transact like kinds of insurance, may transact fire, marine, casualty or surety insurance, and may pur-
chase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance it is licensed to transact direct. No reciprocal insurer shall be licensed to transact, nor shall any reciprocal insurer transact, life or accident and sickness insurance.

Sec. 4. Name.—A reciprocal insurer shall have and use a business name, which shall include the word “recipro-
cal”, or “inter-insurer”, or “inter-insurance”, or “ex-
change”, or “underwriters”, or “underwriting”, in which name such insurer may sue and be sued.

Sec. 5. Attorney.—“Attorney”, as used in this article, refers to the attorney-in-fact of a reciprocal insurer, and such attorney may be an individual, firm or corporation.

Sec. 6. Application for License.—A reciprocal insurer desiring to transact insurance may apply to the commis-
sioner for a license. The attorney shall execute under his oath and file with the commissioner such application set-
ting forth:

(a) The name of the insurer;
(b) The location of the insurer's principal office, which shall be the same as that of the attorney, and in the case of a domestic reciprocal insurer shall be maintained within this state;
(c) The kinds of insurance proposed to be transacted;
(d) The designation and appointment of the proposed attorney and a copy of the power of attorney;
(e) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;
(f) In the case of a domestic reciprocal insurer, the powers of the subscribers' advisory committee, and in the case of domestic, foreign or alien reciprocal insurers, the names and terms of office of the members thereof;
(g) In the case of a domestic reciprocal insurer that all monies paid to the reciprocal shall, after deducting there-
from any sum payable to the attorney, be held in the name
of the insurer and for the purposes specified in the sub-
scribers' agreement;
(h) A copy of the subscribers' agreement;
(i) A statement of the financial condition of the insurer,
a schedule of its assets, and a statement that the surplus
as required by section three of this article is on hand;
(j) A copy of each policy, endorsement, and application
form it then proposes to issue or use;
(k) In the case of a foreign or alien reciprocal insurer a
statement from the insurance supervisory official of its
state of domicile or entry that it is licensed in such state
to transact the kinds of insurance it proposes to transact
in West Virginia;
(l) In the case of a domestic reciprocal insurer, the
names and addresses of the original subscribers who must
number at least twenty-five;
(m) In the case of a domestic reciprocal insurer, a state-
ment that each of the original subscribers has in good
faith applied for insurance of a kind proposed to be trans-
acted, and that the insurer has received from each such
subscriber the full premium or premium deposit required
for the policy applied for, for a term of not less than six
months at an adequate rate theretofore filed with and
approved by the commissioner;
(n) Such other information as the commissioner deems
necessary.

Sec. 7. Issuance of License; Suspension, etc.—The license
of a reciprocal insurer shall be issued to its attorney in the
name of the insurer and may be suspended, revoked or
renewal refused in the same manner and upon the same
grounds as other insurers.

Sec. 8. Power of Attorney.—(a) The rights and powers
of the attorney of a reciprocal insurer shall be as provided
in the power of attorney given it by the subscribers, which
power of attorney must set forth:
(1) The powers of the attorney;
(2) That the attorney is empowered to accept service
of process on behalf of the insurer;
(3) The general services to be performed by the attorney;

(4) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer;

(5) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount, which amount shall be not less than one nor more than ten times the annual premium or premium deposit stated in the policy.

(b) The power of attorney may:

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(2) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(3) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;

(4) Contain other lawful provisions deemed advisable.

(c) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable.

Sec. 9. Modifications.—Modification of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No modification of a domestic, foreign or alien reciprocal insurer's power of attorney or subscribers' agreement shall be effective retroactively, nor as to any insurance contract issued prior thereto, and such modification shall be reasonable and equitable, and shall be filed with the commissioner.

Sec. 10. Attorney's Bond.—(a) Concurrently with the filing of the application provided for in section six of this article, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of the state of West Virginia for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his...
7 bond as set forth in paragraph (b) of this section. The
8 bond shall be executed by the attorney and by an author-
9 ized corporate surety, and shall be subject to the commis-
10 sioner's approval.
11 (b) The bond shall be in the penal sum of twenty-five
12 thousand dollars, aggregate in form, conditioned that the
13 attorney will faithfully account for all monies and other
14 property of the insurer coming into his hands, and that he
15 will not withdraw or appropriate to his own use from the
16 funds of the insurer, any monies or property to which he
17 is not entitled under the power of attorney.
18 (c) The bond shall provide that it is not subject to can-
19 cellation unless thirty days' advance notice in writing of
20 cancellation is given both the attorney and the commis-
21 sioner.
22 (d) In lieu of such bond, the attorney may maintain on
23 deposit with the state treasurer through the office of the
24 commissioner a like amount in cash or in value of securi-
25 ties qualified under this chapter as insurers' deposit invest-
26 ments, and subject to the same conditions as the bond.
27 (e) Action on the attorney's bond or to recover against
28 any such deposit made in lieu thereof may be brought at
29 any time by one or more subscribers suffering loss through
30 a violation of its conditions, or by a receiver or liquidator
31 of the insurer. Amounts recovered on the bond shall be
32 deposited in and become part of the insurer's funds. The
33 total aggregate liability of the surety shall be limited to
34 the amount of the penalty of such bond.

Sec. 11. Annual Report.—(a) The annual report of a
2 reciprocal insurer shall be made and filed by its attorney.
3 (b) The report shall be supplemented by such informa-
4 tion as may be required by the commissioner relative to
5 the affairs and transactions of the attorney insofar as they
6 pertain to the reciprocal insurer.

Sec. 12. Process and Venue.—(a) Concurrently with
2 the filing of the application provided for by the terms of
3 section six of this article, the attorney shall file with the
4 commissioner an instrument in writing, executed by him
5 for said subscribers, conditioned that upon the issuance of
the license provided for in section seven of this article
any action, suit or other proceeding arising out of any
insurance contract or policy issued under such license,
may be brought in the county of this state wherein the
property insured was situated either at the date of the
policy or at the time when the right of action accrued, or
in the county of this state wherein the person insured had
a legal residence at the date of his death or at the time
the right of action accrued, and that service of any process
or notice may be had upon the auditor of this state in all
actions, suits or other proceedings in this state arising out
of such policies, contracts, agreements or other business
of insurance transacted under such license, and that said
auditor may accept service of any such process or notice.

(b) Such service or acceptance of service shall be valid
and binding upon such attorney and upon all subscribers
exchanging at any time reciprocal or inter-insurance con-
tracts through such attorney. Two copies of such process
or notice, in addition to the original, shall be furnished
the auditor, and he shall file one copy, forward one copy
to said attorney and return the original with his accept-
ance of service or for return of service. But no process or
notice shall be served on the auditor or accepted by him
less than ten days before the return day thereof. Where
the principal office of the attorney is located in this state,
service of process may be had upon all subscribers by
serving same upon the attorney at said office. Service of
process shall not be had upon said subscribers or any of
them in any suit or other proceeding in this state except
in the manner provided in this section, and any action,
suit, or other proceeding may be begun and prosecuted
against or defended by them under the name or designa-
tion adopted by them.

(c) The attorney shall pay to the auditor an annual fee
of ten dollars.

Sec. 13. Fees and Taxes.—(a) The attorney for each
reciprocal insurer shall pay on behalf of such insurer all
fees and taxes prescribed by this chapter for other insurers
transacting like kinds of insurance, except that the amount
of the premium tax shall be computed upon the gross
premiums on business transacted in this state less pre-
miums returnable because of cancellation and less amounts
returned to subscribers or credited to their accounts as
savings.

(b) In addition such attorney shall pay annually on
behalf of such reciprocal insurer the fire marshal's tax
provided by section twenty-four, article three, chapter
twenty-nine of this code, to the extent such tax is appli-
cable to the kinds of insurance transacted in this state by
such reciprocal insurer.

(c) No reciprocal insurer shall be liable for any taxes
except those described in this section and property taxes
upon real and personal property, unless reciprocal in-
surers be specifically mentioned in the law imposing such
taxes.

Sec. 14. Who May be Subscribers.—Individuals, part-
nerships, and corporations of this state may make appli-
cation, enter into agreement for and hold policies or con-
tracts in or with and be a subscriber of any domestic,
foreign, or alien reciprocal insurer. Any public or private
corporation now or hereafter created by or organized
under the laws of this state shall, in addition to the rights,
powers, and franchises specified in its articles of incorpora-
tion, have full power and authority as a subscriber to
exchange insurance contracts through such reciprocal
insurance. The right to exchange such contracts is hereby
declared to be incidental to the purposes for which such
corporations are organized and to be as fully granted as
the rights and powers expressly conferred upon such
corporations. Any officer, representative, trustee, receiver,
or legal representative of any such subscriber shall be
recognized as acting for or on its behalf for the purpose
of such contract but shall not be personally liable upon
such contract by reason of acting in such representative
capacity.

Sec. 15. Subscriber's Advisory Committee.—(a) The
advisory committee of a domestic reciprocal insurer exer-
cising the subscribers' rights shall be selected under such
rules as the subscribers adopt.
(b) Not less than two-thirds of such committee shall be subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

(c) The committee shall:

(1) Supervise the finances of the insurer;

(2) Supervise the insurer's operations to such extent as to assure conformity with the subscribers' agreement and power of attorney;

(3) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer;

(4) Have such additional powers and functions as may be conferred by the subscribers' agreement.

Sec. 16. Subscriber's Liability.—(a) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several, and proportionate liability, and not joint.

(b) Except as to a nonassessable policy each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than ten times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section twenty of this article.

(c) Each assessable policy issued by the insurer shall contain a statement of the contingent liability, set in type of the same prominence as the insuring clause.

Sec. 17. Subscriber's Liability on Judgments.—(a) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

(b) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may
appear and in amount not exceeding his contingent liability, if any.

Sec. 18. Assessments.—(a) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee; or by the receiver, conservator, rehabilitator or liquidator, in liquidation proceedings of the insurer.

(b) Each such subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section twenty of this article, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(c) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom only charges not recurring upon the renewal or extension of the policy.

(d) No such subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Sec. 19. Time Limit for Assessment.—Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this article, if,

(a) While his policy is in force or within one year after its termination, he is notified by either the attorney or the receiver, conservator, rehabilitator or liquidator of his intentions to levy such assessment, or

(b) If an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.
Sec. 20. Aggregate Liability.—In the case of a domestic reciprocal insurer no one policy or subscriber as to such policy shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers’ agreement, computed solely upon premium earned on such policy during that year.

Sec. 21. Nonassessable Policies.—(a) If a reciprocal insurer has a surplus of assets over all liabilities in an amount equal to the minimum capital stock generally required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers’ advisory committee, the commissioner may issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as such surplus funds remain unimpaired.

(b) Upon impairment of such surplus, the commissioner may revoke such certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The commissioner shall not authorize a reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.
(d) No reciprocal insurer shall deliver or issue for delivery in this state assessable policies imposing a contingent liability upon subscribers, if such reciprocal insurer is issuing for delivery to subscribers in this or any other state nonassessable policies insuring risks of substantially the same hazard and class.

Sec. 22. Distribution of Savings.—A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings, or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers, but such distribution may vary as to classes of subscribers based upon the experience of such subscribers.

Sec. 23. Contributions.—The attorney or other parties may advance to a reciprocal insurer upon reasonable terms such funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus.

Sec. 24. Financial Condition.—In determining the financial condition of a reciprocal insurer the commissioner shall apply the following rules:

(a) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(b) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposit delinquent for ninety days shall first be charged against such surplus deposit.

(c) The surplus deposits of subscribers shall not be charged as a liability.

(d) All premium deposits delinquent less than ninety days shall be allowed as assets.

(e) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(f) The contingent liability of subscribers shall not be allowed as an asset.
19 (g) The computation of reserves shall be based upon
20 premium deposits other than membership fees and with-
21 out any deduction for the compensation of the attorney.

Sec. 25. Subscriber's Share in Assets.—Upon the liquida-
2 action of a domestic reciprocal insurer, its assets remaining
3 after discharge of its indebtedness and policy obligations,
4 the return of any contributions of the attorney or other
5 persons to its surplus made as provided in section twenty-
6 three of this article, and the return of any unused pre-
7 sum, savings, or credits then standing on subscribers' 
8 accounts, shall be distributed to its subscribers who were
9 such within the twelve months prior to the last termina-
10 tion of its license, according to such reasonable formula
11 as the commissioner may approve.

Sec. 26. Merger or Conversion.—(a) A domestic recipro-
2 cal insurer upon affirmative vote of not less than two-
3 thirds of its subscribers who vote on such merger pursuant
4 to due notice and the approval of the commissioner of the 
5 terms therefor, may merge with another reciprocal insurer
6 or be converted to a stock or mutual insurer.

(b) Such a stock or mutual insurer shall be subject to
8 the same capital requirements and shall have the same
9 rights as a like domestic insurer transacting like kinds of
10 insurance.

(c) The commissioner shall not approve any plan for
12 such merger or conversion which is inequitable to sub-
13 scribers, or which, if for conversion to a stock insurer,
14 does not give each subscriber preferential right to acquire
15 stock of the proposed insurer proportionate to his interest
16 in the reciprocal insurer as determined in accordance with
17 section twenty-five of this article and a reasonable length
18 of time within which to exercise such right.

Article 22. Farmers' Mutual Fire Insurance Companies

Section
1. Scope of article.
2. Other provisions applicable.
3. Incorporation.
4. License.
5. Corporate organization and procedure.
6. Members.
7. Policy approval.
8. Insuring powers.
9. Premiums, membership fees, assessments and dividends.
10. Contingent liability of member.
11. Reserves, surplus or emergency fund.
12. Limit of risk.
13. Reinsurance; joint policies.
14. Notices to members.
15. Termination, cancellation and suspension of membership.
16. Fees.
17. Dissolution, member's share of assets.
18. Mergers and consolidations.
19. Conversion to stock or mutual insurer.

Section 1. Scope of Article.—Every farmers' mutual fire insurance company, hereinafter called "company", organized under the laws of this state shall be governed by the provisions of this article and by no other provisions of this chapter except such provisions as are specifically made applicable and referred to in this article. No law hereafter enacted shall apply to such companies unless such law shall declare that it is specifically applicable to farmers' mutual fire insurance companies.

Sec. 2. Other Provisions Applicable.—Each such company to the same extent such provisions are applicable to domestic mutual insurers shall be governed by and be subject to the following articles of this chapter: article one (definitions), article two (insurance commissioner), article four (general provisions) except that section sixteen of article four shall not be applicable thereto, article ten (rehabilitation and liquidation) except that under the provisions of section thirty-two of said article ten no assessment shall be levied against any former member of a farmers' mutual fire insurance company who was no longer a member of such company at the time the order to show cause was issued, article eleven (unfair practices and frauds), and article twelve (agents, brokers and solicitors) except that the agents' license fee shall be one dollar; but only to the extent such provisions are not inconsistent with the provisions of this article.

Sec. 3. Incorporation.—Such company may be organized and incorporated without capital stock for the purpose of insuring property against loss or damage as hereinafter authorized, in the same manner as non-stock companies generally are organized and incorporated, except that the
Sec. 4. License.—No such company shall transact insurance in West Virginia except as authorized by a license issued by the commissioner. Such company shall apply to the commissioner for such license and shall file with such application a certified copy of its charter and by-laws, together with applications from residents of this state for not less than one hundred thousand dollars of insurance of the type such companies are permitted to transact on property located in this state. The term of such license, renewal, refusal to license, revocation, suspension or penalty in lieu thereof, and reissuance, shall be governed by the provisions of sections eight, nine, ten, and eleven, of article three of this chapter, in the same manner that such sections are applicable to insurers generally, to the extent such provisions are not inconsistent with the provisions of this article.

Sec. 5. Corporate Organization and Procedure.—(a) The number of directors of any such company shall not be less than six nor more than fifteen, a majority of whom shall constitute a quorum to do business, to be elected from the incorporators by ballot, of whom one-third shall be elected for one year, one-third for two years and one-third for three years, until their successors are elected and qualified. At all subsequent elections, except to fill vacancies, one-third of such board of directors shall be elected for three years, such election to be held at the annual meeting of the company. In the election of the first board of directors each incorporator shall be entitled to one vote. At every subsequent election every member shall be entitled to one vote and may cast the same in person or by proxy. Regular meetings of the board of directors shall be held as often as the by-laws may provide, and special meetings may be held at the call of the president, secretary, or a majority of the board of directors.
(b) The directors shall elect from their number a president and a treasurer, and shall also employ a secretary, who may or may not be a member of the company, all of whom shall hold their office for one year and until their successors are elected and qualified. Any two of the above named offices except the office of president may be held by the same person. The directors shall also prescribe the duties of the officers and fix their compensation, not inconsistent with the charter and by-laws.

(c) The treasurer and secretary shall give bonds to the company for the faithful performance of their duties in such amounts as shall be prescribed by the board of directors, only one bond being required where the office of treasurer and secretary is held by the same person. Bonds may be required of other employees and agents of the company at the discretion of the board of directors.

(d) The board of directors shall notify all members of the time and place of the annual meeting of such members, either by printing the same on their policies or by written notice.

(e) Each such company when so licensed to transact insurance shall possess all the powers necessary to carry out its corporate purposes and not inconsistent with this article or the laws of this state. Amendments to the charter or by-laws may be offered by the board or any member at any regular or special meeting of the members upon written notice to all members of the intention to propose such amendments not less than thirty days prior to such meeting, and such amendments may be adopted by the approval of a majority of the members present and voting in person or by proxy. No such amendment shall be effective unless and until approved by the commissioner.

(f) The president or vice-president, and secretary or assistant secretary of every such company shall prepare annually, under oath, a full, true and complete statement of the condition of such company as of the thirty-first day of December, and present the same to the annual meeting.

Sec. 6. Members.—(a) Each policyholder of such company is a member thereof and is entitled to all the rights
and privileges and is subject to all liabilities connected with such membership.

(b) Whenever any public or private corporation, board or association in this state holds a policy in any such company, any officer, stockholder or trustee of any such corporation, board or association may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of such company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

Sec. 7. Policy Approval.—(a) No policy form shall be issued or used by any such company unless such form has been filed with and approved by the commissioner. The filing, approval and disapproval of such forms shall be governed by the provisions of sections eight and nine of article six of this chapter in the same manner as form filings of other insurers.

(b) All terms and conditions of such policies shall be set forth in full in the policy or endorsements attached thereto including the contingent liability, if any, of the policyholder, and no provision purporting to make any portion of the charter, by-laws or other documents a part of the policy shall be valid unless such portion is set forth in full in the policy.

(c) Policies may limit the liability of the company to a fixed percent of the value of the property insured.

(d) Whenever the commissioner believes the public interest requires a standard form for a particular kind of coverage, the commissioner may prescribe a standard form of policy for such companies, or a standard specific provision to be inserted in such policies, and all policies thereafter issued by such companies shall conform to such standard forms or provisions.

Sec. 8. Insuring Powers.—(a) Every such company may
issue policies of insurance on property located anywhere in this state, signed by its president and secretary, provid-

(1) Loss or damage to dwelling houses, stores and all kinds of buildings and household furniture, goods, mer-

chandise and chattels of every description, and all other property by fire, and allied coverages, including lightning, aircraft, windstorm, tornado, cyclone, hail, frost or snow, smoke, weather or climatic conditions, including excess or deficiency of moisture, flood, rain or drought, business in-

terruptions, riot attending a strike or civil commotion, riot, vehicle and by explosion whether fire ensues or not;

(2) Loss or damage by insects or disease to farm crops or products and loss of rental value of land used in producing such crops or products;

(3) Loss or damage by water or other fluid to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extin-

guishing fires, or of other conduits or containers, or by water entering through leaks or openings in buildings and of water pipes, and against accidental injury to such sprinklers, pumps, apparatus, conduits, containers or water pipes;

(4) Loss or damage to domestic farm animals by dogs or wild animals.

(b) The commissioner may, for good cause shown or on application of the company, limit the license of a company to make insurance to any one or more of the perils or coverages set forth in paragraph (a) of this section.

(c) In addition any such company may apply to the commissioner for an extension of its license, and upon complying with reasonable standards established by the commissioner to assure the solvency of such company and the protection of its policyholders, may in the discretion of the commissioner be granted an extension of its license to permit such company to issue policies of insurance on risks located in this state insuring against one or more of the following:
(1) Legal liability for the death, injury, or disability of any human being, or for damage to property, excluding liability resulting from the ownership, maintenance, or use of vehicles or aircraft; and provisions for medical, hospital, surgical and disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to such liability coverage.

(2) Loss or damage to property by burglary, theft, larceny, robbery, vandalism, malicious mischief, or wrongful conversion, or any attempt at any of the foregoing.

(3) Personal property floater insurance.

Sec. 9. Premiums, Membership Fees, Assessments and Dividends.—(a) Such company shall collect from its members such initial fees or charges as its by-laws provide.

(b) Any such company may levy assessments or collect premiums for the purpose of paying losses and expenses already incurred, or for estimated future losses and expenses, and for reserve or surplus fund purposes. The secretary of any such company shall notify every member of the company of the amount due by a written or printed notice, mailed to the last known address of each member, stating the amount due the company from the member and the time and place and to whom it shall be paid. Such payment shall be made by the member within sixty days from date of mailing such notice, or within a lesser period, as the by-laws may provide. The company may maintain an action against any member thereof to recover all such assessments which he may neglect or refuse to pay when legally due and payable.

(c) Any such company issuing policies at rates other than uniform or class rates or levying assessments on other than a uniform or class basis shall as to such policies be a subscriber to a rating organization licensed under the provisions of article twenty of this chapter.

(d) Such company may return to its members in the
form of dividends or otherwise savings or earnings of such company.

Sec. 10. Contingent Liability of Member.—The contingent liability of a member of such company may, with the approval of the commissioner, be limited to one or more times the annual premium as computed for the policy, and the company may issue a policy without contingent liability to the member if at the time of issuance it has a surplus of not less than one hundred thousand dollars and maintains unearned premium and other reserves on the same basis as that required of domestic insurers transacting like kinds of insurance. In the absence of such limitation of contingent liability each member shall be liable for his pro-rata share of losses and expenses of the company, including a reasonable contribution to a surplus fund.

Sec. 11. Reserves, Surplus or Emergency Fund.—(a) Each such company is authorized to accumulate a surplus or emergency fund in such amount as may be deemed advisable by its board of directors.

(b) The first twenty-five thousand dollars of such accumulated surplus shall be in cash or invested in government securities described in section seven of article eight of this chapter, and the balance of such surplus may be invested in any of the other classes of investments described in said article eight, subject to the limitations as to each such class provided therein.

(c) All assets of such company other than such accumulated surplus shall be in cash or invested in the government securities described in section seven of article eight of this chapter.

Sec. 12. Limit of Risk.—No such company shall insure any single risk comprising a building and contents or other property so located as to be subject to destruction by a single fire for a greater amount than one thousand dollars until its insurance in force shall be as much as five hundred thousand dollars, nor shall it then insure any such risks for an amount greater than one-fifth of one percent of the net insurance in force under its policies,
or ten percent of its surplus, whichever is greater, unless
the risks insured by the company in excess of the amounts
above stipulated are simultaneously covered by re-in-
surance.

Sec. 13. Reinsurance; Joint Policies.—(a) Such com-
pany may procure reinsurance on any or all of its risks
in licensed insurers transacting like kinds of insurance;
and such company may issue policies of reinsurance to
other licensed insurers transacting like kinds of insur-
ance.
(b) Two or more such companies may issue policies
jointly.

Sec. 14. Notices to Members.—All notices of cancella-
tion of policies or reduction thereof and all other notices
to members required by this article shall be delivered
personally or mailed in a sealed envelope addressed to the
last known address of the member and when so given
they shall be deemed sufficient and binding upon the
member so notified.

Sec. 15. Termination, Cancellation and Suspension of
Membership.—(a) Any member of a company may with-
draw therefrom upon written notice to the company.
Every member so withdrawing shall immediately sur-
render his policy and pay to the extent of his liability
as stated in the policy, all of his indebtedness legally due
the company.
(b) No member shall be liable for losses or expenses
occurring subsequent to the time of termination of his
membership.
(c) The company may cancel any policy upon at least
five days written notice to the holder.
(d) A company may, in its by-laws, provide for the
suspension of its liability for loss upon any policy from
the date when an unpaid assessment becomes due if notice
is given to the member five days before the suspension
is to become effective, and the payment of such assess-
ment shall only reinstate such policy from the date of
such payment, but no allowance shall be made in any
assessment because of such suspension.
Sec. 16. Fees.—Such company at the time of making its annual report shall pay to the commissioner a filing fee of five dollars, all fees so collected to go into the fund for the purposes specified in section thirteen of article three of this chapter. No other fees or taxes shall be levied against such companies except the agent's license fee and the expenses of examination thereof by the commissioner.

Sec. 17. Dissolution, Member's Share of Assets.—Upon the liquidation of any such company, the share of each member in the assets shall be computed and distributed in the manner provided in section twenty-nine of article five of this chapter for computing and distributing the share of members of other types of domestic mutual insurers.

Sec. 18. Mergers and Consolidations.—(a) No farmers' mutual fire insurance company shall merge or consolidate with any stock insurer or with any other type of mutual insurer.

(b) A farmers' mutual fire insurance company may merge or consolidate with another farmers' mutual fire insurance company in the manner provided in section twenty-eight of article five of this chapter for the merger or consolidation of other types of domestic mutual insurers.

Sec. 19. Conversion to Stock or Mutual Insurer.—(a) A farmers' mutual fire insurance company may become a stock insurer in the manner provided in section twenty-four of article five of this chapter for converting other types of domestic mutual insurers to domestic stock insurers, or

(b) A farmers' mutual fire insurance company may become a domestic mutual insurer pursuant to such plan and procedure as may be approved in advance by the commissioner, subject to approval by vote of not less than three-fourths of the company's current members voting thereon in person, by proxy, or by mail at a meeting of members called for that purpose pursuant to such notice and procedure as may be approved by the commis-
sioner, and subject to such company as reorganized com-
plying with all requirements of this chapter relating to
the initial organization and licensing of a domestic mutual
insurer transacting like kinds of insurance as those pro-
posed to be transacted by the reorganized company.

Article 23. Fraternal Benefit Societies

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Section 1. Scope of Article.—Every fraternal benefit
society shall be governed by the provisions of this article
and by no other provisions of this chapter except such
provisions as are specifically made applicable and referred
to in this article.

Sec. 2. Other Provisions Applicable.—Every fraternal
benefit society shall be governed and be subject, to the
same extent as other insurers transacting like kinds of
insurance, to the following articles of this chapter: article
one (definitions), article two (insurance commissioner),
article four (general provisions), article ten (rehabilita-
tion and liquidation), and article eleven (unfair practices
and frauds).

Sec. 3. Fraternal Benefit Societies Defined.—Any in-
corporated society, order or supreme lodge, without capital
stock, including one exempted under the provisions of
subparagraph (2) of paragraph (a) of section thirty-four
of this article, whether incorporated or not, conducted
solely for the benefit of its members and their benefici-
aires and not for profit, operated on a lodge system with
ritualistic form of work, having a representative form of
government, and which makes provision for the payment
of benefits in accordance with this article, is hereby de-
cclared to be a fraternal benefit society. When used in
this article the word “society”, unless otherwise indicated,
shall mean fraternal benefit society.

Sec. 4. Lodge System Defined.—A society having a
supreme legislative or governing body and subordinate
lodges or branches by whatever name known, into which
members are elected, initiated or admitted in accordance
with its constitution, laws, ritual and rules, which sub-
ordinate lodges or branches shall be required by the laws
of the society to hold regular meetings at least once in
each month, shall be deemed to be operating on the lodge
system.

Sec. 5. Representative Form of Government Defined.—
A society shall be deemed to have a representative form
of government when:

(a) it provides in its constitution or laws for a supreme
legislative or governing body, composed of representa-
tives elected either by the members or by delegates elected
directly or indirectly by the members, together with such
other members of such body as may be prescribed by the
society’s constitution and laws;

(b) the representatives elected constitute a majority
in number and have not less than two-thirds of the votes
nor less than the votes required to amend its constitution
and laws;
14  (c) the meetings of the supreme legislative or govern-
15 ing body and the election of officers, representatives or 
16 delegates are held as often as once in four calendar years; 
17  (d) each insured member shall be eligible for election 
18 to act or serve as a delegate to such meeting; 
19  (e) the society has a board of directors charged with 
20 the responsibility for managing its affairs in the interim 
21 between meetings of its supreme legislative or governing 
22 body, subject to control by such body and having powers 
23 and duties delegated to it in the constitution or laws of 
24 the society; 
25  (f) such board of directors is elected by the supreme 
26 legislative or governing body, except in case of filling a 
27 vacancy in the interim between meetings of such body; 
28  (g) the officers are elected either by the supreme legis-
29 lative or governing body or by the board of directors; 
30 and 
31  (h) the members, officers, representatives or delegates 
32 shall not vote by proxy.

Sec. 6. Organization.—The organization of a domestic 
2 society shall be governed as follows:
3  (a) Seven or more citizens of the United States, a ma-
4 jority of whom are citizens of this state, who desire to 
5 form a fraternal benefit society, may make, sign and 
6 acknowledge before some officer, competent to take 
7 acknowledgment of deeds, articles of incorporation, in 
8 which shall be stated:
9  (1) the proposed corporate name of the society, which 
10 shall not so closely resemble the name of any society or 
11 insurance company as to be misleading or confusing; 
12  (2) the purposes for which it is being formed and the 
13 mode in which its corporate powers are to be exercised. 
14 Such purposes shall not include more liberal powers than 
15 are granted by this article: Provided, That any lawful, 
16 social, intellectual, educational, charitable, benevolent, 
17 moral, fraternal or religious advantages may be set forth 
18 among the purposes of the society; and
19  (3) the names and residences of the incorporators and 
20 the names, residences and official titles of all the officers,
trustees, directors, or other persons who are to have and
eexercise the general control of the management of the
affairs and funds of the society for the first year or until
the ensuing election at which all such officers shall be
elected by the supreme legislative or governing body,
which election shall be held not later than one year from
the date of the issuance of the permanent certificate.

(b) Such articles of incorporation, duly certified copies
of the constitution, laws and rules, copies of all proposed
forms of certificates, applications therefor, and circulars
to be issued by the society and a bond conditioned upon
the return to applicants of the advanced payments if
the organization is not completed within one year, such
bond to be in an amount to be determined by the com-
missioner not to exceed the sum of twenty-five thousand
dollars with sureties approved by the commissioner,
shall be filed with the commissioner, who may require
such further information as he deems necessary. All
documents filed are to be in the English language. If the
purposes of the society conform to the requirements of
this article and all provisions of law have been complied
with, the commissioner shall approve same in writing,
whereupon the incorporators may file such approved ar-
ticles with the secretary of state of this state and receive
a certificate of incorporation in the same manner as such
certificates are issued to other non-stock corporations.

(c) No certificate granted under the provisions of this
section shall be valid after one year from its date or after
such further period, not exceeding one year, as may be
authorized by the commissioner upon cause shown, unless
the five hundred applicants hereinafter required have
been secured and the organization has been completed
as herein provided. The articles of incorporation and all
other proceedings thereunder shall become null and void
in one year from the date of the certificate, or at the
expiration of the extended period, unless the society shall
have completed its organization and received a license as
hereinafter provided.

(d) Upon receipt of the certificate of incorporation, the
society may solicit members for the purpose of complet-
ing its organization, shall collect from each applicant the
amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

1. actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars on not less than five hundred lives;

2. all such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

3. certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

4. ten subordinate lodges or branches have been established into which the five hundred applicants have been admitted;

5. there has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

6. it shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. Said advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, such premiums shall be returned to said applicants.
(e) The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a license to transact insurance pursuant to the provisions of this article. The license shall be prima facie evidence of the existence of the society at the date of such license. The commissioner shall cause a record of such license to be made. A certified copy of such record may be given in evidence with like effect as the original license.

(f) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

Sec. 7. Corporate Powers Retained.—Any incorporated society licensed to transact insurance in this state at the time this article becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this article and in its charter, articles of incorporation and license as far as consistent with this article. A domestic incorporated society shall not be required to re-incorporate.

Sec. 8. Existing Voluntary Associations.—(a) After one year from the effective date of this article, no unincorporated or voluntary association shall be permitted to transact business in this state.

(b) Any domestic voluntary association now licensed to transact insurance in this state may incorporate and shall receive from the commissioner a license as a fraternal benefit society when:

(1) it shall have completed its conversion to an incorporated society not later than one year from the effective date of this article;
(2) it has filed its articles of incorporation and has satisfied the other requirements described in section six of this article; and

(3) the commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

(c) Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Sec. 9. Office and Meetings of Domestic Society.—The principal office of any domestic society shall be located in this state. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

Sec. 10. Consolidations and Mergers.—(a) A domestic society may make application to consolidate or merge with any other society by filing with the commissioner:

(1) a certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(2) a sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December thirty-first, next preceding the date of the contract;

(3) a certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and
(4) evidence that at least sixty days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

(b) If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commissioner or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance supervisory official of such state or territory and a certificate of such approval filed with the commissioner.

(c) Upon the consolidation or merger becoming effective as herein provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(d) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document,
stating that such notice or document has been duly ad-
dressed and mailed, shall be prima facie evidence that
such notice or document has been furnished the ad-
dressees.

Sec. 11. Conversion of Society to Mutual Life Insurer.—
Any domestic fraternal benefit society may be converted
and licensed as a mutual life insurance company by com-
pliance with all the requirements of this chapter for the
initial licensing of a domestic mutual life insurer, if such
plan of conversion has been approved by the commissioner.
Such plan shall be prepared in writing setting forth in
full the terms and conditions thereof. The board of di-
rectors shall submit such plan to the supreme legislative
or governing body of such society at any regular or special
meeting thereof, by giving a full, true and complete copy
of such plan with the notice of such meeting. Such notice
shall be given as provided in the laws of the society for
the convocation of a regular or special meeting of such
body, as the case may be. The affirmative vote of two-
thirds of all members of such body shall be necessary for
the approval of such agreement. No such conversion shall
take effect unless and until approved by the commissioner
who may give such approval if he finds that the proposed
change is in conformity with the requirements of law and
not prejudicial to the certificate holders of the society.

Sec. 12. Qualifications for Membership.—(a) A society
may admit to benefit membership any person not less than
fifteen years of age, nearest birthday, who has furnished
evidence of insurability acceptable to the society. Any
such member who shall apply for additional benefits more
than six months after becoming a benefit member shall
pass an additional medical examination, or make an
additional declaration of insurability, as required by the
society.
(b) Any person admitted prior to attaining the full age
of twenty-one years shall be bound by the terms of the
application and certificate and by all the laws and rules
of the society and shall be entitled to all the rights and
privileges of membership therein to the same extent as
though the age of majority had been attained at the time
of application. A society may also admit general or social
members who shall have no voice or vote in the manage-
ment of its insurance affairs.

Sec. 13. Amendment of Articles of Incorporation, Con-
stitution and Laws.—(a) A domestic society may amend
its articles of incorporation, constitution or laws in accord-
ance with the provisions thereof by action of its supreme
legislative or governing body at any regular or special
meeting thereof or, if its articles of incorporation, consti-
tution or laws so provide, by referendum. Such referen-
dum may be held in accordance with the provisions of
its article of incorporation, constitution or laws by the
vote of the voting members of the society, by the vote
of delegates or representatives of voting members or
by the vote of local lodges or branches. No amend-
ment submitted for adoption by referendum shall be
adopted unless, within six months from the date of sub-
mission thereof, a majority of all of the voting members
of the society shall have signified their consent to such
amendment by one of the methods herein specified.

(b) No amendment to the articles of incorporation,
constitution or laws of any domestic society shall take
effect unless approved by the commissioner who shall
approve such amendment if he finds that it has been duly
adopted and is not inconsistent with any requirement of
the laws of this state or with the character, objects and
purposes of the society. Unless the commissioner shall
disapprove any such amendment within sixty days after
the filing of same, such amendment shall be considered
approved. The approval or disapproval of the commis-
sioner shall be in writing and mailed to the secretary or
corresponding officer of the society at its principal office.
In case he disapproves such amendment, the reasons
therefor shall be stated in such written notice.

(c) Within ninety days from the approval thereof by
the commissioner, all such amendments, or a synopsis
thereof, shall be furnished to all members of the society
either by mail or by publication in full in the official organ
of the society. The affidavit of any officer of the society
or of anyone authorized by it to mail any amendments
or synopsis thereof, stating facts which show that same
have been duly addressed and mailed, shall be prima
facie evidence that such amendments or synopsis thereof,
have been furnished the addressee.
(d) Every foreign or alien society authorized to do
business in this state shall file with the commissioner a
duly certified copy of all amendments of, or additions to,
its articles of incorporation, constitution or laws within
ninety days after the enactment of same.
(e) Printed copies of the constitution or laws as amend-
ed, certified by the secretary or corresponding officer of
the society shall be prima facie evidence of the legal
adoption thereof.

Sec. 14. Institutions.—(a) It shall be lawful for a society
to create, maintain and operate charitable, benevolent or
educational institutions for the benefit of its members and
their families and dependents and for the benefit of child-
ren insured by the society. For such purpose it may own,
hold or lease personal property or real property located
within or without this state, with necessary buildings
thereon. Such property shall be reported in every annual
statement but shall not be allowed as an admitted asset of
such society.
(b) Maintenance, treatment and proper attendance in
any such institution may be furnished free or a reasonable
charge may be made therefor, but no such institution
shall be operated for profit. The society shall maintain a
separate accounting of any income and disbursements
under this section and report them in its annual statement.
No society shall own or operate funeral homes or under-
taking establishments.

Sec. 15. Benefits Other Than Insurance Benefits.—(a)
A society may pay benefits, other than insurance benefits
to its members from any special account or fund main-
tained for such purpose; provided that if such benefits
are of such a nature that they could constitute benefits
within the classes of insurance set forth in section seven-
ten of this article, a society making such payments may
not:
(1) make any separate charge therefor;
(2) issue any certificate, policy or other document promising such payments;
(3) provide in its constitution, laws or any other document that such payments may be received by the member as a matter of right; or
(4) advertise such payments as insurance or as payments to which the member has any right.
(b) The society shall maintain a separate accounting of all disbursements made under this section and report them in its annual statement.

Sec. 16. No Personal Liability.—The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

Sec. 17. Benefits.—A society licensed in this state may provide for the payment of:
(a) death benefits in any form;
(b) endowment benefits;
(c) annuity benefits;
(d) temporary or permanent disability benefits as a result of disease occurring before age sixty-five or accident at any age;
(e) hospital, medical or nursing benefits due to sickness or bodily infirmity occurring before age sixty-five or accident at any age; and
(f) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars.

Sec. 18. Benefits on Lives of Children.—(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than twenty-one years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section seventeen of this article. A society may, at its option, organize and operate branches for such children. Membership and initiation in local
lodges shall not be required of such children, nor shall
they have a voice in the management of the society.

(b) Children insured under certificates issued pursuant
to this section shall be transferred to and become mem-
bers of the adult branch of the society upon attaining the
minimum age for adult membership under the laws of the
society.

(c) A society shall have power to provide for the design-
ation and changing of designation of beneficiaries in the
certificates providing for such benefits and to provide in
all other respects for the regulation, government and con-
trol of such certificates and all rights, obligations and
liabilities incident thereto and connected therewith.

Sec. 19. Nonforfeiture Benefits, Cash Surrender Values,
Loans and Options.—(a) A society may grant paid-up
nonforfeiture benefits, cash surrender values, certificate
loans and such other options as its laws may permit. As
to certificates issued on and after the effective date of this
article, a society shall grant at least one paid-up nonfor-
feiture benefit.

(b) In the case of certificates other than those for which
reserves are computed on the Commissioners 1941 Stan-
dard Ordinary Mortality Table or the 1941 Standard In-
dustrial Table, the value of every paid-up nonforfeiture
benefit and the amount of any cash surrender value, loan
or other option granted shall not be less than the excess,
if any, of (1) over (2) as follows:

(1) the reserve under the certificate determined on the
basis specified in the certificate; and

(2) the sum of any indebtedness to the society on the
certificate, including interest due and accrued, and a sur-
render charge equal to two and one-half percent of the
face amount of the certificate, which, in the case of insur-
ance on the lives of children, shall be the ultimate face
amount of the certificate, if death benefits provided therein
are graded.

(c) However, in the case of certificates issued on a sub-
standard basis or in the case of certificates, the reserves
for which are computed upon the American Men Ultimate
Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty percent of those shown by the mortality table specified in the certificate for the computation of the reserve.

(d) In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table or the 1941 Standard Industrial Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this state applicable to life insurance companies issuing policies containing like insurance benefits based upon such tables.

Sec. 20. Beneficiaries.—(a) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of five hundred dollars.

(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

Sec. 21. Benefits Not Attachable.—No money or other benefit, charity, relief or aid to be paid, provided or ren-
Sec. 22. The Contract.—(a) Every society licensed in this state shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

(b) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

(c) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

(d) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received as evidence of the terms and conditions thereof.

(e) A society shall provide in its constitution or laws and in its certificates that if its reserves as to all or any
class of certificates become impaired its board of directors
or corresponding body may require that there shall be
paid by the member to the society the amount of the mem-
er's equitable proportion of such deficiency as ascertained
by its board, and that if the payment be not made it shall
stand as an indebtedness against the certificate and draw
interest not to exceed five percent per annum compounded
annually.

Sec. 23. Standard and Prohibited Provisions.—(a) No
life benefit certificate shall be delivered or issued for
delivery in this state unless a copy of the form shall have
been filed with the commissioner and approved by him as
conforming to the requirements of this section and not
inconsistent with any other provisions of law applicable
thereto. A certificate shall be deemed approved unless
disapproved by the commissioner within sixty days of the
date of such filing.

(b) The certificate shall contain in substance the follow-
ing standard provisions or, in lieu thereof, provisions which
are more favorable to the member:

(1) title on the face and filing page of the certificate
clearly and correctly describing its form;

(2) a provision stating the amount of rates, premiums
or other required contributions, by whatever name known,
which are payable by the insured under the certificate;

(3) a provision that the member is entitled to a grace
period of not less than a full month (or thirty days at the
option of the society) in which the payment of any pre-
mium after the first, may be made. During such grace
period the certificate shall continue in full force, but in
case the certificate becomes a claim during the grace
period before the overdue payment is made, the amount
of such overdue payment or payments may be deducted in
any settlement under the certificate;

(4) a provision that the member shall be entitled to
have the certificate reinstated at any time within three
years from the due date of the premium in default, unless
the certificate has been completely terminated through
the application of a nonforfeiture benefit, cash surrender
value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six percent per annum compounded annually;

(5) except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of fifteen years or less expiring before age sixty-six, a provision that, in the event of default in payment of any premium after three full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this article. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

(6) a provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty days after the due date of the premium in default;

(7) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

(8) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty certificate years or during the term of the certificate whichever is shorter;
72 (9) a provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as herein provided;

79 (10) a provision that in case the age of the member or of the beneficiary is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premium paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

106 (11) a provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the re-
duction of, the benefit or benefits payable under the cer-
tificate;

(12) if the constitution or laws of the society provide
for expulsion or suspension of a member, any member so
expelled or suspended, except for nonpayment of a pre-
mium or within the contestable period for material mis-
representations in such member's application for member-
ship shall have the privilege of maintaining his insurance
in force by continuing payment of the required premium;
and

(13) in the case of a certificate issued by a foreign or
alien society, a provision that the rights or obligations of
the member or of any person rightfully claiming under
the certificate shall be governed by the laws of this state.

(c) Any of the foregoing provisions set forth in para-
graph (b) of this section, or portions thereof, not appli-
cable by reason of the plan of insurance or because the
certificate is an annuity certificate may, to the extent in-
applicable, be omitted from the certificate.

(d) No life benefit certificate shall be delivered or
issued for delivery in this state containing in substance
any of the following provisions:

(1) any provision limiting the time within which any
action at law or in equity may be commenced to less than
two years after the cause of action shall accrue;

(2) any provision by which the certificate shall purport
to be issued or to take effect more than six months before
the original application for the certificate was made, ex-
cept in case of transfer from one form of certificate to
another in connection with which the member is to receive
credit for any reserve accumulation under the form of
certificate from which the transfer is made; or

(3) any provision for forfeiture of the certificate for
failure to repay any loan thereon or to pay interest on
such loan while the total indebtedness, including interest,
is less than the loan value of the certificate.

(e) The word “premiums” as used in this article means
premiums, rates, or other required contributions by what-
ever name known.
Sec. 24. Filing and Approval of Accident and Sickness Insurance Certificates.—No domestic, foreign or alien society licensed in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident and sickness insurance unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The commissioner shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The commissioner may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the one or ones so required. Pursuant to the foregoing provisions the commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts. and such regulations shall conform, as far as practicable, to the provisions of article fifteen (accident and sickness insurance) and article sixteen (group accident and sickness insurance) of this chapter. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing articles, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within sixty days from the date of such filing.

Sec. 25. Waiver.—The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

Sec. 26. Reinsurance.—A domestic society may, by an
2 authorized reinsurance agreement, cede any individual
3 risk or risks in whole or in part to an insurer (other than
4 another fraternal benefit society) having the power to
5 make such reinsurance; but no such society may reinsure
6 substantially all of its insurance in force without the
7 written permission of the commissioner.

Sec. 27. Licensing of Foreign and Alien Societies.—(a) 
2 No foreign or alien society shall transact business in this
3 state without a license issued by the commissioner. Any
4 such society may be licensed to transact business in this
5 state upon filing with the commissioner.
6 (1) a duly certified copy of its charter or articles of
7 incorporation;
8 (2) a copy of its constitution and laws, certified by its
9 secretary or corresponding officer;
10 (3) a statement of its business under oath of its presi-
11 dent and secretary or corresponding officers in a form
12 prescribed by the commissioner, duly verified by an ex-
13 amination made by the supervising insurance official of its
14 home state or other state, territory, province or country,
15 satisfactory to the commissioner;
16 (4) a certificate from the proper official of its home
17 state, territory, province or country that the society is
18 legally incorporated and licensed to transact business
19 therein;
20 (5) copies of its certificate forms; and
21 (6) such other information as he may deem necessary;
22 and upon a showing that its assets are invested in accord-
23 ance with the provisions of this article.
24 (b) No license shall be issued to a foreign or alien
25 society desiring admission to this state unless such society
26 has the qualifications required of domestic societies orga-
27 nized under this article.

Sec. 28. Term of License, Renewal, Refusal to License, 
2 Revocation or Suspension, Penalty in Lieu Thereof, Re-
3 issuance.—The term of license, renewal thereof, refusal 
4 to license, revocation or suspension of license or penalty 
5 in lieu thereof, and reissuance of license of all societies
shall be governed by the provisions of sections eight, nine, ten, and eleven of article three of this chapter, to the same extent that such sections are applicable to other insurers.

Sec. 29. Fees and Taxation.—(a) Each society shall pay to the commissioner an annual license fee of twenty-five dollars and a fee of ten dollars for filing the annual statement of such society, all fees so collected to go into the fund for the purposes specified in section thirteen of article three of this chapter.

(b) Every society licensed under this article is hereby declared to be a charitable and benevolent institution, and all of its funds and assets shall be exempt from all state, county, district and municipal taxes except taxes on real property and office equipment.

Sec. 30. Funds.—(a) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

(b) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this article, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

Sec. 31. Investments.—(a) A domestic society shall invest its funds only in such investments as are authorized by article eight of this chapter for the investment of the assets of domestic insurers, except that paragraph (a) of
section six of article eight of this chapter shall not apply to societies.

(b) Foreign and alien societies shall have investments of the same general quality as required of domestic societies, except that other investments authorized by the laws of such foreign or alien society's state or country of domicile may be recognized as assets in the discretion of the commissioner.

Sec. 32. Reports and Valuations.—In addition to the annual statement required by section fourteen of article four of this chapter, reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section as follows:

(a) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than the first day of June of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

(b) As a part of the annual statement required of each society, it shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December thirty-first last preceding provided, the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this article shall be determined in accordance with the provisions of law applicable prior
to the effective date of this article and as to certificates
issued on or after one year from the effective date of this
article shall not be less than the reserves determined
according to the Commissioners' Reserve Valuation
method as hereinafter defined. If the premium charged
is less than the tabular net premium according to the
basis of valuation used, an additional reserve equal to
the present value of the deficiency in such premiums
shall be set up and maintained as a liability. The reserve
liabilities shall be properly adjusted in the event that the
mid-year or tabular values are not appropriate.

(c) Reserves according to the Commissioners' Reserve
Valuation method, for the life insurance and endowment
benefits of certificates providing for a uniform amount
of insurance and requiring the payment of uniform
premiums shall be the excess, if any, of the present value,
at the date of valuation, of such future guaranteed bene-
fits provided for by such certificates, over the then present
value of any future modified net premiums therefor. The
modified net premiums for any such certificate shall be
such uniform percentage of the respective contract pre-
miums for such benefits that the present value, at the
date of issue of the certificate, of all such modified net
premiums shall be equal to the sum of the then present
value of such benefits provided for by the certificate and
the excess of (1) over (2), as follows:

(1) a net level premium equal to the present value,
at the date of issue, of such benefits provided for after
the first certificate year, divided by the present value,
at the date of issue, of an annuity of one per annum
payable on the first and each subsequent anniversary of
such certificate on which a premium falls due: Provided,
however, That such net level annual premium shall not
exceed the net level annual premium on the nineteen
year premium whole life plan for insurance of the same
amount at an age one year higher than the age at issue
of such certificate; and

(2) a net one-year term premium for such benefits pro-
vided for in the first certificate year.

(d) Reserves according to the commissioners' reserve
valuation method for (1) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (2) annuity and pure endowment benefits, (3) disability and accidental death benefits in all certificates and contracts, and (4) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of paragraph (c) of this section.

(e) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

(f) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(g) The minimum standards of valuation for certificates issued prior to one year from the effective date of this article shall be those provided by the law applicable immediately prior to the effective date of this article but not lower than the standards used in the calculating of rates for such certificates.

(h) The minimum standard of valuation for certificates issued after one year from the effective date of this article shall be three and one-half percent interest and the following tables:

(1) for certificates of life insurance—American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof or with the consent of the commissioner, the Commissioners 1941 Standard Ordinary Mortality Table or the Commissioners 1941 Standard Industrial Table of Mortality;

(2) for annuity certificates, including life annuities provided or available under optional modes of settlement in such certificates—the 1937 Standard Annuity Table;

(3) for disability benefits issued in connection with life benefit certificates—Hunter's Disability Table, which, for active lives, shall be combined with a mortality table permitted for calculating the reserves on life insurance
113 certificates, except that the table known as Class III Disability Table (1926) modified to conform to the contractual waiting period, shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period;

119 (4) for accidental death benefits issued in connection with life benefit certificates—the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

124 (5) for non-cancellable accident and sickness benefits—the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

128 (i) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

143 (j) Any society, with the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

Sec. 33. *Agents.*—Agents for societies shall not be required to be licensed, but every society shall employ
or authorize only trustworthy and competent persons as their agents.

Sec. 34. Exemption of Certain Societies.—(a) Nothing contained in this article shall be so construed as to affect or apply to:

(1) grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(2) orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business insuring only their own members, their families and descendants of members and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(3) domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both; or

(4) domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

(b) Any such society or association described in subparagraphs (3) or (4) of paragraph (a) of this section which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subparagraph (4) which has more than one thousand members, shall not be exempted from the provisions of this article but shall comply with all requirements thereof.

(c) No society which, by the provisions of this section, is exempt from the requirements of this article, except any society described in subparagraph (2) of paragraph (a) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.
(d) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this article except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(e) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this article.

(f) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of this chapter.

Article 24. Hospital Service Corporations and Medical Service Corporations

Section 1. Declaration of Policy.—In view of the desirability of making available to the people of this state increased hospital, medical services and other health services, the declared policy of the legislature in the enactment of this article is to encourage the organization, promotion and expansion of hospital service corporations and medical service corporations by exempting them from the payment of all taxes and from the operation of the general insurance laws of this state, but at the same time subjecting them to such regulation as may be necessary for the adequate protection of those members of the pub-
lic who subscribe for the services offered by such corporations.

Sec. 2. Definitions.—For the purposes of this article:
(a) "Corporation" shall mean either a hospital service corporation or a medical service corporation.
(b) "Hospital service corporation" shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of chapter thirty-one of this Code for the sole purpose of contracting with the public and with hospitals and other health agencies for hospital or other health services to be furnished to subscribers under terms of their contract with the corporation.
(c) "Hospital service" shall mean only such hospital or other health care, to be provided by hospitals or other health agencies, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.
(d) "Medical service corporation" shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of chapter thirty-one of this Code for the sole purpose of contracting with the public and with duly licensed physicians for medical or surgical services and with other health agencies for other health services to be furnished to subscribers under terms of their contracts with the corporation, and controlled by a board of directors, the majority of whom are duly licensed physicians.
(e) "Medical service" shall mean only such medical, surgical or other health care, to be provided by duly licensed physicians or other health agencies, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.
(f) "Service" shall mean such hospital, medical or other health service as shall be provided under the terms of the contracts issued by the corporation to subscribers.
(g) "Commissioner" shall mean the insurance commissioner of West Virginia.

Sec. 3. Corporations Affected; Eligibility of Hospitals and Physicians.—(a) Every such corporation operating
within this state shall be subject to the provisions of this article.

(b) Every hospital or other health agency in this state meeting the standards prescribed by the board of directors of each such corporation shall be eligible for participation in any hospital service plan operating in this state. Every duly licensed physician or other health agency in this state meeting the standards prescribed by the board of directors of each such corporation shall be eligible for participation in any medical service plan operating in this state. The board of directors of every such corporation may also prescribe standards for hospitals, physicians and other health agencies located in states adjoining this state, and all such hospitals, physicians and other health agencies meeting such standards shall be eligible for participation in such plans.

Sec. 4. Exemptions; Other Laws Applicable.—Every such corporation is hereby declared to be a scientific, nonprofit institution, and as such exempt from the payment of all property and other taxes. Every such corporation, to the same extent such provisions are applicable to insurers transacting similar kinds of insurance and not inconsistent with the provisions of this article, shall be governed by and be subject to the provisions of the following articles of this chapter: article two (insurance commissioner) except that under section nine of article two examinations shall be conducted at least once every four years, article four (general provisions) except that section sixteen of article four shall not be applicable thereto, article ten (rehabilitation and liquidation), article eleven (unfair practices and frauds), and article twelve (agents, brokers and solicitors) except that the agent's license fee shall be one dollar; and no other provision of this chapter shall apply to such corporations unless specifically made applicable by the provisions of this article. If, however, any such corporation shall be converted into a corporation organized for a pecuniary profit, or if it shall transact business without having obtained a license as required by section five of this article, it shall thereupon forfeit its right to these exemptions.
Sec. 5. Licenses.—(a) No such corporation shall enter into any contract with a subscriber until it has obtained from the commissioner a license as provided in this section. Application for a license shall be made on forms to be prescribed and furnished by the commissioner.

(b) Such application shall be accompanied by a copy of the following documents: (1) Certificate of incorporation; (2) By-laws; (3) Contracts between the corporation and participating hospitals, physicians or other health agencies; (4) Proposed contracts to be issued to subscribers, setting forth the hospital or medical service to which subscribers are entitled, and the table of rates to be charged for such service; and (5) Financial statement, showing the amount of contributions paid, or agreed to be paid, to the corporation for working capital, the name or names of each contributor, and the terms of each contribution.

(c) Within thirty days after receipt of an application, the commissioner shall, upon payment to him of a license fee of one hundred dollars, issue a license authorizing the corporation to transact business in this state in the area to be served by it, if he is satisfied (1) that the applicant is incorporated in this state under the provisions of article one of chapter thirty-one of this code as a bona fide nonprofit corporation, (2) that the contracts between the corporation and participating hospitals, physicians and other health agencies contain all the terms required by section seven of this article, (3) that the working capital available to the corporation will be sufficient to pay all operating expenses, other than payment for hospital or medical services, for a reasonable period after the issuance of the license, and (4) that the proposed plan will serve the best interests of all of the people of the area in which the corporation intends to operate, regardless of their race, color or economic status. Any license so issued may be renewed annually upon payment to the commissioner of a renewal fee of one hundred dollars.

(d) The term of such license, renewal, refusal to license, revocation, suspension, or penalty in lieu thereof, shall be governed by the provisions of sections eight, nine, ten
and eleven, of article three of this chapter, in the same
manner that such sections are applicable to insurers gen-
erally.

(e) No such corporation shall include in its name the
words "insurance", "casualty", "surety", "health and acci-
dent", "accident and sickness", "mutual", or any other
words descriptive of the insurance business; nor shall
such name be so similar to that of any insurer which was
licensed to transact insurance in this state when such
corporation was formed, as to tend, in the opinion of the
commissioner, to confuse the public.

Sec. 6. Supervision by Commissioner; Approval of Con-
tracts, Forms, Rates and Fees.—(a) It shall be the duty
of the commissioner to enforce the provisions of this
article.

(b) No such corporation shall deliver or issue for de-
delivery any subscriber's contract, changes in the terms
of such contract, application, rider, or endorsement, until
a copy thereof and the rates pertaining thereto have been
filed with and approved by the commissioner. All such
forms filed with the commissioner shall be deemed ap-
proved after the expiration of thirty days from the date
of such filing unless the commissioner shall have disap-
proved the same, stating his reasons for such disapproval
in writing, except that such period may be extended for
an additional period not to exceed fifteen days upon writ-
ten notice thereof from the commissioner to the applicant.
Such forms may be used prior to the expiration of such
periods if written approval thereof has been received from
the commissioner.

(c) No rates to be charged subscribers shall be used or
established by any such corporation unless and until the
same have been filed with the commissioner and approved
by him. The procedure for such filing and approval shall
be the same as that prescribed in paragraph (b) of this
section for the approval of forms. The commissioner shall
approve all such rates which are not excessive, inadequate
or unfairly discriminatory.

(d) The commissioner shall pass upon the actuarial
soundness of the schedule of fees to be paid hospitals, physicians and other health agencies.

Sec. 7. Required Provisions in Contracts Made by the Corporations with Hospitals, Physicians and Other Health Agencies.—Each contract made by the corporation with participating hospitals, physicians and other health agencies shall contain the following provisions:

(a) That the hospital, physician or other health agency will render to any subscriber such service as he may be entitled to under the terms and conditions of the contract issued to the subscriber by the corporation.

(b) That in submitting bills to the corporation for services rendered to subscribers under the terms of their contract, the hospitals, physicians and other health agencies will make only such charges as are set forth in an agreed schedule of fees to be paid by the corporation.

(c) That, in case of a deficit in available funds of the corporation, each participating hospital, physician or other health agency will, on the basis stated in this section, accept a pro rata share of available funds in full settlement of any bill submitted.

(d) That, in the event a surplus remains after an annual accounting of the financial condition of the corporation, such surplus may be used by the corporation, upon an affirmative vote of a majority of its board of directors, for the following purposes, in the order of priority stated below:

(1) To liquidate on a pro rata basis any losses incurred by hospitals, physicians or other health agency upon the settlement of bills in previous years.

(2) To return the original contributions for working capital, or any part thereof, on a pro rata basis.

(3) To reduce rates charged subscribers, or to expand the services rendered them.

Sec. 8. Contract or Certificate to be Furnished to Policyholders and Subscribers; Contracts with Needy Persons.—(a) Every such corporation shall deliver to each contract holder a copy of the contract and to each holder of a master group contract for delivery to each sub-
scriber to such group contract a certificate setting forth the essential terms of the contract to be performed.

(b) A corporation may accept from governmental agencies payment of all or part of the cost of subscriptions for hospital, medical or other health care rendered needy persons, and may accept from private agencies, corporations, associations, groups or individuals, similar payment for such service to be rendered needy or other persons.

Sec. 9. Payroll Deduction of Governmental Employees. — The officer charged with the duty of preparing the payroll of any subscriber, who is an employee of the state government or of any of its political subdivisions, including state operated educational institutions, may upon request of the subscriber deduct from his payroll the amount of the fee owed by the subscriber to any hospital service corporation or medical service corporation, provided enrollment regulations of the particular corporation are satisfied, in which case the officer shall pay over such amount to the corporation.

Sec. 10. Investments; Bonds of Corporate Officers and Employees.—(a) The funds of any such corporation shall be invested only as follows:

(1) Fifty percent of such funds shall be in cash or government securities of the type described in section seven of article eight of this chapter.

(2) The balance of such funds may be in cash or invested in the classes of investments described in the following sections of article eight of this chapter: section eleven (corporate obligations), section twelve (building and savings and loan shares, international bank), section thirteen (preferred or guaranteed stock), section fourteen (common stock), section sixteen (real property) and section eighteen (revenue bonds). All such investments shall be subject to all the restrictions and conditions contained in said article eight as applying to similar investments of insurers generally.

(b) Every officer or employee of any such corporation, who is entrusted with the handling of its funds, shall
Sec. 11. Reciprocity with Other Service Plans Defined; Payment Authorized.—Hospital and medical service corporations licensed and operating under provisions of this article are hereby authorized to promote and encourage reciprocity with other licensed hospital and medical plans, both within and without this state, in expanding their services to subscribers. In the event that a subscriber to a plan requires emergency hospital or medical service, or, in the event that the particular services that he receives are not available through the plan to which he subscribes, such plan is hereby authorized to make payment on behalf of such subscriber for such service on a basis not to exceed its schedule of fees to be paid hospitals or physicians, previously approved by the commissioner and on file in his office.

CHAPTER 98
( House Bill No. 245—By Mr. Richardson)

AN ACT to amend article eleven, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven, relating to the judicial council of West Virginia and providing allowance to its members for traveling expenses and the cost of food and lodging incurred by them in the performance of their official duties.

[Passed February 20, 1931; in effect July 1, 1931. Approved by the Governor.]


Section 7. Allowance to members of council for traveling expenses.
Be it enacted by the Legislature of West Virginia:

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

Section 7. Allowance to Members of Council for Traveling Expenses.—The members of the council shall receive no compensation for their services but they shall be entitled to an allowance of mileage at the rate of ten cents for each mile traveled and for the actual cost of food and lodging not to exceed ten dollars per day incurred by them in the performance of their official duties. Requisition for traveling expenses and the cost of food and lodging shall be accompanied by a sworn and itemized statement which shall be filed with the auditor and preserved as a public record.

CHAPTER 99
(House Bill No. 361—By Miss Hallanan and Mr. Myles)

AN ACT to amend and reenact sections one and two, article one, and section two, article two, all of chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to persons liable to serve as jurors, persons exempt and persons disqualified from serving on juries; and preparation of grand jury list, qualifications of grand jurors, preparation of ballots, and custody of such lists and ballots.

(Passed March 5, 1957; in effect from passage. Approved by the Governor.)

Article
1. Petit Juries.
2. Grand Juries.

Be it enacted by the Legislature of West Virginia:

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

**Article 1. Petit Juries.**

Section
1. Persons liable to service.
2. Exemptions and disqualifications.

Section 1. *Persons Liable to Service.*—All persons, who are twenty-one years of age and not over sixty-five, and who are citizens of this state, shall be liable to serve as jurors, except as hereinafter provided.

Sec. 2. *Exemptions and Disqualifications.*—The judge of any court may, in his discretion, exempt or excuse any person from jury service when it appears that such service would be improper or work an undue hardship. The following persons shall be disqualified from serving on juries: Idiots, lunatics, paupers, vagabonds, habitual drunkards, and persons convicted of infamous crimes.

**Article 2. Grand Juries.**

Section
2. Preparation of jury list; qualifications of jurors; ballots; custody of list and ballots.

Section 2. *Preparation of Jury List; Qualifications of Jurors; Ballots; Custody of List and Ballots.*—The jury commissioners appointed under the provisions of section three of article one of this chapter shall select and draw persons for grand juries. Such commissioners shall, at the levy term of the county court each year, and at any other time when required by the court which appointed them, or the judge thereof in vacation, prepare a list of not less than one hundred nor more than two hundred qualified persons of their county for grand jury service, chosen from the respective magisterial districts thereof, as nearly as may be in proportion to the population of the districts. The lists so prepared shall be submitted to the clerk of the court authorized to impanel a grand jury, or the judge thereof when required, and the name of any person who is not qualified shall be stricken from the list by the clerk or judge. The persons so listed shall be of good moral character, who have never been convicted of a felony or of any scandalous offense; and shall have been
bona fide citizens of the state and county for at least one year immediately preceding the preparation of the list, and shall not be office holders under the laws of the United States or of this state. At the time such jury list is made up, the jury commissioners shall cause all the names thereon to be written, each on a separate ballot, and shall fold, roll or prepare the same so as to resemble each other as nearly as may be, and so that the name written thereon shall not be visible on the outside, and shall inclose the ballots for each magisterial district in a separate envelope indorsed with the name of the magisterial district and the number of ballots inclosed, and shall deposit all the ballots, with the list, in a secure box to be prepared for the purpose, which shall be delivered to and safely kept by the clerk of the circuit court, and shall be known as the "grand jury box" and shall be opened only by the jury commissioners or by order of the judge of the court having control thereof.

CHAPTER 100
(House Bill No. 397—By Mr. Craig and Mr. Myles)

AN ACT to amend and reenact section eleven, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the method of summoning petit jurors.

(Passed March 9, 1937; in effect from passage. Approved by the Governor.)

Section 11. Special jury commissioners; delivery of list; summoning the jurors.

Be it enacted by the Legislature of West Virginia:
That section eleven, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
Section 11. Special Jury Commissioners; Delivery of List; Summoning the Jurors.—If either, or both, of the jury commissioners fail to attend as required by such summons, the clerk of the circuit court shall appoint a special jury commissioner or commissioners, having the qualifications herein required, to act in his or their place and stead, for the time being, and such jurors shall be drawn by such commissioners; and it shall be the duty of the clerk of such court to place the list thereof in the hands of the sheriff or other officer authorized to summon them. And it shall be the duty of such officer, at least three days before the time when the jurors are required to attend, to summon each person who is drawn to attend the sitting of the court at the time and place mentioned in the writ, and make due return thereof, and of the summons aforesaid, to such court, at the opening thereof.

In addition to any other method provided by law, any person named in writs of venire facias, or a summons for jurors, by direction of the court, may be served by the sheriff mailing a copy thereof to such person commanding him to attend as a juror, at a time and place designated therein, which copy shall be registered or certified and deposited in the post office, addressed to such person at his usual post-office address. And the personal receipt of the person so addressed for such registered or certified copy shall be regarded as personal service of such writ or summons upon such person.

CHAPTER 101
(House Bill No. 24—By Mr. Rife)

AN ACT to amend and reenact section twenty-one, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation of jurors; taxation of jury fees as costs; disposition thereof.

[Passed January 28, 1957; in effect July 1, 1957. Approved by the Governor.]

Section
21. Compensation of jurors; taxation of jury fees as costs; disposition thereof.

Be it enacted by the Legislature of West Virginia:

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

Section 21. Compensation of Jurors; Taxation of Jury Fees as Costs; Disposition Thereof.—Any person summoned as aforesaid, by virtue of a venire facias or otherwise, to serve as a petit juror, and actually attending upon the court, or attending at the courthouse, at the time summoned, whether he be called to serve on a jury or not, shall, for each day he so attends, be entitled to receive the sum of not less than five and not more than eight dollars, to be fixed by order entered of record, and the same mileage allowed to witnesses, to be paid out of the county treasury: Provided, That the per diem aforesaid shall be paid out of the state treasury for the day or days any person serves as a juror on a felony case; that for each day he shall not actually attend at the courthouse he shall receive nothing, and that he shall be allowed mileage but once during the term: Provided further, That when a jury in case of felony shall be placed in the custody of the sheriff, he shall provide for and furnish such jury necessary meals and lodging while they are in such sheriff's custody, at a reasonable cost to be determined by an order of the court, and such meals and lodging shall be paid for out of the state treasury, as provided for above, for jury service in felony cases. There shall be taxed in the costs against any person against whom a judgment on the verdict of a jury may be rendered in a case of misdemeanor, and against any person against whom judgment on the verdict of a jury may be rendered in a civil action, and against any person on whose motion the verdict of a jury is set aside and a new trial granted, eight dollars for jury costs, which, when collected from the party, shall be paid into the county treasury. All money so received by the clerk shall be forth-
with paid by him to the sheriff, and the clerk and his surety shall be liable therefor on his official bond as for other money coming into his hands by virtue of his office.

The clerk of the circuit court of each county in this state shall annually certify to the county court a list of all money so paid to him, and by him paid to the sheriff, and, in addition thereto, a correct list of all the cases in which jury fees have been taxed, and are, at the time, properly due and payable in the county treasury, and the sheriff of the county shall be held to account in his annual settlement for all such moneys collected by him.

CHAPTER 102

( House Bill No. 191—By Mr. Rife and Mr. Plymale)

AN ACT to amend and reenact section thirteen, article two, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation and mileage of grand jurors.

[Passed February 13, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 2. Grand Juries.

Section
13. Compensation and mileage of grand jurors.

Be it enacted by the Legislature of West Virginia:

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

Section 13. Compensation and Mileage of Grand Jurors.

2—Every person who shall serve upon a grand jury shall be entitled to receive for such services not less than five dollars nor more than eight dollars, to be fixed by the court, for each day he may so serve, and in addition
thereto the same mileage as allowed to witnesses, to be paid out of the county treasury. But he shall not be paid for more than four days’ services at any one term of the court, except in the counties of Harrison, Kanawha, McDowell, Fayette, Cabell, Marshall, Marion, Mercer, Wood, Ohio, Mingo, Monongalia, Preston and Summers, where such grand jurors shall not be paid for more than ten days’ services for any one term of court. The judge of the court shall fix the compensation for grand jurors, as provided above, by an order entered of record in such court. The provisions of sections twenty-three and twenty-four of article one of this chapter, relating to allowance and payment of compensation and mileage to petit jurors where applicable, shall apply in like respect to grand jurors.

CHAPTER 103

(Senate Bill No. 340—By Mr. Moats)

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 custody of juries, their expenses and conversation with jurors.

(Passed March 6, 1957; in effect 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 placed in the custody of the sheriff or other officer or officers designated by the court 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 placed in the custody of the sheriff or other officer or officers unless the court, in its discretion, order it to be so placed in the custody of the sheriff or other officer or officers. While a jury is placed in the custody of the sheriff or other officer or officers as herein provided, they shall be furnished with suitable board and lodgings by the sheriff or other officer. After a jury has been impaneled no sheriff or other officer shall converse with, or permit anyone else to converse with, a juror unless by leave of the court. The court shall, in its discretion, determine the manner in which the jury shall be kept in custody by the sheriff or other officer or officers until the jury agree upon a verdict or are discharged by the court.

CHAPTER 104
(House Bill No. 441—By Mr. Frazer)

AN ACT to amend and reenact section two, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to supervision of public offices.

[Passed March 9, 1967; in effect ninety days from passage. Approved by the Governor.]

Article 9. Supervision of Public Offices.

Section
2. How and by whom system of accounting prescribed.
Be it enacted by the Legislature of West Virginia:

That section two, article nine, 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. How and by Whom System of Accounting Prescribed.—The chief inspector shall formulate, prescribe and install a system of accounting and reporting in conformity with the provisions of this article, which shall be uniform for all public offices (including district offices and justices of the peace), and for all public accounts of the same class, and which shall exhibit true accounts and detailed statements for all public funds collected, received and expended for any purpose whatever by all public officers, employees or other persons. Such accounts shall show the receipt, use and disposition of all public property, and the income (if any) derived therefrom, and of all sources of public income, and the amounts due and received from each source, all receipts, vouchers and other documents kept or that may be required to be kept and necessary to identify and prove the validity of every transaction, and all statements and reports made or required to be made for the internal administration of the office to which they pertain, and all reports published or that may be required to be published for the information of the people regarding any and all details of the financial administration of public affairs. The chief inspector shall also formulate, prescribe and install a system of accounting for the civil accounts of the justices of the peace, which shall exhibit true accounts and detailed statements of the services rendered, the name and address of the persons for whom rendered, the charges made and collected therefor and such other information as may be necessary to identify the transaction. The system of accounting prescribed and formulated by the chief inspector and any changes made therein from time to time shall, before becoming operative, be approved by the board of public works.
AN ACT to amend article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen, relating to forbidding employers to charge individuals a fee for medical examination, as a condition of employment.

[Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 17. Restriction of fees for medical examination as a condition of employment.

Be it enacted by the Legislature of West Virginia:

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

Section 17. Restriction of Fees for Medical Examination as a Condition of Employment.—(a) The term “employer”, as used in this section, shall mean and include an individual, a partnership, an association, a corporation, a legal representative, a trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within the state.

(b) The term “employee” shall mean and include every person who may be permitted, required or directed by any employer, as defined in subsection (a), in consideration of direct or indirect gain or profit, to engage in any employment.
(c) It shall be unlawful for any employer, as defined in subsection (a) to require any employee or applicant for employment to pay the cost of a medical examination as a condition of employment.

(d) Any employer who violates the provisions of this section shall be liable to a penalty of not more than one hundred dollars for each and every violation. It shall be the duty of the commissioner of labor to enforce this section.

CHAPTER 106

(Senate Bill No. 26—By Mr. Bean, Mr. President)

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

(Passed February 5, 1937; in effect ninety days from passage. Approved by the Governor.)

Article 1. Officers, Members and Employees; Appropriations; Investigations; Display of Flags; Records.

Section 7. Flags displayed during sessions.

Be it enacted by the Legislature of West Virginia:

That section seven, 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 7. Flags Displayed During Sessions.—While either house is in session, the flag of the United States and the flag of the state of West Virginia shall be kept suspended over the place of session.
CHAPTER 107
(Senate Bill No. 182—By Mr. Bean, Mr. President)

AN ACT to amend chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-a, and by adding to article three a new section, designated section four, and by amending and reenacting sections one, two, three, four and five, article two; section one, article four; section four, article five; sections three and five, article seven; sections one, two and three, article eight; section one, article nine; and sections two and four, article ten thereof, establishing a department of mental health, prescribing the powers and duties thereof, and providing for the transfer of records and personnel to said department from the state department of health, and the transfer of control, records and property to said department from the board of control.

(Passed March 6, 1957; in effect ninety days from passage. Approved by the Governor.)

Article
1-a. Department of Mental Health.
2. State Hospitals and Training School.
3. Mental Hygiene Commissions.
4. Voluntary Hospitalization.
5. Involuntary Hospitalization.
6. Release, Discharge and Readmission of Patients; Escapees.
7. Maintenance of Mentally Ill Patients.
8. Private Hospitals.

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 amended by adding thereto a new article, designated article one-a, and by adding to article three a new section, designated section four, and by amending and reenacting sections one, two, three, four and five, article two; section one, article four; section four, article five; sections three and five, article seven; sections one,
two and three, article eight; section one, article nine; and sections two and four, article ten thereof, all to read as follows:

Article 1-a. Department of Mental Health.

Section

1. Statement of policy.
2. Creation of department; control of certain institutions.
3. Appointment of director; term of office; qualifications.
4. Powers and duties of director.
5. Division of administration.
6. Division of professional services; liaison with other state agencies.
7. Division of community services.
8. Superintendents of mental institutions to pay money due the state to state treasury through department of mental health; appropriations; deficiency; how met.
9. Transfer of control, records and property from the board of control to the department of mental health.
10. Transfer of records from department of health to division of community services.
11. Director may establish a program for alcoholics.

Section 1. Statement of Policy.—The purpose of this article is to improve the administration of the mental institutions in this state, raise the standards of treatment of the mentally ill in those institutions, encourage the further development of out-patient and diagnostic clinics, establish better research and training programs, and promote the development of mental health.

Sec. 2. Creation of Department; Control of Certain Institutions.—There shall be a state department of mental health, to be known as the department of mental health. It shall be a corporation and, as such, shall have a seal and may contract and be contracted with. It shall consist of a director of mental health, supervisors of divisions of the department, and such other employees as are needed to carry out its functions. The department shall supervise and control Spencer state hospital, Lakin state hospital, Huntington state hospital, Barboursville state hospital, Weston state hospital, West Virginia training school, and any other state mental institution hereafter created.

Sec. 3. Appointment of Director; Term of Office; Qualifications.—The governor shall appoint the director of the department of mental health by and with the consent of the Senate; he shall be known as the director of mental
5 health. Before entering upon the duties of his office, the
director shall take and subscribe the oath of office pre-
scribed by section five, article four of the constitution of
this state, the certificate whereof shall be filed in the
office of the secretary of state, and he shall give bond in
the penalty of ten thousand dollars, conditioned as re-
quired by law. The director may be removed only for
misconduct in office or other serious cause. The director
shall be appointed for a term of five years and shall be
eligible for reappointment. The director shall be a qualified
psychiatrist with both clinical and administrative ex-
perience. Preference shall be given to candidates who are
diplomates of the American board of psychiatry and
neurology and to candidates certified by the committee
on the certification of mental hospital administrators. The
salary of the director shall be twenty thousand dollars
a year, and in addition thereto he shall be reimbursed
for all necessary travel expenses incurred in the perfor-
23 mance of his duties.

Sec. 4. Powers and Duties of Director.—The director
shall appoint the superintendents of the institutions named
in section two hereof, and of any other state mental in-
stitutions hereafter created, shall supervise and coordinate
their medical and fiscal administration, and may establish
uniform policies for those institutions. He may transfer
a patient from any state mental institution to any other
institution or clinic under his control. By agreement be-
tween the director of mental health and the board of con-
trol, a patient at a state mental institution may be trans-
ferred to an institution, other than correctional, under the
supervision of the board of control. The director of mental
health shall have all the authority vested in the divisions
of the department, as hereinafter provided, and shall
appoint the supervisors of those divisions. He may pre-
scribe rules and regulations to carry out his authority. He
may accept and invest any gift of personalty for the bene-
fit of a state mental institution or institutions or for any
other mental health purpose. Any income therefrom shall
be paid into the state treasury and expended therefrom
for the purpose intended by the donor. The director shall
make periodic reports to the governor and to the Legislature on the condition of the state mental institutions and on other matters within his authority, and shall include recommendations for improvement of the state mental institutions and any other matters affecting the mental health of the people of the state.

Whenever it shall become necessary, the director may condemn any interest, right or privilege, land or Improvement which in his opinion may be necessary, in the manner provided by law for the acquisition by this state of property for public purposes. The state shall be under no obligation to accept and pay for any property condemned and shall in no event pay for the same except from the funds provided, and in any proceeding to condemn, such orders shall be made by the court having jurisdiction of the suit, action or proceedings as may be just to the state and to the owners of property to be condemned, and a bond or other security may be required by the court securing such owners against any loss or damage to be sustained by reason of the failure of the state to accept and pay for the property, but such bond or security shall impose no liability or debt on or of the state as contemplated by the provisions of the constitution of the state in relation to state debt.

Sec. 5. Division of Administration.—There shall be a division of administration in the department of mental health. The supervisor of this division shall assist the director of the department in performing his general administrative duties, and shall also have the following powers and duties:

(1) To keep the records of the department, including records transferred from the board of control.

(2) To receive and disburse funds for the department.

(3) To assemble and analyze departmental budget estimates, review requests for transfer of funds, and maintain departmental appropriation and fiscal records.

(4) To make rules and regulations governing the administration and business management of the institutions named in section two hereof, formulate standard fiscal
(5) To have the responsibility for the maintenance of the land and buildings of said mental institutions.

(6) To review requisitions for supplies and equipment, and cooperate with the department of purchases in development and drafting of specifications.

(7) To handle the personnel records of the department and to process payrolls.

(8) To enter into contracts for the department.

(9) To develop a civil service system, based on merit and including job classification and standardization, for the professional employees of the department and of the institutions and for any other employees thereof who are not made subject to such a system by other provisions of law.

(10) To perform any other duties assigned to the division by the director of the department.

Sec. 6. Division of Professional Services; Liaison with Other State Agencies.—There shall be a division of professional services in the department of mental health. The supervisor of this division shall act primarily in a consultant capacity and shall make recommendations as to professional aspects of institutional management, but shall not exercise direct supervision of the institutions. The supervisor shall have the following powers and duties:

(1) To carry on or stimulate research activities related to medical and psychiatric facilities of the department, and render specialized assistance to hospital superintendents.

(2) To develop professional standards, analyze hospital programs, and inspect individual hospitals.

(3) To assist in recruiting professional staff.

(4) To take primary responsibility for the education and training of professional and subprofessional personnel.
(5) To establish liaison with appropriate state agencies and with private groups interested in mental health, such as the state department of health, the board of control, the board of probation and parole, the department of education, the board of governors of West Virginia university, and the West Virginia association for mental health, incorporated.

(6) To license, supervise, and inspect mental institutions other than state mental institutions, including a section of any general hospital which has facilities for the involuntary confinement of mental patients.

(7) To perform any other duties assigned to the division by the director of the department.

Sec. 7. Division of Community Services.—There shall be a division of community services in the department of mental health. This division shall administer funds made available to the state of West Virginia and any political subdivision thereof under the national mental health act (act of July 3, 1946, chapter 538). The supervisor of this division shall also have the following powers and duties:

(1) To supervise the operation of out-patient psychiatric clinics for adults and children and to develop new clinics. Traveling clinics may be established for rural areas, to be operated directly by the division or under its supervision.

(2) To develop a comprehensive and practical program of mental health education of the public, especially at the local level.

(3) To work with county mental hygiene commissions.

(4) To perform any other duties assigned to the division by the supervisor of the department.

Sec. 8. Superintendents of Mental Institutions to Pay Money Due the State to State Treasury Through Department of Mental Health; Appropriations; Deficiency, How Met.—All moneys and funds belonging to the state which shall come into the possession or under the control of the superintendent or other officer of a state mental institution or other facility under the control of the department
of mental health shall be paid to the director of mental health monthly, on or before the tenth day of the month following the month in which such moneys or funds were received, under such rules and regulations as the director shall prescribe. The director shall pay such moneys and funds into the state treasury immediately in the manner provided in article two, chapter twelve of this code.

All moneys appropriated for the department of mental health and the state mental institutions may be expended on proper requisitions issued by the director of mental health or his duly authorized agent. Whenever the appropriations by the Legislature for the mental institutions are insufficient to pay the expenses of conducting such institutions, the director of mental health shall certify the deficiency to the governor. The certificate shall state the name of the institution and the items and amount in detail needed, and the governor may direct payment of the same or any part thereof out of any appropriation available for that purpose.

Sec. 9. Transfer of Control, Records and Property from the Board of Control to the Department of Mental Health. —The control of the financial, business and all other affairs of such state mental institutions is hereby transferred from the state board of control to the department of mental health, and, as its chief executive officer, the director shall, in respect to the control, management and property of such institutions, have the same rights and powers and shall perform the same duties and functions as were heretofore exercised or performed by the state board of control. The title to all property of such state mental institutions is hereby transferred to and vested in the department of mental health.

Sec. 10. Transfer of Records from Department of Health to Division of Community Services.—The state department of health shall transfer to the division of community services of the department of mental health all of the records of the bureau of mental health and all records pertaining to the state mental institutions. Persons employed by the state department of health in that bureau
may also be transferred to this division. All persons now employed by the various guidance clinics in the state shall be under the supervision of this division.

Sec. 11. Director May Establish a Program for Alcoholics.—The director of mental health may establish a special program for the care and treatment of alcoholics, to the extent to which the appropriation for the department makes such a program possible. The program may include establishment of clinics for diagnosis, treatment, care, and guidance of alcoholics, including one or more pilot out-patient clinics in populous areas of the state. The director may arrange and provide for temporary hospitalization of alcoholics who, upon the department's diagnosis and pursuant to its rules and regulations, are in need of such hospitalization. The department may inform and educate the public as well as interested groups and persons concerning alcoholism and its prevention and treatment and may participate in national, state and local meetings and programs concerned with alcoholism. The department may conduct or participate in research on the causes, prevention and treatment of alcoholism and on the effectiveness of the program of the department. The director may enter into lease, rental, or similar agreements for suitable clinic or hospital facilities; utilize, through contracts or otherwise, the available services and assistance of any person, groups, organizations or institutions in the development and promotion of the department's program; and enter into contracts for research and educational services relating to alcoholism. The director may receive funds from any governmental source and private gifts for the development and operation of the program.

Article 2. State Hospitals and Training School.

Section
1. Locations; continuation; management.
2. Superintendents.
3. Rules as to patients.
4. Forms for committing patients; other records.
5. Reports by superintendents; registration by department of mental health.
Section 1. Locations; Continuation; Management.—The state hospitals for the mentally ill heretofore established at Weston, Spencer, Huntington, Barboursville, Lakin and St. Marys shall be continued and known respectively as the Weston state hospital, Spencer state hospital, Huntington state hospital, Barboursville state hospital, Lakin state hospital and the West Virginia training school. Said hospitals shall be managed, directed and controlled by the department of mental health as provided in article one-a of this chapter.

Sec. 2. Superintendents.—The superintendent of an institution named in section one, or institution hereafter created, shall be appointed for an indefinite period. The superintendent of a mental hospital shall be a qualified psychiatrist with some experience in a mental hospital. Preference shall be given to diplomates of the American board of psychiatry and neurology and to persons who are certified by the committee on the certification of mental hospital administrators. The superintendent of the West Virginia training school shall be a person qualified to supervise an institution for mentally retarded and emotionally disturbed children and adults.

The superintendent, subject to merit system regulations, shall have the power to appoint all assistants and employees required for the management of his institution; but the number of such assistants and employees, and their compensation, shall first be fixed by the director of mental health.

The superintendent shall be furnished living quarters, household furniture, board, fuel and lights for himself and his family. The director of mental health may designate other officers to receive these emoluments, as determined by the character of their duties.

Sec. 3. Rules as to Patients.—The director of mental health shall have authority to make rules, not contrary to law, regulating the admission of patients to the said institutions, the care, maintenance and treatment of patients therein, and the release, trial visit and discharge of patients therefrom.
Sec. 4. Forms for Committing Patients; Other Records. — The director of mental health shall have authority to prepare, prescribe and have printed forms to be used for commitment to and discharge from the said institutions.

Sec. 5. Reports by Superintendents; Registration by Department of Mental Health. — The superintendent of each state mental institution shall furnish to the director of mental health such information as he may require concerning admissions, discharges, deaths and other matters. From this and other information available to the director of mental health, he shall keep such records as are necessary to enable him to have current information concerning the extent of mental illness in the state. The names of individuals shall not be accessible to anyone except by permission of the director of mental health, or by order of the judge of a court of record.

Article 3. Mental Hygiene Commissions

Section
4. Director of mental health may make rules.

Section 4. Director of Mental Health May Make Rules.—The director of mental health shall have authority to make rules, not contrary to law, regulating the procedure of mental hygiene commissions. The director may publish and distribute a handbook for the members of such commissions.

Article 4. Voluntary Hospitalization.

Section
1. Admissions.

Section 1. Admissions.—Any person, a resident of this state, who desires the benefit of institutional treatment, may be admitted to one of the state mental hospitals on his own application. Such admissions shall be subject to the rules of the department of mental health.

Article 5. Involuntary Hospitalization.

Section
4. Disposition of mentally ill persons.

Section 4. Disposition of Mentally Ill Persons.—If upon completion of the hearing and consideration of the
record, the commission finds that the proposed patient (1) is mentally ill, and (2) because of his illness is likely to injure himself or others if allowed to remain at liberty, or (3) is in need of custody, care or treatment in a mental hospital and because of his illness lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization, and (4) is a resident of the county in which the hearing is held, it shall order his hospitalization for an indeterminate period or for a temporary observation period not exceeding six months; otherwise, it shall dismiss the proceeding. An order for an indeterminate period relieves the patient of legal capacity. If the order is for a temporary period, the commission may at any time prior to the expiration of such period, on the basis of a report by the head of the hospital and such further inquiry as it may deem appropriate, order indeterminate hospitalization of the patient or dismissal of the proceeding. If the commission orders hospitalization of the patient, it will notify the county health officer, who may make a study of the patient’s family and environment and report his findings to the superintendent of the hospital receiving the patient.

In lieu of ordering the patient to a mental hospital, the commission may order him delivered to some relative or friend who will agree to take care of him, and take from such relative or friend a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the commission, payable to the state of West Virginia, with condition to restrain and take proper care of such person until the further order of the commission. But if the person found to be a mentally ill person is not dangerous to himself or to others, or is found harmless, he may be delivered to any relative or friend who will agree to take proper care of him without such bond if, in the judgment of the commission, the same may be proper.

If the person found to be mentally ill by the commission is a resident of another county of this state, a transcript of the evidence adduced at the hearing of such person,
properly certified by the clerk of the county court, shall forthwith be forwarded to the clerk of the county court of the county of which such person is a resident, who shall immediately present such transcript to the mental hygiene commission of said county. Such commission shall give full faith and credit to the evidence contained in such transcript, and, if satisfied that such person is mentally ill, shall order the person to be committed to one of the state hospitals for the mentally ill, as though the person had been brought before it in the first instance. This order shall be transmitted forthwith to the county clerk of the county in which the hearing was held, who shall execute said order promptly. All expenses incurred in this proceeding, as well as for the hospitalization of the mentally ill person, shall be borne by the county of which he is a resident.

If the person found to be mentally ill by the commission is a resident of another state, this information shall be forthwith given to the director of mental health, who shall make appropriate arrangements for his transfer to his native state, except as qualified by the interstate compact on mental health.

Article 7. Release, Discharge and Readmission of Patients; Escapees.

Section 3. Release as unimproved.

Section 3. Released as Unimproved.—The superintendent of an institution may release a patient as unimproved when the patient's family or friends, or committee or guardian, or other responsible persons, request his release and are willing and able to take proper care of said patient outside the hospital, taking from such relative, friend, committee, guardian or responsible person a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the superintendent, payable to the state of West Virginia, conditioned to restrain and take proper care of such patient until the further order of the superintendent. Reports shall be made by those in charge of said patient at least once every six months to
the superintendent of the hospital. No discharge shall be
given to said patient until he has returned to the hospital
for examination by the superintendent and staff thereof
and it has been determined that he is no longer mentally
ill.

Where such discharges or releases are granted as in-
dicated in sections one, two and three above, the superin-
tendent of the hospital shall report the same to the direc-
tor of mental health and to the county clerk of the county
of which the patient is a resident.

Sec. 5. Return of Escapees; Veterans.—If any person
confined in a state hospital escapes therefrom, the super-
intendent thereof shall issue a notice, giving the name and
description of the person escaping, and requesting his ap-
prehension and return to the hospital, and may offer such
reward for the return of such person as the director of
mental health may authorize. The superintendent may
issue a warrant directed to the sheriff of the county, com-
manding him to arrest and carry such escaped person back
to the hospital, which warrant the sheriff may execute in
any part of the state. If such person flee to another state,
the superintendent shall notify the director of mental
health, and he shall take such action as he may deem
proper for the return of such person to the hospital.

If any veteran duly committed to a veterans’ hospital or
other veterans’ institution, either within or without the
state, escape or elope therefrom and any person make
complaint, under oath, to the clerk of the county court
of the county from which such veteran was so committed,
giving such information and stating such facts therein as
may be required, or if any veteran duly committed to a
veterans’ hospital or other veterans’ institution, either
within or without the state, escape or elope therefrom
and the superintendent or chief officer of such hospital
or institution issue notice to the clerk of the county court
of the county from which such veteran was so committed,
giving the name and description of such veteran and re-
questing his apprehension and return to such hospital or
institution, the clerk, upon receipt of such complaint or
of such notice, may issue a warrant directed to the sheriff
of the county commanding him to arrest and carry such
veteran back to such hospital or institution, which war-
rant the sheriff may execute in any part of the state.

The sheriff or other person making any arrest under
this section shall be paid such compensation as is provided
for like services in other cases, and such additional com-
ensation in any case as the director of mental health may
think reasonable and just.

The foregoing provisions shall likewise apply to any
veteran released from a veterans' hospital or other veter-
ans' institution, either within or without the state, on trial
visit or on parole whose conduct becomes such as to war-
rant his return to such hospital or institution.

Article 8. Maintenance of Mentally Ill Patients.

Section 1. Maintenance of patients; reimbursement.

2 The cost of the maintenance of patients admitted to the
state mental institutions shall be paid out of funds ap-
propriated for the respective institutions, but the insti-
tutions, through the director of mental health, shall have
a right of reimbursement for all or any part of such main-
tenance, in no case to exceed five dollars per day, from
each patient or from the committee or guardian of the
estate of the patient, or if that be insufficient, then from
the patient's husband, wife, children, father and mother,
or any of them. If a relative so liable does not reside in
this state and has no estate or debts due him within the
state by means of which the liability can be enforced
against him, the other relatives shall be liable as provided
by this section. In exercising this right of reimbursement,
the director of mental health may, whenever it is deemed
just and expedient to do so, exonerate any person charge-
able with such maintenance from the payment thereof in
whole or in part, if the director finds that such person is un-
able to pay or that payment would work an undue hardship
on him or on those dependent upon him.
There shall be no discrimination on the part of the in-
stitution as to food, care, protection, treatment or rehabili-
tation, between patients who pay for their maintenance
and those who are unable to do so.

The provisions of this section apply only to the state
mental hospitals proper, and not to the clinics attached
thereto.

It shall be the responsibility of the director of mental
health to determine the ability of the patient or of his
relatives to pay for his maintenance.

Sec. 2. When and How Counties to Pay.—If the state
mental institution is unable to collect a minimum of one
hundred dollars per annum toward the maintenance of a
patient, whether on a voluntary or involuntary status,
the county of which the patient is a resident shall an-
ually pay into the state treasury for credit to the appro-
priate institution the difference between the amount, if
any, collected by the institution and the sum of one hun-
dred dollars.

At every levy term of each county court it shall esti-
mate for and levy a sufficient amount to meet all such ex-
penses. The superintendent of such institution, on or
before the tenth day of January of each year, shall certify
to the auditor a list of all the patients in the institution
during the whole or any part of the preceding year for
which the counties are to pay, showing on such list under
the name of the county, the number from each county
and length of time they were in the institution during the
year, and showing the amount due from each county for
each patient, and the total amount due from each county
for the year. As soon as such list is received by the audi-
tor he shall charge to each county the amount appearing
to be due from the certificates of the superintendents.
Within ten days after the receipt of such certificates the
auditor shall make out a copy thereof for each county
and certify the same to the county court thereof, which
list shall show the name of each patient in such hospital
from the county during the year, the length of time he
was in such institution during the year, the amount charged
for each patient, and the total amount charged on account of all such patients from the county; and such total amount shall constitute a debt against the county due the state. Whenever there is in the state treasury a sum of money due any county from any source, the same shall be at once applied on the debt aforesaid against the county, and the fact of such application of such fund shall be reported by the auditor to the county court of the county, which report shall be a receipt for the amount therein named.

Sec. 3. Care of Patients in Boarding Homes.—The director of mental health may, upon the recommendation of the superintendent of the institution, provide care in a suitable boarding home for any patient in a state mental institution, if the condition of the patient is such that his and the public welfare will not be prejudiced thereby. A patient in a boarding home shall be deemed to be a patient of the institution from which he was removed and shall, on the approval of the superintendent, be placed under the supervision of a psychiatric social worker employed by the institution. All patients in such homes shall be visited at least once every three months, and if upon the visitation they are found to be abused, neglected or improperly cared for, they shall be returned to the institution or placed in a better boarding home. The cost of the boarding home care shall be paid by the institution from which he was removed.

Article 9. Private Hospitals.

Section 1. Permit from director of mental health; regulations.

Section 1. Permit from Director of Mental Health; Regulations.—No private hospital for the care and treatment of mentally ill persons for compensation shall be established unless a permit therefor shall be first obtained from the director of mental health. The term "private hospital" includes any hospital or clinic other than a state mental institution, whether operated solely as a mental hospital or clinic or as a section of any general hospital which has facilities for the involuntary confinement of mental patients. The application for such permit shall be
accompanying a plan of the premises to be occupied, and such other data and facts as the director may require. He may make such terms and regulations in regard to the conduct of such hospital as he may think proper and necessary. He, or any person authorized by him, shall have full authority to investigate and inspect such private hospital; and the director of mental health may revoke the permit of any such hospital for good cause after reasonable notice to the superintendent or other person in charge thereof.

Article 10. West Virginia Training School.

Section 2. Proceedings for commitment.

Section 2. Proceedings for Commitment.—Mental defectives shall be admitted to said school in the following manner:

(a) The county mental hygiene commission shall have jurisdiction of all applications for commitment of persons to said school. Any relative of a person affected may make application, by complaint under oath, to have the person adjudged a mental defective; but when the relatives of a mentally defective person either neglect or refuse to place such person in said school, or in some private institution of like nature, and shall permit him or her to go at large, then any reputable citizen of the county may, by complaint under oath, make application to the mental hygiene commission for such commitment; and such complaint shall not be subject to exception for defects of form. When application is filed for commitment of an alleged mentally defective person, the commission shall appoint two physicians to examine such person and determine whether or not he is mentally defective. Both these physicians shall be selected as being the most capable physicians available because of knowledge of and training in psychiatry, and neither of them shall be related in any wise to the person sought to be committed.

(b) Where any court of the state has on trial before it a prisoner for an offense, and the judge shall have cause
to believe that the prisoner is mentally defective, he may appoint two physicians as aforesaid to examine the prisoner, to ascertain whether or not he is in reality mentally defective; and if such physician shall pronounce the prisoner to be mentally defective, the judge may commit him to said school.

In either of the cases named above, the physicians making the examination shall be required to make a complete and thorough examination, both mental and physical, and shall be required to make to the commission or court appointing them a certificate as to their findings in the matter. This certificate shall be in the form prescribed by the director of mental health, and shall be made in duplicate, one copy of the same being sent with the patient when committed to the school, and the other copy being filed with the commission or court committing such person; and it shall be the duty of the superintendent of said school to refuse admission of any person unless he or she shall present a copy of such certificate.

The commission or court, by order, shall designate some reputable person to convey such mentally defective person to the school and to protect such person until such time as he or she can be conveyed to the institution. When any female is taken to the school, a female attendant shall be provided.

All expenses connected with the commitment of a person hereunder and conveying of such mentally defective person to the school shall be borne by the county of which such person is a resident.

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 director of mental health may prescribe.
AN ACT to amend chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to the entry of the state of West Virginia into an interstate compact on mental health.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the Governor.]


Section
1. Governor to execute compact.
2. Mental health administration.
3. Supplementary agreements.
5. Transmittal of copies of article.

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 amended by adding thereto a new article, designated article fourteen, to read as follows:

Section 1. Governor to Execute Compact.—The governor of this state is hereby authorized and directed to execute a compact on behalf of the state of West Virginia with any state or states of the United States legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further,
the party states find that the necessity of and desirability
for furnishing such care and treatment bears no primary
relation to the residence or citizenship of the patient but
that, on the contrary, the controlling factors of com-
munity safety and humanitarianism require that facili-
ties and services be made available for all who are in
need of them. Consequently, it is the purpose of this
compact and of the party states to provide the necessary
legal basis for the institutionalization or other appro-
priate care and treatment of the mentally ill and mentally
deficient under a system that recognizes the paramount
importance of patient welfare and to establish the re-
sponsibilities of the party states in terms of such wel-
fare.

Article II

As used in this compact:

(a) “Sending state” shall mean a party state from
which a patient is transported pursuant to the provisions
of the compact or from which it is contemplated that a
patient may be so sent.

(b) “Receiving state” shall mean a party state to
which a patient is transported pursuant to the provisions
of the compact or to which it is contemplated that a
patient may be so sent.

(c) “Institution” shall mean any hospital or other
facility maintained by a party state or political sub-
division thereof for the care and treatment of mental
illness or mental deficiency.

(d) “Patient” shall mean any person subject to or
eligible as determined by the laws of the sending state,
for institutionalization or other care, treatment, or super-
vision pursuant to the provisions of this compact.

(e) “After-care” shall mean care, treatment and ser-
dices provided a patient, as defined herein, on convales-
cent status or conditional release.

(f) “Mental illness” shall mean mental disease to such
extent that a person so afflicted requires care and treat-
ment for his own welfare, or the welfare of others, or
of the community.
“Mental deficiency” shall mean mental deficiency as defined by appropriate clinical authority to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) “State” shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient’s full record with due regard for the location of the patient’s family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state
establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient
131 on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

136 Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

147 The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

154 (a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

159 (b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

164 (c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.
(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: Provided, however, That in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal
committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

**Article IX**

(a) No provision of this compact except article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

**Article X**

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

**Article XI**

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility
or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by article VII (b) as to costs or from any supplementary agreement made pursuant to article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of
any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Sec. 2. Mental Health Administration.—The director of mental health shall be the compact administrator and, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Sec. 3. Supplementary Agreements.—The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact. In the event that any such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Sec. 4. Financial Arrangements.—The compact administrator, subject to the approval of the state auditor, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

Sec. 5. Transmittal of Copies of Article.—Duly authenticated copies of this article shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the secretary of state of the United States, and the council of state governments.
AN ACT to amend and reenact sections eighteen and nineteen, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definition of phrase “implement of husbandry” and phrase “special mobile equipment”.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the Governor.]


Section
18. Implement of husbandry.
19. Special mobile equipment.

Be it enacted by the Legislature of West Virginia:

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

Section 18. Implement of Husbandry.—Every vehicle which is designed for agricultural purposes and used by the owner thereof primarily in the conduct of his agricultural operations.

Sec. 19. Special Mobile Equipment.—Every vehicle not designed or used for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus, concrete mixers, and farm tractors, when farm tractors cannot be classified as an implement of husbandry as defined in section eighteen, article one of this chapter. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.
AN ACT to amend article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section three-a, relating to the payment of certain personal property taxes as a condition precedent to registration of vehicles with the department of motor vehicles.

(Passed March 4, 1957; in effect from passage. Approved by the Governor.)

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section 3-a. Application for registration or renewal of registration; payment of personal property taxes.

Be it enacted by the Legislature of West Virginia:

That article three, chapter seventeen-a 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 three-a, to read as follows:

Section 3-a. Application for Registration or Renewal of Registration; Payment of Personal Property Taxes.—Certificates of registration and renewal of registration of any vehicle or registration plates therefor shall not be issued or furnished by the department of motor vehicles, or any other officer charged with such duty, unless the applicant therefor, except an applicant exempt from payment of registration fees under section eight, article ten of this chapter, has furnished the receipt hereinafter provided to show full payment of the personal property taxes for the calendar year which immediately precedes the calendar year in which application is made on all vehicles which were registered with the department of motor vehicles in
the applicant's name on the tax day for the former calendar year. If the applicant contends that any vehicle so registered was not subject to personal property taxation for that year, he shall furnish such information and evidence as the commissioner of motor vehicles may require to substantiate his contention.

The assessor shall require any person having a duty to make a return of property for taxation to him to furnish information identifying each vehicle subject to the registration provisions of this chapter. When the property taxes on any such vehicle shall have been paid, the officer to whom the payment was made shall deliver to the person paying such taxes a written or printed receipt therefor, and shall retain for his records a duplicate of such receipt. It shall be the duty of the assessor and sheriff, respectively, to see that the assessment records and the receipts contain information adequately identifying the vehicle as registered under the provisions of this chapter.

The officer receiving payment shall sign each receipt in his own handwriting.

The assessors shall commence their duties hereunder during the tax year one thousand nine hundred fifty-seven and the department of motor vehicles shall commence its duties hereunder as of the first day of January, one thousand nine hundred fifty-eight.

The state tax commissioner shall annually compile a schedule of automobile values, based on the lowest values shown in a nationally accepted used car guide, which schedule shall be furnished to each assessor and shall be used by him as a guide in placing the assessed values on all automobiles in his county.

CHAPTER 111

(Senate Bill No. 46—By Mr. Martin, by request)

AN ACT to amend and reenact section four, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to applica-
Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section 4. Application for certificate of title; tax.

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.—

Certificates of registration of any vehicle or registration plates therefor, whether original issues 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 vehicle, 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 sec-
tion: 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 specifi-
cally 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
certificate of title for any vehicle shall be issued to any
applicant unless such applicant shall have paid to the
department of motor vehicles the tax imposed by this
section which shall be two per cent of the true and
actual value of the said vehicle whether the vehicle be
acquired through purchase, by gift, or by any other man-
ner whatsoever except gifts between husband and wife
or between parents and children; but the tax imposed by
this section shall not apply to vehicles to be registered as
class H or class I vehicles, as defined in section one, article
ten of this chapter, which are used or to be used in in-
terstate commerce, nor shall the tax imposed by this
section apply to titling of vehicles by a registered dealer
of this state for resale only, nor shall the tax imposed
by this section apply to titling of vehicles by this state
or any political subdivision thereof, or by any volunteer
fire department organized and incorporated under the
laws of the state of West Virginia for protection of life
or property. The total amount of revenue collected by
reason of this tax shall be paid into the state road fund
and expended by the state road commissioner in the
maintenance and construction of the state's secondary
roads. In addition to said tax, there shall be a charge of
one dollar for each original certificate of title so issued:
Provided, That this state or any political subdivision
thereof, or any such volunteer fire department, shall be
exempted from payment of such charge.
Notwithstanding the provisions of this section, the owners of trailers, semi-trailers and other vehicles not subject to the certificate of title tax prior to enactment of this chapter shall not be required to pay the above mentioned tax upon making application for a certificate of title for such vehicle, but shall be required to pay a fee of one dollar for the issuance of each such certificate of title.

Such certificate shall be good for the life of the vehicle, so long as the same is owned or held by the original holder of such certificate, and need not be renewed annually, or any other time, except as herein provided.

If, by will or direct inheritance, a person becomes the owner of a motor vehicle upon which the tax herein imposed has been paid, he shall not be required to pay such tax.

A person who has paid the tax imposed by this section shall not be required to pay the tax a second time for the same motor vehicle, but he shall be required to pay a charge of one dollar for the certificate of re-title of that motor vehicle, except that such tax shall be paid by such person when the title to such vehicle has been transferred either in this or another state from such person to another person and transferred back to such person.

CHAPTER 112

(Senate Bill No. 48—By Mr. Martin, by request)

AN ACT to amend and reenact sections three, eight and nine, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to procedures, records and indexes incident to the registration of motor vehicles.

(Passed January 31, 1957; in effect ninety days from passage. Approved by the Governor.)
Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section
3. Application for registration.
8. Examination of registration records and index of stolen and recovered vehicles.
9. Registration indexes.

Be it enacted by the Legislature of West Virginia:

That sections three, eight and nine, 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 3. Application for Registration.—Every owner of a vehicle subject to registration hereunder shall make application to the department for the registration thereof upon the appropriate form or forms furnished by the department and every such application shall bear the signature of the owner written with pen and ink, and said application shall contain:

(1) The name, bona fide residence and mail address of the owner, the name of the county in which he resides, or business address of the owners if a firm, association, or corporation.

(2) A description of the vehicle including, insofar as the hereinafter specified data may exist with respect to a given vehicle, the make, model, type of body, the manufacturer's serial or identification number or other number as determined by the commissioner.

(3) In the event a motor vehicle is designed, constructed, converted, or rebuilt for the transportation of property, the application shall include a statement of its declared gross weight if such motor vehicle is to be used alone, or if such motor vehicle is to be used in combination with other vehicles the application for registration of such motor vehicle shall include a statement of the combined declared gross weight of such motor vehicle and the vehicles to be drawn by such motor vehicle; declared gross weight being the weight declared by the owner to be the actual combined weight of the
vehicle or combination of vehicles and load when carrying the maximum load which the owner intends to place thereon; and the application for registration of each such vehicle shall also include a statement of the distance between the first and last axles of that vehicle or combination of vehicles. The declared gross weight stated in the application shall not exceed the permissible gross weight for the axle spacing listed therein as determined by the table of permissible gross weights contained in chapter seventeen-c of this code; and any vehicle registered for a declared gross weight as stated in the application shall be subject to the single-axle load limit set forth in chapter seventeen-c of this code.

(4) Each such applicant shall state whether such vehicle is or is not to be used in the public transportation of passengers or property, or both, for compensation, and if so used, or to be used, the applicants shall so certify, and shall, as a condition precedent to the registration of such vehicle, obtain a certificate of convenience, or permit from the public service commission.

(5) Such further information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

(6) Each such application for registration shall be accompanied by the fees hereafter provided.

Sec. 8. Examination of Registration Records and Index of Stolen and Recovered Vehicles.—The department, upon receiving application for original registration of a vehicle or any certificate of title, shall first check the manufacturer's serial or identification number shown in the application against the indexes of registered motor vehicles and against the index of stolen and recovered motor vehicles required to be maintained by this chapter.

Sec. 9. Registration Indexes.—The department shall file each application received and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled to register such vehicle and to the issuance of a certificate of title shall register the vehicle
therein described and keep a record thereof in suitable books or on index cards as follows:

(1) Under a distinctive registration number assigned to the vehicle;
(2) Alphabetically, under the name of the owner;
(3) Under the manufacturer's serial or identification number if available, otherwise any other identifying number of the vehicle; and
(4) In the discretion of the department, in any other manner it may deem desirable.

CHAPTER 113
(House Bill No. 399—By Mr. Moreland)

AN ACT to amend and reenact section ten, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to issuance of registration card for motor vehicles; copy thereof to be sent to county assessor.

[Passed March 4, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

Section 10. Department to issue registration card; duplicate to county assessor.

Be it enacted by the Legislature of West Virginia:

That section ten, 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 10. Department to Issue Registration Card;
2 Duplicate to County Assessor.—The department upon registering a vehicle shall issue a registration card to be
delivered to the owner and containing thereon the date
issued, the name and address of the owner, the registra-
tion number assigned to the vehicle and such description
of the vehicle as determined by the commissioner. A du-
plicate of said registration card shall be sent to the assessor
of the county in which the owner resides, or in cases of
nonresidents of the state, to the assessor of the county
wherein such vehicle is located.

CHAPTER 114
(Senate Bill No. 47—By Mr. Martin, by request)

AN ACT to amend and reenact sections ten and eleven, article
four, chapter seventeen-a of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
dismantling or wrecking titled vehicles.

(Passed February 4, 1957; in effect ninety days from passage. Approved by the
Governor.)

Article 4. Transfers of Title or Interest.

Section
10. Owner dismantling or wrecking vehicle to return evidence of own-

11. Sale of motor vehicle to be dismantled.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Owner Dismantling or Wrecking Vehicle to
Return Evidence of Ownership.—Any owner dismantling
or wrecking any titled vehicle shall immediately for-
ward to the department the certificate of title for such
vehicle with the word “scrapped” or word or words of
similar meaning written across the face thereof.
Sec. 11. Sale of Motor Vehicle to Be Dismantled.—Any owner who sells a titled vehicle as scrap or to be dismantled or destroyed shall assign the certificate of title thereto to the purchaser who shall deliver such certificate so assigned to the department with the word “scraped” or word or words of similar meaning written across the face thereof: Provided, That if the purchaser so desires, he may obtain from the department a permit to dismantle or scrap such vehicle by executing an application for such permit and delivering same to the department with the certificate of title so assigned. The department shall thereupon issue to the purchaser a permit to dismantle the vehicle which shall authorize such person to possess or transport such motor vehicle or to transfer ownership thereto by endorsement upon such permit. A certificate of title shall not again be issued for such motor vehicle in the event it is scrapped, dismantled, or destroyed.

CHAPTER 115

(House Bill No. 360—By Mr. Perry and Mr. Bachmann)

AN ACT to amend and reenact sections two and three, article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred twenty-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to registration fees of motor vehicles used for transportation of property and persons and the determination of declared gross weight thereof; and registration fees for vehicles equipped with pneumatic tires.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 10. Registration, License and Other Fees.

Section
2. Registration fees of motor vehicles used for transportation of property and persons determined by declared gross weight.
3. Registration fees for vehicles equipped with pneumatic tires.
Be it enacted by the Legislature of West Virginia:

That sections two and three, article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred twenty-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 2. Registration Fees of Motor Vehicles Used for Transportation of Property and Persons Determined by Declared Gross Weight.—The declared gross weight as stated in the application for registration shall be the basis for determination of fees to be paid for operation of trucks used separately and not in combination with other vehicles in transportation of property.

The basis for determination of fees to be paid for operation of trucks, truck tractors, and road tractors used in combination with other vehicles for the transportation of property shall be the combined declared gross weight of the truck, truck tractor, or road tractor and the vehicle to be drawn by such truck, truck tractor or road tractor; the declared gross weight of the entire combination of truck, truck tractor, or road tractor and the trailer or semitrailer to be drawn by such motor vehicle to be considered as one unit for purpose of determining the fees to be paid for such truck, truck tractor, or road tractor.

The basis for determination of fees to be paid for operation of class H vehicles shall be the manufacturers declared weight plus one hundred and fifty pounds for each seat.

Sec. 3. Registration Fees for Vehicles Equipped with Pneumatic Tires.—The following registration fees for the classes indicated shall be paid annually to the department for the registration of vehicles subject to registration hereunder when equipped with pneumatic tires:

Class A. The registration fee for all motor vehicles of this class shall be eleven dollars for a motor vehicle of a weight of two thousand pounds or less, and for all motor vehicles having a weight of over two thousand pounds, sixty cents additional for each one hundred pounds
of weight, or fraction thereof, in excess of two thousand pounds, and for the purpose of determining the weight the actual weight of the vehicle shall be taken: Provided, That for vehicles owned by churches, or by trustees for churches, which vehicles are regularly used for transporting parishioners to and from church services, no license fee shall be charged, but notwithstanding such exemption, the certificate of registration and license plates shall be obtained the same as other cards and plates under this article.

Class B, Class H, Class I and Class K. The registration fee for all motor vehicles of these four classes shall be as follows:

(1) For declared gross weights of four thousand pounds or less—seventeen dollars and fifty cents.

(2) For declared gross weights of four thousand and one pounds to eight thousand pounds—twenty dollars.

(3) For declared gross weights of eight thousand and one pounds to sixteen thousand pounds—twenty dollars plus forty cents for each one hundred pounds or fraction thereof that the gross weight of such vehicle or combination of vehicles exceeds eight thousand pounds.

(4) For declared gross weights greater than sixteen thousand pounds—sixty-two dollars plus seventy-five cents for each one hundred pounds or fraction thereof that the gross weight of such vehicle or combination of vehicles exceeds sixteen thousand pounds.

If the declared gross weight of a class B, class I or class K motor vehicle includes the gross weight of a class C or class L vehicle used in combination with such class B, class I or class K motor vehicle and the registration fee prescribed hereunder for such class C or class L vehicle has been paid, there shall be deducted from the registration fee for such class B, class I or class K motor vehicle the amount of fifteen dollars.

Class C and class L. The registration fee for all vehicles of these two classes shall be fifteen dollars.

Class G. The registration fee for each motorcycle having two wheels shall be five dollars. The registration fee
for each motorcycle having three wheels shall be seven
dollars and fifty cents.

Class J. The registration fee for all motor vehicles of
this class shall be seventy-five dollars. Ambulances and
hearses used exclusively as such shall be exempted from
the above special fees.

Class R. The registration fee for all vehicles of this
class shall be nine dollars.

Class S. The registration fee for all vehicles of this
class shall be fifteen dollars.

Class T. The registration fee for all vehicles of this class
shall be five dollars.

Class U. The registration fee for all motor vehicles of
this class shall be fifty dollars.

CHAPTER 116
(House Bill No. 109—By Mr. Moreland)

AN ACT to amend and reenact section seven, article two,
chapter seventeen-b of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
motor vehicle operators' and chauffeurs' licenses.

[Passed February 19, 1957; in effect ninety days from
passage. Approved by the Governor.]

Article 2. Issuance of License, Expiration and Renewal.
Section
7. Examination of applicants.

Be it enacted by the Legislature of West Virginia:
That section seven, 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 7. Examination of Applicants.—(a) Upon the
exhibiting by the applicant under the age of twenty-one
years, of his or her birth certificate, or a certified copy thereof, as evidence that the applicant is of lawful age, the department of public safety shall examine every applicant for an operator's or chauffeur's license, except as otherwise provided in this section. Such examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, his knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle, and such further physical and mental examination as the department of motor vehicles deems necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways.

(b) The commissioner shall adopt and promulgate regulations concerning the examination of applicants for operator's and chauffeur's licenses and the qualifications required of such applicants, and the examination of such applicants by the department of public safety shall be in accordance with such regulations.

CHAPTER 117
(Senate Bill No. 167—By Mr. Bean, Mr. President)

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 offense of driving any vehicle while under the influence of intoxicating liquor or drugs and to the penalties therefor.

(Passed March 4, 1957; in effect ninety days 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 the 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 law 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, be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of not less than twenty-four hours nor more than six months, and, in addition to such mandatory jail sentence, such person may be fined not less than fifty nor more than one hundred dollars; and, in every case of conviction under this section, such convicted person's operator's or chauffeur's license shall be revoked for a period of six months.

A person violating any provision of this section shall, for the second offense, occurring within a five-year period, be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, which sentence shall not be subject to probation; and whenever the records of the department disclose that a
conviction is the second such conviction of such person, within a period of five years, for a violation of this section, his operator’s or chauffeur’s license shall be revoked by the commissioner for a period of ten years, unless reissued by the department of motor vehicles as hereinafter provided. Whenever the commissioner of motor vehicles, after full investigation, shall find that the character of any person who was convicted of a second offense under this section and the circumstances at the time indicate that he is not likely again to repeat his offense, and that the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable reissue such license at any time more than five years after the date on which it was revoked. A person violating any provision of this section shall, for the third or any subsequent offense, occurring within a five-year period, be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than three years; and whenever the records of the department disclose that a conviction is the third such or any subsequent conviction of such person, within a period of five years, for a violation of this section, his operator’s or chauffeur’s license shall be revoked by the commissioner for a period of ten years and indefinitely thereafter unless reissued as hereinafter provided. Whenever the commissioner of motor vehicles, after full investigation, shall find that the character of any person who was convicted of a third or subsequent offense under this section and the circumstances at the time indicate that he is not likely again to repeat his offense, and the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable reissue such license at any time more than ten years after the date on which it was revoked. The discretionary power herein conferred may be exercised by the commissioner and the department of motor vehicles with respect to the reissuing of licenses revoked because of convictions prior to the passage hereof.
CHAPTER 118
(Senate Bill No. 165—By Mr. Bean, Mr. President)

AN ACT to amend article five, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-a, relating to proof of being under the influence of intoxicating liquor.

[Passed February 12, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 5. Negligent Homicide, Driving While Intoxicated and Reckless Driving.

Section 2-a. Under the influence of intoxicating liquor; proof.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. Under the Influence of Intoxicating Liquor; Proof.—In any criminal prosecution for a violation of subsection (a) of section two of this article, relating to driving any vehicle on any highway of this state while under the influence of intoxicating liquor or the owner's knowingly permitting the same to be so operated by one under the influence of intoxicating liquor, the court may admit evidence of the amount of alcohol in the operator's blood taken within two hours of the time of the alleged offense, as shown by a chemical analysis of his blood or urine. For the purposes of such prosecutions, evidence that there was, at the time of the alleged offense, five-hundredths of one per cent, or less, by weight of alcohol in his blood, is prima facie evidence that he was not under the influence of intoxicating liquor; evidence that there was at that time more than five-hundredths of one per
cent and less than fifteen-hundredths of one per cent by weight of alcohol in his blood is relevant evidence, but it is not to be given prima facie effect in indicating whether he was under the influence of intoxicating liquor; and evidence that there was at that time fifteen-hundredths of one per cent, or more, by weight of alcohol in his blood, is prima facie evidence that he was under the influence of intoxicating liquor.

Any person arrested for and/or charged with the offense of driving any vehicle on any highway of this state while under the influence of intoxicating liquor shall have the right to demand that his blood or urine be taken within the time aforesaid and such chemical analysis be made thereof.

In any case in which such a chemical analysis has been made, the results of same shall be disclosed and made available to a defendant forthwith upon demand.

CHAPTER 119

(Senate Bill No. 166—By Mr. Bean, Mr. President)

AN ACT to amend article six, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven, relating to the use of microwaves in checking the speed of motor vehicles.

[Passed February 11, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 6. Speed Restrictions.

Section 7. Prima facie evidence of speed by devices employing microwaves; placing of signs.

Be it enacted by the Legislature of West Virginia:

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

Section 7. Prima Facie Evidence of Speed by Devices Employing Microwaves; Placing of Signs.—The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves, when such evidence is obtained by members of the department of public safety, by police officers of incorporated municipalities in classes one, two and three, as defined in chapter eight-a of this code, and by the sheriff and his deputies of the several counties of the state. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle.

In order to inform and educate the public generally that speed of motor vehicles operating within the state is being tested by radar mechanisms, the state road commission shall locate and place suitable and informative stationary and movable signs at strategic points on and along highways in each county of the state giving notice to the public that such radar mechanisms are in use.

CHAPTER 120

(Senate Bill No. 308—Originating in the Senate Committee on Roads and Navigation)

AN ACT to amend and reenact section four, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to headlamps and size.

[Passed March 5, 1957; in effect from passage. Approved by the Governor.]

Article 15. Equipment.

Section

Be it enacted by the Legislature of West Virginia:

That section four, 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 4. Headlamps on Motor Vehicles.—(a) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in this article.

(b) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this article.

(c) Every headlamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the headlamp of not more than fifty-four inches nor less than twenty-two inches to be measured as set forth in section three of this article.

CHAPTER 121

(Senate Bill No. 94—By Mr. Martin, by request)

AN ACT to amend article sixteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to penalties for failure to comply with vehicle inspection requirements.

(Passed February 28, 1957; in effect ninety days from passage. Approved by the Governor.)

Article 16. Inspection of Vehicles.

Section

Be it enacted by the Legislature of West Virginia:

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

Section 9. Penalty for Misdemeanor.—It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under subsection (a), section four of this article, to operate or permit to be operated such vehicle without having displayed thereon a current and valid certificate of inspection and approval or fail to produce same upon demand of any authorized person as designated under subsection (a), section four of this article.

Unless another penalty is by the laws of this state provided, every person convicted of a misdemeanor for operating a vehicle without having displayed thereon a current and valid certificate of inspection and approval or for failure to produce such certificate upon demand of an authorized person shall be punished by a fine of not more than one hundred dollars.

CHAPTER 122
(Senate Bill No. 254—By Mr. Carrigan)

AN ACT to amend and reenact sections one, four, six, nine, ten, eleven and fourteen, article seventeen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to size, weight and load of vehicles and prescribing penalties for the violation thereof.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 17. Size, Weight and Load.

Section
1. Scope and effect of article.
4. Height and length of vehicles and loads.
10. Officers may weigh vehicles and require removal or rearrangement of excess loads.
11. Permits for excess size and weight.

Be it enacted by the Legislature of West Virginia:

That sections one, four, six, nine, ten, eleven and fourteen, article seventeen, 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. Scope and Effect of Article.—(a) It shall be unlawful for any owner, lessee or borrower of a vehicle or combination of vehicles to operate on any highway such vehicle or combination of vehicles, whether driven by such owner, lessee or borrower, or by some person on behalf of such owner, lessee or borrower, of a size or weight exceeding any limitation stated in this article, or otherwise in violation of any provision of this article, whether such limitation or provision be specifically stated in this article or set by express authority granted in this article, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter said limitations or provisions except as express authority shall be granted in this article. Subject to the penalties for weight violations provided in section 14 of this article, violation of this section shall constitute a misdemeanor.
(b) The provisions of this article governing size, weight, and load shall not apply to fire apparatus, road machinery, or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit issued as herein provided.
(c) The phrase “operate a vehicle or combination of vehicles” shall in this article be interpreted to mean the use of such vehicle or combination of vehicles on behalf of the owner, lessee or borrower, whether driven by him or by some person on behalf of him.

Sec. 4. Height and Length of Vehicles and Loads.—(a) No vehicle including any load thereon shall exceed a
3 height of twelve feet six inches, except that vehicles used
4 as automobile transports including any load thereon shall
5 not exceed a height of thirteen feet six inches, but the
6 owners of such automobile transports shall be responsible
7 to the state road commission for any damage to bridges
8 or other road structures and to municipalities and utility
9 companies for any damage to wires, traffic devices or
10 other structures, and to any person suffering property
11 damage when any such damage is proximately caused by
12 the height of such vehicle or vehicles and load being in
13 excess of twelve feet six inches.
14 (b) No vehicle including any load thereon shall exceed
15 a length of thirty-five feet extreme over-all dimension,
16 inclusive of front and rear bumpers, except that a bus
17 or trackless trolley coach equipped with three axles shall
18 not exceed an over-all length, inclusive of front and rear
19 bumpers, of forty feet.
20 (c) No combination of vehicles coupled together shall
21 consist of more than two units and no such combination
22 of vehicles including any load thereon shall have an over-
23 all length, inclusive of front and rear bumpers, in excess
24 of fifty feet, except as otherwise provided in respect to
25 the use of a pole trailer as authorized in section five of
26 this article.

Sec. 6. Loads on Vehicles.—(a) No vehicle or combina-
2 tion of vehicles shall be operated on any highway unless
3 such vehicle or combination of vehicles is so constructed
4 or loaded as to prevent any of its load from dropping,
5 sifting, leaking, or otherwise escaping therefrom, except
6 that sand may be dropped for the purpose of securing
7 traction, or water or other substance may be sprinkled
8 on a roadway in cleaning or maintaining such roadway.
9 (b) It shall be unlawful to operate on any highway
10 any vehicle or combination of vehicles with any load un-
11 less said load and any covering thereon is securely fas-
12 tened so as to prevent said covering or load from becom-
13 ing loose, detached, or in any manner a hazard to other
14 users of the highway.

Sec. 9. Gross Weight of Vehicles and Loads.—(a) It
shall be unlawful for any owner, lessee or borrower of a vehicle or combination of vehicles to operate on any highway such vehicle or combination of vehicles with a gross weight in excess of the gross weight for which such vehicle or combination of vehicles is registered or in excess of any weight limitation set forth in this chapter, whether such limitation be specifically stated in this chapter or set by express authority granted in this chapter.

(b) Subject to the limit upon the weight imposed upon the highway through any one axle as set forth in section eight of this article the total gross weight with load imposed upon the highway by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the total group of axles measured longitudinally to the nearest foot as set forth in the following table:

<table>
<thead>
<tr>
<th>Distance in feet between first and last axles of group</th>
<th>Maximum load in pounds</th>
<th>Distance in feet between first and last axles of group</th>
<th>Maximum load in pounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>32,000</td>
<td>31</td>
<td>53,490</td>
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<tr>
<td>5</td>
<td>32,000</td>
<td>32</td>
<td>54,330</td>
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<td>6</td>
<td>32,000</td>
<td>33</td>
<td>55,160</td>
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<td>7</td>
<td>32,000</td>
<td>34</td>
<td>55,980</td>
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<td>8</td>
<td>32,610</td>
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<td>34,550</td>
<td>37</td>
<td>58,420</td>
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<td>11</td>
<td>35,510</td>
<td>38</td>
<td>59,220</td>
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<td>12</td>
<td>36,470</td>
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<td>60,800</td>
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<td>14</td>
<td>38,360</td>
<td>41</td>
<td>61,580</td>
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<td>15</td>
<td>39,300</td>
<td>42</td>
<td>62,360</td>
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<td>16</td>
<td>40,230</td>
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<td>42,080</td>
<td>45</td>
<td>64,650</td>
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<td>42,990</td>
<td>46</td>
<td>65,400</td>
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<td>20</td>
<td>43,900</td>
<td>47</td>
<td>66,150</td>
</tr>
<tr>
<td>21</td>
<td>44,800</td>
<td>48</td>
<td>66,890</td>
</tr>
</tbody>
</table>
Provided, That no vehicle or combination of vehicles shall have a gross weight including the load, in excess of sixty thousand eight hundred pounds, except as otherwise provided in this article.

Sec. 10. Officers May Weigh Vehicles and Require Removal or Rearrangement of Excess Loads.—(a) Any police officer, or employee of the state road commission designated by the state road commissioner as a member of an official weighing crew, may require the driver of any vehicle or combination of vehicles on any highway to stop and submit such vehicle or combination of vehicles to a weighing with portable or stationary weighing devices, or submit such vehicle or combination of vehicles to a measuring or to any other examination necessary to determine if such vehicle or combination of vehicles is in violation of any of the provisions of this article, and may require that such vehicle or combination of vehicles be driven to the nearest weighing device in the event such weighing device is within two miles.

(b) Whenever an officer or a member of an official weighing crew determines that a vehicle or combination of vehicles is in violation of any of the provisions of this article, he may require the driver to stop such vehicle or combination of vehicles in a suitable place to remain standing until such vehicle or combination of vehicles is brought into conformity with the provisions violated. In the case of a weight violation all material unloaded shall be cared for by the owner, lessee or borrower of such vehicle or combination of vehicles at the risk of such owner, lessee or borrower.
(c) Any driver of a vehicle or combination of vehicles who fails or refuses to comply with any requirement or provision of this section shall be guilty of a misdemeanor.

Sec. 11. Permits for Excess Size and Weight.—(a) The state road commissioner may in his discretion upon application in writing and good cause being shown therefor issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter, except that a permit shall not be issued for continuous operation of a vehicle not in conformity with the provisions of this article relating to weight limitations: Provided, however, That specially designed vehicles which can only be used to transport and haul specific liquid or semi-liquid products and which were registered in this state prior to the first day of July, one thousand nine hundred fifty-one, shall be exempt from the provisions of this chapter relating to weight limitations until the first day of July, one thousand nine hundred sixty-one, and on and after the latter said date said exemptions shall not apply. In order for the exemption to apply during the period of exemption the owner or operator shall apply for and the state road commissioner shall issue a permit for such vehicle allowing such owner or operator to use the same upon the highways of this state during said period.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highway for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(c) The state road commissioner is authorized to issue or withhold such permit at his discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations,
surfaces or structures, and may require such undertaking
or other security as may be deemed necessary to compen-
sate for any injury to any roadway structure.

(d) Every such permit shall be carried in the vehicle
or combination of vehicles to which it refers and shall be
open to inspection by any police officer or authorized
agent of the state road commissioner granting such per-
mit, and no person shall violate any of the terms or con-
ditions of such special permit.

Sec. 14. Penalties for Violation of Weight Laws; Im-
pounding Vehicles.—(a) Any owner, lessee or borrower
who permits a vehicle or combination of vehicles owned
by him to be operated with any axle load in excess of that
permitted by section eight of this article, plus a tolerance
of five per cent, or with a total gross weight in excess of
that permitted by section nine of this article, plus a toler-
ance of five per cent, shall be guilty of a misdemeanor and
upon conviction thereof shall be punished as provided in
paragraphs (b) and (c) of this section.

(b) Any owner, lessee or borrower of a vehicle who
shall be convicted of a first offense for a violation of this
section shall be punished by a fine of not less than twenty-
five dollars nor more than one hundred dollars and in
addition thereto shall pay either a fine of one cent per
pound for any weight in excess of two thousand pounds
over the legal weight for each axle or a fine of one cent
per pound for any weight in excess of two thousand
pounds over the permissible gross weight for such vehicle
or combination of vehicles, whichever is the greater; and
any owner, lessee or borrower of a vehicle who shall be
convicted of a second offense for a violation of this section
shall be punished by a fine of not less than fifty dollars
nor more than one hundred dollars and in addition thereto
shall pay either a fine of two cents per pound for any
weight in excess of two thousand pounds over the legal
weight for each axle or a fine of two cents per pound for
any weight in excess of two thousand pounds over the
permissible gross weight for such vehicle or combination
of vehicles, whichever is the greater; and any owner,
lessee or borrower who shall be convicted of a third or
subsequent violation of this section shall be punished by
a fine of not less than seventy-five dollars nor more than
one hundred dollars and in addition thereto shall pay
either a fine of three cents per pound for any weight in
excess of two thousand pounds over the legal weight for
each axle or a fine of three cents per pound for any weight
in excess of two thousand pounds over the permissible
gross weight for such vehicle or combination of vehicles,
whichever is the greater, and in any case where the gross
weight exceeds the statutory limit by five thousand
pounds or more, the owner, lessee or borrower of such
vehicle shall be fined five cents per pound for each pound
of excess gross weight over the said statutory limit, which
fine shall be in lieu of the additional fine per pound here­
tofore in this section provided.
(c) In the event any owner, lessee or borrower of a
vehicle is charged with violating this section, the vehicle
which is charged to be overloaded shall be impounded by
the arresting officer and shall not be released to such
owner, lessee or borrower unless and until such owner,
lessee or borrower either shall have been found guilty
and paid any fine assessed against such owner, lessee or
borrower, or shall have furnished cash or surety bond in
at least double the amount of the fine which may be
assessed against such owner, lessee or borrower for such
violation of this section and conditioned upon the pay­
ment of any such fine and costs assessed for such violation,
or shall have been acquitted of such charge. Such owner,
lessee or borrower shall be liable for any reasonable stor­
age costs incurred in storing such vehicles.

CHAPTER 123
(House Bill No. 304—By Mr. Whaley)

AN ACT to amend and reenact section three, article thirteen,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to munici­
pal combined waterworks and sewerage systems and the issuance of revenue bonds in connection therewith.

(Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.)


Section 3. Refund of outstanding obligations or securities; issuance of bonds.

Be it enacted by the Legislature of West Virginia:

That section three, article thirteen, 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 3. Refund of Outstanding Obligations or Securities; Issuance of Bonds.—Whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system under this article and there are unpaid and outstanding revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system or any part thereof, such outstanding bonds, obligations or securities may be refunded by the issue and sale or exchange therefor of revenue bonds to be issued under the provisions of this article. For the purpose of defraying the cost of acquiring or constructing any such waterworks or sewerage systems, or both, and for the purpose of paying the cost of constructing any extensions or improvements to any such combined waterworks and sewerage system any such municipality may issue revenue bonds under the provisions of this article. All such bonds may be authorized, issued and sold pursuant to ordinance in installments at different times or an entire issue or series may be sold at one time. Such bonds shall bear interest at a rate not to exceed six per cent per annum payable semi-annually and shall mature within the period of usefulness of the project involved, to be determined by the governing body and in any event
not more than forty years. Such bonds may be in such
denomination or denominations, may be in such form,
either coupon or registered, may carry such registration
and conversion privileges, may be executed in such man-
ner, may be payable in such medium of payment, at such
place or places, may be subject to such terms of redemp-
tion, with or without a premium, may be declared to be-
come due before the maturity date thereof, may provide
for the replacement of mutilated, destroyed, stolen, or lost
bonds, may be authenticated in such manner and upon
compliance with such conditions, and may contain such
other terms and covenants, as may be provided by ordi-
nance of the governing body of the municipality. Not-
withstanding the form or tenor thereof, and in the absence
of an express recital on the face thereof that the bond is
non-negotiable, all such bonds shall at all times be, and
shall be treated as, negotiable instruments for all pur-
poses. Such bonds may be sold in such manner as the
governing body shall determine and if issued to bear
interest at the rate of six per cent per annum shall be
sold for not less than par and accrued interest. If any
such bonds shall be issued to bear interest at a rate of
less than six per cent per annum, the minimum price
at which they may be sold shall be such that the interest
cost to such municipality of the proceeds of such bonds
shall not exceed six per cent per annum computed to
maturity according to the standard table of bond values:
Provided, That if the governing body of the municipality
determines to sell any revenue bonds of such combined
waterworks and sewerage system for refunding purposes
such bonds shall be sold at not less than par and accrued
interest and the proceeds deposited at the place of pay-
ment of the bonds, obligations or securities being refunded
thereby. In case any officer whose signature appears on
such bonds or coupons attached thereto shall cease to be
such officer before the delivery of the bonds to the pur-
chaser, such signature shall nevertheless be valid and
sufficient for all purposes, with the same effect as if he
had remained in office until the delivery of the bonds.
Such bonds shall have all the qualities of negotiable in-
struments under the law of this state. Whenever any
outstanding bonds, obligations or securities previously
issued which are payable solely from the revenues of any
waterworks or sewerage system included in a combined
waterworks and sewerage system under this article are
refunded, if the refunding is to be accomplished by ex-
change such outstanding bonds, obligations or securities
shall be surrendered and exchanged for revenue bonds
of such combined waterworks and sewerage system of a
total principal amount which shall not be more and may
be less than the principal amount of the bonds, obliga-
tions or securities surrendered and exchanged plus the
interest to accrue thereon to the date of surrender and
exchange, and if the refunding is to be accomplished
through the sale of revenue bonds of such combined
waterworks and sewerage system the total principal
amount of such revenue bonds which may be sold for
refunding purposes shall not exceed the principal amount
of the bonds, obligations or securities being refunded plus
the interest to accrue thereon to the retirement date or
the next succeeding interest payment date, whichever
date may be the earlier. Provision may be made that each
bond to be exchanged for refunding bonds shall be kept
intact and shall not be cancelled or destroyed until the
refunding bonds, and interest thereon, have been finally
paid and discharged; but shall be stamped with a legend
to the effect that such bonds have been refunded pursuant
to this article.

CHAPTER 124

(House Bill No. 107—By Mr. Lile)

AN ACT to amend and reenact section three-a, article four,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the power
of a municipal corporation to appoint a police court judge.

(Passed February 12, 1957; in effect ninety days from passage. Approved by the Governor.)
Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section 3-a. Appointment of police court judge.

Be it enacted by the Legislature of West Virginia:

That section three-a, 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 3-a. Appointment of Police Court Judge.—The governing body of any municipality with a population of two thousand or more may provide, by ordinance, for the appointment therein of an officer to be known as police court judge and fix his compensation within the limits of the respective applicable charter provisions, and prescribe the exercise by him of such of the powers and duties set forth in section three of article four and similar or related powers and duties enumerated in the respective applicable charter provisions, as is deemed proper by the respective governing body.

CHAPTER 125

(Com. Sub. for House Bill No. 187—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact sections ten-g and ten-h, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of officers of class I and class II cities.

[Passed March 9, 1957; 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.
10-h. Salaries of officers of class II cities.
Be it enacted by the Legislature of West Virginia:

That sections ten-g and ten-h, 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.—Notwithstanding any provision of its existing charter to the contrary, the governing board of any class I city, as defined in section four, article one, chapter eight-a of this code, shall have the authority to fix the salary of certain of its officers within the following limitations:

1. The salary of the mayor shall not exceed ten thousand dollars.
2. The salary of the city manager shall not exceed eight thousand dollars.
3. The salary of the city attorney and the city engineer shall not exceed eight thousand dollars.
4. The salary of the members of the city council shall not exceed twenty dollars per meeting, nor shall any councilman receive in excess of the sum of four hundred eighty dollars per year.

The authority granted by this section shall in no case be construed to deprive any class I city of any authority under its existing charter to fix the salary of the officers named above in excess of the limits imposed by this section.

This section shall not be construed to prohibit a class I city from paying salaries to its mayor, city manager, members of the city council, city attorney and city engineer in excess of the maximum salaries hereinabove provided, if such city adopts a charter under the provisions of the home rule act.

Sec. 10-h. Salaries of Officers of Class II Cities.—Notwithstanding any provision of its existing charter to the contrary, the governing board of any class II city, as defined in section four, article one, chapter eight-a of this code, shall have the authority to fix the salary of certain of its officers within the following limitations:

1. The salary of the mayor shall not exceed seven thousand five hundred dollars.
(2) The salaries of the city manager, and the members
of the council or governing body whose duties as pre-
scribed by such existing charter include the supervision
and administration of one or more departments of such
class II city, shall not exceed seven thousand dollars.

The authority granted by this section shall in no case
be construed to deprive any class II city of any authority
under its existing charter to fix the salary of the officers
named above at a salary in excess of the limits imposed
by this section.

This section shall not be construed to prohibit a class
II city from paying salaries to its mayor and city manager
in excess of the maximum salaries hereinabove provided,
if such city adopts a charter under the provisions of the
home rule act.

CHAPTER 126

(Senate Bill No. 72—By Mr. Carson)

AN ACT to amend and reenact section sixteen, article six,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to firemen's
and policemen's pensions or relief funds.

[Passed February 4, 1957; 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
16. How trustees of funds to invest money received.

Be it enacted by the Legislature of West Virginia:

That section sixteen, 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 16. How Trustees of Funds to Invest Money
2 Received.—The said board of trustees shall invest any
moneys received by them either in interest-bearing bonds of the United States, or of the state of West Virginia, or of the county, school district or municipal corporation in which such municipality may be situated, or upon improved real estate first lien security worth at least twice the amount loaned thereon, based on sound appraisal by a competent appraiser and duly certified by him, or in savings accounts in state and national banking institutions to the extent that such institutions are insured by the Federal Depositors' Insurance corporation, or in state building and loan associations or federal savings and loan associations to the extent that such associations are insured by the Federal Savings and Loan Insurance corporation, or by any other similar federal instrumentality that may be hereafter created. Said board of trustees shall make a report to the council of the municipality on the condition of such fund on the thirty-first day of December of each year.

CHAPTER 127

(Com. Sub. for Senate Bill No. 339—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b, requiring municipalities to maintain and repair sewerage systems outside the corporate limits thereof when such municipalities collect charges and compensation from users of such sewerage systems.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 2-b. Municipal sewerage systems outside corporate limits; repair and maintenance.
Be it enacted by the Legislature of West Virginia:

That article thirteen, 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 two-b, to read as follows:

Section 2-b. Municipal Sewerage Systems Outside Corporate Limits; Repair and Maintenance.—Whenever a municipality collects charges and compensation from users of any part of a sewerage system located outside the corporate limits of such municipality for sewerage services rendered to such users, pursuant to the provisions of this article or any other act or law, such municipality shall be responsible for the maintenance and repair of such sewerage system and the county court of the county, in which such sewerage system is located, shall not be liable or responsible for maintenance and repair of such sewerage system.

CHAPTER 128

(House Bill No. 234—By Mr. Barr)

AN ACT to amend article four, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b, relating to the appointment of notaries public.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]


Section

2-b. Appointments and commissions for the entire state.

Be it enacted by the Legislature of West Virginia:

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

Section 2-b. Appointments and Commissions for the Entire State.—The governor shall appoint and commission so many notaries for the state as he may deem proper, who shall hold their office respectively for a term of ten years from the date of their commission. Before such appointment is made, the applicant shall qualify as set forth in section two and upon such appointment, without further qualification, shall thereupon have the right to exercise all the functions of his office in any county within the state. Any notary so appointed may be removed or his office vacated in the manner prescribed by law. The seal of any notary public so appointed shall contain the words “state of West Virginia” instead of any particular county designation. The fee for such appointment shall be forty dollars: Provided, however, That prior to such appointment, each applicant shall give a surety bond, to be approved by the secretary of state, in a penalty of five hundred dollars, which bond shall be filed and recorded in the office of the secretary of state.

CHAPTER 129

(House Bill No. 116—By Mr. Booth)

AN ACT to amend and reenact section five, article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to qualifications for registration as a pharmacist.

[Passed February 19, 1957; in effect from passage. Approved by the Governor.]

Article 5. Pharmacists, Assistant Pharmacists and Drug Stores.

Section 5. Qualifications for registration as a pharmacist; certificates of registration.
Be it enacted by the Legislature of West Virginia:

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

Section 5. Qualifications for Registration as a Pharmacist; Certificates of Registration.—In order to be registered as a pharmacist within the meaning of this article, a person shall be a citizen of the United States, not less than twenty-one years of age, shall present to the board of pharmacy satisfactory evidence that he is a graduate of a recognized school of pharmacy as defined by the board of pharmacy, and in addition thereto he shall have had at least one year of practical experience in a pharmacy or drug store under the instruction and supervision of a registered pharmacist and shall pass satisfactorily an examination by or under the direction of the board of pharmacy.

Every applicant for registration as a pharmacist shall present to the board of pharmacy satisfactory evidence that he is a person of good moral character and not addicted to drunkenness or the use of narcotic drugs. The board shall issue certificates of registration to all persons who successfully pass the required examination and are otherwise qualified, and to all those whose certificates or licenses the board shall accept in lieu of an examination as provided in the next succeeding section.

CHAPTER 130

(House Bill No. 46—By Mr. Brotherton and Mr. Crynock)

AN ACT to amend and reenact section five, article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred fifty, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to the renewal of license, reinstatement, fees required therefor, and penalties imposed upon registered nurses licensed under the pro-
visions of said article seven, chapter thirty of said code of West Virginia.

(Passed February 5, 1957; in effect July 1, 1957. Approved by the Governor.)

Article 7. Nurses.

Section 5. Renewal of license; reinstatement; fees required; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 5. Renewal of License; Reinstatement; Fees Required; Penalties.—The license of every nurse licensed and registered under the provisions of this article shall be annually renewed except as hereinafter provided. On or before January first, one thousand nine hundred fifty-eight, the board shall mail an application for renewal of license to every known active nurse who has ever been licensed as a registered nurse in this state. At such time or times as the board may in its discretion determine each year thereafter, the board shall mail a renewal application to every such nurse whose license was renewed during the previous year and each such nurse shall fill in such application blank and return it to the board with a renewal fee of three dollars within thirty days after receipt of said renewal application. Upon receipt of the application fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall render the holder thereof a legal practitioner for the period stated on the certificate of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment to the board of a reinstatement fee of three dollars and the renewal fee herein pro-
vided. Any person practicing registered nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall send a written notice to the board. Upon receipt of such notice the board shall place the name of such person upon the nonpracticing list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered nursing in this state. When the person desires to resume practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.

CHAPTER 131
(House Bill No. 59—By Mr. Brotherton)

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be numbered article seven-a, relating to the licensure of practical nurses in the state of West Virginia.

(Passed February 26, 1957; in effect ninety days from passage. Approved by the Governor.)

Article 7-a. Practical Nurses.

Section
1. Definition.
2. Who may practice.
3. Qualifications of applicants for license.
4. Application for license or registration; examination fee.
5. Board of examiners; powers; duties.
6. Examination and licensure of practical nurses; present practitioners.
7. Renewal or reinstatement of license.
8. Use of title "licensed practical nurse."
9. Schools of practical nursing.
10. Construction of article.
11. Disciplinary proceeding; grounds for discipline.
12. Penalties.
Be it enacted by the Legislature of West Virginia:

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

Section 1. Definition.—(a) The term “practical nurse”, as used in this article, shall mean a person prepared by an approved educational program to share in the care of the sick, in rehabilitation and in prevention of illness, always under the supervision of a licensed physician.

(b) The term “board” as used in this article shall mean the board of examiners for practical nurses as set forth in section five of this article.

Sec. 2. Who May Practice.—After the thirtieth day of June, one thousand nine hundred fifty-eight, it shall be unlawful for any person practicing or offering to practice as a licensed practical nurse to use any title, figure, sign, card or device to indicate such person is a licensed practical nurse unless such person has been duly qualified and licensed under the provisions of this article.

Sec. 3. Qualifications of Applicants for License.—Except as otherwise provided in section six of this article, any person desiring to obtain a license to practice as a licensed practical nurse shall submit to the board satisfactory evidence that he or she: (a) Is of a good moral character; (b) has completed at least the ninth grade of school or its equivalent; (c) has completed a course of study in an accredited school for practical nurses as defined by the board and holds a diploma therefrom; and (d) has completed such other general educational requirements as may be prescribed by the board.

Sec. 4. Application for License or Registration; Examination Fee.—The provisions of section six, article one, chapter thirty of the code shall apply to this article, except that an applicant for license as a practical nurse shall pay a fee of fifteen dollars.

Sec. 5. Board of Examiners; Powers; Duties.—The governor shall appoint, by and with the advice and con-
sent of the Senate, seven citizens of the state of West Virginia who shall constitute the "West Virginia State Board of Examiners for Practical Nurses" and they shall be charged with the duty of administering the provisions of this article. Of the seven members so appointed two shall be licensed practical nurses, except that in the initial appointment, the two practical nurses shall be persons eligible for licensure under the provisions of this article; two shall be registered professional nurses duly licensed in this state; two shall be doctors of medicine licensed in this state; and one shall be a hospital administrator actively engaged as such in this state. Such appointments shall be for terms of five years each, except that in the initial appointments, one person eligible for licensure as a licensed practical nurse hereunder and one registered professional nurse shall be appointed for terms of five years each, one person eligible for licensure as a licensed practical nurse hereunder and one registered professional nurse shall be appointed for terms of four years each, one doctor of medicine shall be appointed for a term of three years, one hospital administrator shall be appointed for a term of two years, and one licensed doctor of medicine shall be appointed for a term of one year. The practical nurses so to be appointed, initially and subsequently, shall be selected by the governor from a list to be submitted to him by the practical nurses' association of West Virginia, inc.; the registered professional nurses so to be appointed, initially and subsequently, shall be selected by the governor from a list to be submitted to him by the West Virginia state nurses' association, inc.; the doctor of medicine so to be appointed, initially and subsequently, shall be selected by the governor from a list submitted to him by the West Virginia state medical association; and the hospital administrator so to be appointed, initially and subsequently, shall be selected by the governor from a list submitted to him by the West Virginia hospital association: Provided, however, that each of such lists shall contain the names of at least three persons for each person so to be appointed. Any member of the board may be eligible for reappointment, but no member shall serve longer than two suc-
cessive terms. The board is hereby authorized to appoint
and employ a qualified person to perform the duties of
executive secretary and to act as educational advisor to
the board. Such secretary shall act under the direction
of the board. The board shall furnish the secretary a head-
quartes and shall provide such office equipment and clerical
assistance as the duties of the office may require. The
board shall have power to appoint such nurses, deputies,
clerks, assistants, inspectors and employees as shall be
necessary for the proper exercise of the powers and duties
of the board. The compensation and expenses of the mem-
ers of the board and its appointees and employees shall
be paid out of such funds as are allocated to the board in
its annual budget. The secretary shall keep the records
of proceedings of the board, and shall keep a registry of
the names and addresses of all practical nurses registered
under this article, which registry shall be a public record.
Said board shall hold not less than two regular meetings
each year and such additional meetings at such times and
places as the board may determine. The board is author-
ized to adopt and, from time to time, to revise such rules
and regulations not inconsistent with this article, as may
be necessary to enable it to carry into effect the provisions
hereof. The board shall prescribe curricula and standards
for schools and courses preparing persons for licensure
under this article. It shall provide for surveys of such
schools and courses at such times as it may deem necessary.
It shall accredit such schools and courses as meet the re-
quirements of this article and of the board. It may evalu-
ate and approve courses for affiliation. It shall examine,
license and renew the license of duly qualified applicants.

Sec. 6. Examination and Licensure of Practical Nurses;

Present Practitioners.—The applicant, except as herein-
after provided, shall be required to pass a written exami-
nation in such subjects as the board shall determine. Each
written examination may be supplemented by such oral
or practical examination as the board may deem necessary.
The board shall determine the times and places for the
examination and notices thereof shall be published in two
newspapers of general circulation in the state. Notices of
examination shall be sent by mail to each person known
by the secretary to be an applicant for an examination or
registration at least thirty days previous to any such meet-
ing. Upon the applicant's successful completion of such
examination and satisfaction of the other requirements of
this article, the board shall issue to the applicant a license
to practice as a licensed practical nurse. The board shall
issue such license by endorsement to any applicant who
has been duly licensed or registered as such, or to a person
entitled to perform similar services under a different title,
in another state, territory or foreign country if, in the
opinion of the board, the applicant meets the other re-
quirements for licensed practical nurses in this state. On
or before the thirtieth day of June, one thousand nine
hundred fifty-nine, any practical nurse who has been
engaged in practical nursing in this state for a period of
three years, as verified by two doctors of medicine licensed
in this state having personal knowledge of the applicant's
qualifications, shall be issued a license by waiver by said
board.

Any person obtaining a license by waiver who has
completed extension courses equal in theory to those for
the graduate practical nurses, as determined by the board,
may at any time thereafter take the examination pre-
scribed by the board and obtain a license without the
designation of “waiver” thereon.

Sec. 7. Renewal or Reinstatement of License.—The
license of every person licensed under the provisions of
this article shall expire on the thirtieth day of June, next
following the date of license. In order for such license
to be renewed, the licensee shall comply with such rules
and regulations of the board as are applicable to renewals.
The renewal fee for all licenses shall be five dollars. Upon
receipt of the renewal fee the board shall issue to the
licensee a certificate of renewal for the current year, be-
ginning July first and expiring June thirtieth of the fol-
lowing year. Such certificate shall render the holder
thereof a legal practitioner for the period stated on the
certificate of renewal. Any licensee who allows his or her
license to lapse by failing to renew the license as pro-
provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment of a reinstatement fee of five dollars, in addition to the renewal fee of five dollars herebefore set out. Any person practicing as a licensed practical nurse during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall give written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the non-practicing list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice as a licensed practical nurse in the state. When such person desires to resume practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.

Sec. 8. Use of Title “Licensed Practical Nurse”.—Any person who holds a license to practice nursing as a licensed practical nurse under the provisions of this article may use the title licensed practical nurse and the abbreviation L. P. N. No other person shall assume such title or use such abbreviation or any other words, letters, figures, signs, or devices to indicate that the person using the same is a licensed practical nurse.

Sec. 9. Schools of Practical Nursing.—The board shall prescribe curricula and standards for schools and courses preparing persons for licensure under this article; it shall provide for surveys of such schools and courses at such times as it may deem necessary. It shall accredit such schools and courses as meet the requirements of this article and of the board. An institution desiring to conduct a school of practical nursing to be accredited by the board as such shall file an application therefor with the board, together with the information required and a fee of ten dollars. It shall submit satisfactory evidence that: (1) It is prepared to give the course of instruction and practical experience in practical nursing as prescribed in the cur-
ricula adopted by the board; and (2) it is prepared to meet other standards established by this law and by the board.

A survey of the institution or institutions, with which the school is to be, or is, affiliated, shall be made by the executive secretary of the board. The executive secretary shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited school of practical nursing are met, it shall approve the school as an accredited school of practical nursing. From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive secretary, to survey all schools of practical nursing in the state. Written reports of such surveys shall be submitted to the board. If the board determines that any accredited school of practical nursing is not maintaining the standards required by the statutes and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools of practical nursing. Nothing contained in this article shall infringe upon the rights or power of the state board of education, or county boards of education to establish and conduct a program of practical nurse education or other health occupation.

Sec. 10. Construction of Article.—The provisions of this article shall not be construed as prohibiting:

1. The care of a sick, disabled, injured, crippled or infirm person by a member or members of such person's family, or by close relatives, or by domestic servants, housekeepers or household aides thereof, whether employed regularly or because of emergency circumstances due to illness or other disabilities.

2. The work and services of auxiliary hospital personnel, such as nursing aides, maids, orderlies, technicians, volunteer workers and other like hospital employees.

3. The domestic administration of family remedies.

4. Practical nursing by students enrolled in accred-
(5) Practice of nursing in this state by any legally qualified practical nurse of another state or country whose engagement requires such practical nurse to accompany and care for a patient temporarily residing in this state during the period of such engagement.

(6) Practical nursing by any person eligible for licensure under the provisions of this article, whose application for admission to a licensing examination has been approved by the board and who enters the first licensing examination scheduled by the board after filing such application or has been granted leave by the board in writing to enter upon a subsequent scheduled examination.

But no person, not licensed and authorized to engage in practical nursing in this state, as provided in this article, shall represent himself or herself to be, or shall accept employment as, a licensed practical nurse in this state.

Sec. 11. Disciplinary Proceeding; Grounds for Discipline.—The board shall have the right to refuse to admit an applicant for the licensure examination for the hereinafter stated reasons, and also the board shall have the power to revoke or suspend any license to practice as a licensed practical nurse issued by the board in accordance with the provisions of this article, or to otherwise discipline a licensee upon satisfactory proof that the person:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or (2) is convicted of a felony; or (3) is habitually intemperate or is addicted to the use of habit-forming drugs; or (4) is unfit or incompetent by reason of negligence or habits; or (5) is mentally incompetent; or (6) is guilty of conduct derogatory to the moral or standing of the occupation of practical nursing; or (7) who practices or attempts to practice without a license or who wilfully or repeatedly violates any of the provisions of this article.

Sec. 12. Penalties.—It shall be a misdemeanor for any person, firm, corporation or association of persons to: (1) Sell or fraudulently obtain or furnish any nursing diploma,
license or record or aid or abet therein; or (2) practice as a licensed practical nurse under cover of any diploma, license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation; or (3) practice as a licensed practical nurse unless duly licensed to do so under the provisions of this article; or (4) use in connection with his or her name any designation tending to imply that he or she is a licensed practical nurse unless duly licensed so to practice under the provisions of this article; or (5) practice as a licensed practical nurse during the time his or her license issued under the provisions of this article shall be suspended or revoked; or (6) conduct a school of practical nursing or a course for training of practical nurses unless the school or course has been accredited by the board; or (7) otherwise violate any provisions of this article. Any person convicted of any such misdemeanor shall be punishable by a fine of not less than twenty-five nor more than one hundred dollars.

Sec. 13. Severability.—If any provision of this article or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this 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.

CHAPTER 132

(House Bill No. 270—By Miss Hallanan, by request)

AN ACT to amend and reenact sections three, four and six, article eleven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to chiropodists.

(Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.)
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Article 11. Chiropodists.

Section
3. Qualifications of applicant for license.
4. Examination for license; issuance of license.
6. Limitations of article.

Be it enacted by the Legislature of West Virginia:

That sections three, four and six, article eleven, 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 3. Qualifications of Applicant for License.—An applicant for license shall furnish to the medical licensing board satisfactory proof that he is: (a) Twenty-one years of age or over; (b) of good moral character; (c) a graduate of a school of chiropody registered by the state department of education as being of proper standard, or that he has been in the practice of chiropody in some other state for at least five years, and of good standing in such state, in which said state an examination is required by law equal to the requirements of this state, and that said applicant has taken the examination in said state and received a license therein; (d) possessed of a minimum education of graduation from a high school recognized by the state department of education as being a proper standard and at least two years of academic work of collegiate grade in a standard college of arts and sciences, so recognized as being a proper standard by the state department of education; (e) a bona fide resident of the state of West Virginia at the time of application.

Sec. 4. Examination for License; Issuance of License.—The medical licensing board shall conduct examinations for license to practice chiropody at the times and places designated by it for conducting examinations for licenses to practice medicine. Examinations shall be in English, and in writing, and shall be of a scientific and practical character. They shall cover the subjects of general and special anatomy, physiology, hygiene and sanitation, physics, chemistry, biology, embryology, histology, pathology, physical therapy, bacteriology, minor surgery,
materia medica and thereapeutics, foot orthopedics and surgery, dermatology, and syphilology, roentgenology, physical diagnosis, didactic and clinical chiropody. The medical licensing board shall issue licenses to practice chiropody to successful applicants therefor after proper certificate has been presented certifying that the applicant after graduation has completed an internship of one year in a recognized school of chiropody.

Sec. 6. Limitations of Article.—Nothing contained in this article shall be construed to prevent a registered practitioner of medicine in the state of West Virginia from practicing chiropody as a branch of his medical and surgical practice, physicians and surgeons of the United States of army, navy or marine hospital service in actual discharge of their duties as such; nor to chiropodists living in other states and duly qualified to practice chiropody therein who shall be called in consultation into this state by a chiropodist already entitled to practice chiropody in this state.

CHAPTER 133

(House Bill No. 120—By Mr. Myles)

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seventeen, relating to the registration of sanitarians in this state, prohibiting certain acts by unregistered sanitarians, and providing penalties therefor.

[Passed March 5, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 17. Sanitarians.

Section
1. Sanitarian defined.
2. Board of sanitarians.
3. Registration of sanitarians required.
4. Application for registration; fees.
5. Eligibility and qualifications for registration.
6. Annual renewal of registration; fees.
7. Revocation of registration.
8. Offenses; penalty; injunctive relief.
9. Reciprocity.

Be it enacted by the Legislature of West Virginia:

That chapter thirty 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 seventeen, to read as follows:

Section 1. Sanitarian Defined.—As used in this article "sanitarian" means a person trained in the field of sanitary science and technology who is qualified to carry out educational and inspectional duties in the field of industrial sanitation, or who, under the direction of an organized public health department, is qualified to assist in the enforcement of the laws and regulations in the field of environmental sanitation as it relates to the public health.

Sec. 2. Board of Sanitarians.—There is hereby established a state board for the examination and registration of professional sanitarians, to be known as the "West Virginia Board of Sanitarians". The board shall consist of the state director of health, who shall be a member ex officio and secretary of the board, and four professional sanitarians, to be appointed by the governor, by and with the advice and consent of the senate, at least one of whom shall be employed in the field of industrial sanitation. Each member appointed by the governor shall have been engaged in active practice as a professional sanitarian in this state for at least five years prior to his appointment, and, except in the case of the original members of the board, shall have been registered in this state as a professional sanitarian as provided in this article. On or before the first day of July, one thousand nine hundred fifty-seven, the governor shall name the four original appointive members for terms of one, two, three and four years, respectively, beginning on that date. Thereafter, each appointment shall be for a term of four years, except that an appointment to fill a vacancy shall be for the unexpired term.
All expenses of the board shall be paid solely from registration fees and renewal fees collected as provided in this article.

Sec. 3. Registration of Sanitarians Required.—On and after the first day of September, one thousand nine hundred fifty-seven, no person shall perform or offer to perform the duties of a professional sanitarian in this state without first applying for and obtaining from the West Virginia Board of Sanitarians a certificate of registration as a professional sanitarian or as an apprentice sanitarian.

Sec. 4. Application for Registration; Fees.—The board shall prescribe and furnish an application form for the use of persons applying for registration. The registration fee shall be ten dollars, five dollars of which shall accompany the application, the remaining five dollars to be paid upon issuance of the certificate of registration. Should the board deny the issuance of a certificate to any applicant, the initial fee deposited shall be retained as a fee for the processing and evaluation of his application.

Sec. 5. Eligibility and Qualifications for Registration.—The board shall accept for review the application of any person twenty-one years of age or more whose application is submitted with the necessary fee.

The board shall issue a certificate of registration as a professional sanitarian, together with a numbered identification card, to any applicant of good moral character:

(1) Who held a position as a professional sanitarian in this state for a period of not less than six months prior to the first day of July, one thousand nine hundred fifty-seven, such position having been earned as a result of successfully passing a merit system or civil service examination given under the authority of this state, or having been awarded on the basis of comparable standards in industry, if application for registration under this subsection is filed with the board not more than sixty days after such date; or

(2) Who shall hereafter qualify for and successfully pass such a merit system or civil service examination, and who has satisfactorily completed a six-month pro-
bationary period of employment as a sanitarian prior to
the date of his application; or
(3) Who is a graduate of a college or university, duly
accredited by the proper regional accrediting agency or
by the West Virginia state board of education, who has
credit for not less than thirty semester or forty-five quarter
hours of work in the physical, biological, social and sanita-
tary sciences; or
(4) Who has credit for not less than three full years of
academic work at a college or university, duly accredited
by the proper regional accrediting agency or by the West
Virginia state board of education, including credit for
not less than twenty semester or thirty quarter hours of
work in the physical, biological, social and sanitary sci-
ences, and who has satisfactorily completed a six-month
probationary period of employment as a sanitarian prior
to the date of his application; or
(5) Who has credit for not less than two full years of
academic work at a college or university, duly accredited
by the proper regional accrediting agency or by the West
Virginia state board of education, including credit for
not less than ten semester or fifteen quarter hours of
work in the physical, biological, social and sanitary sci-
ences, and who has satisfactorily completed a six-month
probationary period of employment as a sanitarian prior
to the date of his application.

Any person who meets all qualifications for registration
as a professional sanitarian, except the experience re-
quirements, may upon making application and paying
a total fee of ten dollars be granted a temporary certifi-
cate of registration as an apprentice sanitarian. Such
temporary registration shall, unless sooner revoked for
cause, remain in effect for a period not to exceed one
year, and upon payment of the required fee may be
renewed annually for a period not to exceed two addi-
tional years.

Sec. 6. Annual Renewal of Registration; Fees.—Every
registered professional sanitarian who desires to continue
in active practice or service shall renew his registration
on or before the first day of July of each year. Upon pay-
ment by the registrant of an annual renewal fee of five
dollars, or a fee of ten dollars in the case of a late renewal,
the board shall issue a new certificate of registration,
together with a current identification card with the same
number that was assigned to him at the time of his
original registration. A registered sanitarian whose certi-
icate of registration has expired may have the same re-
newed only upon payment of all lapsed renewal fees.

Sec. 7. Revocation of Registration.—In a proceeding,
instituted and conducted as provided in section eight,
article one of this chapter, for the revocation of any certif-
icate of registration issued by the board of sanitarians,
the board shall have the power to revoke the registration
if it finds that the holder thereof is guilty of any one or
more of the following:

(1) The practice of fraud or deceit in obtaining the
certificate of registration.

(2) Gross neglect of duty or gross incompetence in the
practice of industrial or environmental sanitation, or mal-
feasance or misfeasance in office.

(3) Any criminal, infamous, dishonest, immoral, or
notoriously disgraceful conduct, habitual use of intoxi-
cants to excess, drug addiction, or sexual perversion.

(4) Any acts which furnish reasonable grounds for
belief by the board that the holder of the certificate may
be subjected to coercion, influence or pressure which may
cause him to act contrary to the best interests of the pro-

Sec. 8. Offenses; Penalty; Injunctive Relief.—It shall be
unlawful for any person to represent himself as a regis-
tered professional sanitarian or a registered apprentice
sanitarian, or to perform the duties of a registered pro-
fessional sanitarian or a registered apprentice sanitarian,
unless he holds an unexpired certificate of registration
therefor issued by the board as provided in this article.
Any person who violates the provisions of this section
shall be guilty of a misdemeanor, and upon conviction
thereof shall be punished by a fine of not less than twenty-
11 five dollars nor more than one hundred dollars. Justices
12 of the peace shall have concurrent jurisdiction of cases
13 for the violation of the provisions of this section.
14 In addition, the board is authorized and empowered to
15 apply to any court having equity powers, or to the judge
16 thereof in vacation, for an injunction to restrain any
17 violation of the provisions of this section.

Sec. 9. Reciprocity.—Any person who is registered as
2 a professional sanitarian in any other state, in which the
3 qualifications for registration are not lower than the qualifi-
4 cations set forth in this article, shall upon application
5 and payment of the necessary fees be accepted for regis-
6 tration in this state.

CHAPTER 134

(Senate Bill No. 11—By Mr. Bowers and Mr. Taylor)

AN ACT to amend and reenact section sixteen, article eleven, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the lists and records of the department of public assistance as public records, and to the misuse of such lists and records.

[Passed February 5, 1957; in effect ninety days from passage. Approved by the Governor.]

Section
16. Public assistance lists and records.

Be it enacted by the Legislature of West Virginia:

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

Section 16. Public Assistance Lists and Records.—The 2 department of public assistance shall make available for
PUBLIC HEALTH

CHAPTER 135

(Senate Bill No. 185—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section ten, article one, chapter sixteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to supervision of state health institutions by the state department of health.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 10. Supervision of state health institutions.

Be it enacted by the Legislature of West Virginia:

That section ten, 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 10. Supervision of State Health Institutions.—
2 The state department of health shall have the advisory
3 medical supervision of Denmar, Berkeley Springs, Pine-
4 crest, Hopemont and all other state sanitoriums for the
5 treatment of tuberculous or chronic diseases; and Fair-
6 mont and Welch emergency hospitals; and the state board
7 of control shall have the control of the business and fiscal
8 affairs thereof.
9 The director of the bureau of tuberculosis of the state
10 department of health, under the supervision of the state
11 board of health, shall encourage measures for the sup-
12 pression of tuberculosis, such as clinics, camps, open-air
13 schools, sanitariums, district nursing, anti-tuberculosis
14 societies, diffusion of knowledge, and other means.

CHAPTER 136

(House Bill No. 117—By Mr. Booth)

AN ACT to amend and reenact section six, article eight-a, chapter sixteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to prescriptions for narcotic drugs and compounds.

(Passed February 13, 1957; in effect from passage. Approved by the Governor.)

Article 8-a. Narcotic Drugs.

Section 6. Sales by pharmacists upon prescriptions or by legal owner discontinuing business; solutions containing narcotic drugs.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Sales by Pharmacists upon Prescriptions or by Legal Owner Discontinuing Business; Solutions Containing Narcotic Drugs.—(1) A pharmacist, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian: Provided, That such prescription is properly executed, dated and signed by the person prescribing on the day when issued, and bearing the full name and address of the patient for whom, or of the owner of the animal for which the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws, of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of five years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this article. The prescription shall not be refilled.

In lieu of a written prescription for such narcotic drugs or compounds of a narcotic drug which the secretary of
the treasury of the United States shall find and by regu-
lation designate to possess relatively little or no addiction
liability, a pharmacist may sell or dispense such drugs to
a consumer upon the oral prescription of a physician,
dentist or veterinarian, which oral prescription shall be
reduced promptly to writing and the writing filed and
preserved by the pharmacist for a period of five years
from the date on which such prescription is filled in such
a way as to be readily accessible to inspection by any
public officer or employee engaged in the enforcement of
this act. In issuing an oral prescription, the prescriber
shall furnish the pharmacist with the same information
as is required by law or regulation in case of a written
prescription for narcotic drugs or compounds of a narcotic
drug except for the written signature of the prescriber,
and the pharmacist who fills such prescription shall be
required to inscribe such information on the written record
of the prescription made, filed and preserved by him, and
shall inscribe on the label of the container of the narcotic
drug or compound of a narcotic drug the same information
as is required in filling a written prescription. An oral
prescription shall not be refilled.

If the secretary of the treasury of the United States
shall subsequently determine that a narcotic drug or a
compound of a narcotic drug, to which the oral prescrip-
tion procedure has been made applicable, possesses a
degree of drug addiction liability that results in abusive
use of such procedure, the oral prescription procedure
shall cease to apply to the particular narcotic drug or to
the particular compound of a narcotic drug after the
expiration of a period of six months from the date of pub-
lication in the federal register.

(2) The legal owner of any stock of narcotic drugs in a
pharmacy, upon discontinuance of dealing in said drugs,
may sell said stock to a manufacturer, wholesaler, phar-
macist or pharmacy owner, but only on an official written
order.

(3) A pharmacist, only upon an official written order,
may sell to a physician, dentist or veterinarian, in quanti-
ties not exceeding one ounce at any one time, aqueous or
oleaginous solutions of which the content of narcotic drug
does not exceed a proportion greater than twenty per cent
of the complete solution, to be used for legitimate office
practice. The original order form must be filed by the
pharmacist with his narcotic prescriptions. Each package
containing an aqueous or oleaginous solution so furnished
must bear a label showing the date and number of the
order form, the name and proportion of narcotic drug
contained in the solution, the name, address, and registry
number of the person furnishing the order, and the name,
address, and registry number of the pharmacist or phar-
macy owner filling the order.

CHAPTER 137
(House Bill No. 258—By Mr. Clark)

AN ACT to amend and reenact section eighteen, article thir-
ten, chapter sixteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
members of sanitary boards.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 13. Sewage Works of Municipal Corporations and San-
itary Districts.

Section
18. Supervision of sanitary board; qualifications, etc., of members;
organization and compensation.

Be it enacted by the Legislature of West Virginia:
That section eighteen, article thirteen, 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 18. Supervision of Sanitary Board; Qualifica-
tions, etc., of Members; Organization and Compensation.—
The governing body shall provide by ordinance that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body, one of whom, during the construction period, must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely
from funds provided under the authority of this article. The sanitary board shall have power to establish by-laws, rules and regulations for its own government.

CHAPTER 138
(House Bill No. 95—By Mr. Caldwell)

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, designated section eighteen-a, relating to publication of financial statement by sanitary board.

[Passed March 1, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 18-a. Publication of financial statement.

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, designated section eighteen-a, to read as follows:

Section 18-a. Publication of Financial Statement.—
Every sanitary board shall prepare and cause to be published, one time, in two newspapers of opposite politics, if there be such published or circulated in the sanitary district, or if no such paper be published or circulated therein, (or if no such paper will publish the same for the price fixed by law therefor), the same shall be posted in the offices of the sanitary board and at a public place in each city hall or municipal building in the district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal
year, showing the source from which all money was de-
derived, and the name of the person to whom an order was
issued, together with the amount of such order, and why
such order was issued, arranging the same under distinct
heads, and including all money received and expended
from the sale of bonds, and also a specific statement of
the debts of such board, showing the purpose for which
any debt was contracted, the amount of money in all
funds at the end of the preceding year, and the amount
of uncollected service charges. Such statement shall be
prepared and published by the board as soon as practicable
after the close of the fiscal year: Provided, That such
statement for the fiscal year ending June thirtieth, one
thousand nine hundred fifty-six, may be published any
time during the year one thousand nine hundred fifty-
seven. The statement shall be sworn to by the chairman
and secretary and treasurer of the board. If a board fails
or refuses to perform the duties hereinbefore named,
every member of the board concurring in such failure or
refusal shall be guilty of a misdemeanor, and, upon con-
viction thereof, shall be fined not less than one hundred
nor more than five hundred dollars, and the circuit court
or criminal court and justices of the peace, of the county
where the offense was committed, shall have concurrent
jurisdiction to try such offense.

CHAPTER 139
(House Bill No. 106—By Mr. Hubbard and Mr. Parker)

AN ACT to amend and reenact sections one and four, article
eighteen, chapter sixteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, and to
amend article eighteen of said chapter by adding thereto
six new sections, to be designated sections twenty-four,
twenty-five, twenty-six, twenty-seven, twenty-eight and
twenty-nine, all relating to urban renewal.

[Passed February 11, 1957; in effect from passage. Approved by the Governor.]
Article 18. Slum Clearance.

Section
1. Short title.
4. Creation of urban renewal authority.
24. Findings.
25. Urban renewal projects.
27. Powers with respect to urban renewal.
28. Assistance to urban renewal by communities and other public bodies.
29. Workable program.

Be it enacted by the Legislature of West Virginia:

That sections one and four, article eighteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that article eighteen of said chapter be amended by adding thereto six new sections, to be designated sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine, all to read as follows:

Section 1. Short Title.—This article shall be known and may be cited as the “Urban Renewal Authority Law”.

Sec. 4. Creation of Urban Renewal Authority.—(a) There is hereby created in each community (as herein defined) a public body corporate and politic, to be known as the “Urban Renewal Authority” of the community: Provided, however, That such authority shall not transact any business or exercise its powers hereunder until or unless the governing body shall approve, (by resolution, as herein provided) the exercise in such community of the powers, functions and duties of an authority under this article: Provided further, That, if it deems such action to be in the public interest, the governing body may, instead of such resolution, adopt a resolution approving the exercise of such powers, functions and duties by the community itself or by the housing authority, if one exists or is subsequently established in the community, and in such event, the community or housing authority, as the case may be, shall be vested with all the powers, functions, rights, duties and privileges of an urban renewal and redevelopment authority under this article.

(b) The governing body of a community shall not adopt
21 a resolution pursuant to subsection (a) above unless it
22 finds:
23 (1) That one or more slum or blighted areas (as herein
24 defined) exist in such community, and
25 (2) That the redevelopment of such area or areas is
26 necessary in the interest of the public health, safety,
27 morals or welfare of the residents of such community.
28 (c) If the governing body of each of two or more com-
29 munities declares, by resolution, that there is a need for
30 one urban renewal and redevelopment authority to be
31 created for all of such communities, and has made the
32 findings required by paragraph (b), a public body, corpor-
33 ate and politic, to be known as a regional slum clearance
34 and redevelopment authority (herein referred to as re-
35 gional authority or authority) shall thereupon exist for
36 all of such communities and may exercise the powers and
37 other functions of an authority under this article in such
38 communities.
39 (d) The area of operation of a regional authority shall
40 be increased from time to time to include one or more
41 additional communities if the governing body of each of
42 such additional communities adopts the resolution describ-
43 ed in paragraph (c) and makes the findings required by
44 paragraph (b), and the commissioners of the regional
45 authority consent to the inclusion within its area of oper-
46 ation of such additional communities.
47 (e) When the governing body of a municipality adopts
48 a resolution as aforesaid, it shall promptly notify the
49 mayor of such adoption. If the resolution adopted is one
50 approving the exercise of powers hereunder by an urban
51 renewal and redevelopment authority, the mayor, by
52 and with the advice and consent of the governing body
53 shall appoint a board of commissioners of the authority
54 created for such municipality which shall consist of no
55 less than five commissioners nor more than seven, and
56 when the governing body of a county adopts such a reso-
57 lution, said body shall appoint a board of commissioners
58 of the authority created for such county which shall con-
59 sist of no less than five commissioners nor more than seven.
60 The commissioners who are first appointed pursuant to
this article shall be designated to serve for terms of one, two, three and four years, and three of said commissioners for five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term.

(f) If a regional authority is created as herein provided, one person shall be appointed as a commissioner of such authority for each community for which such authority is created. When the area of operation of a regional authority is increased to include an additional community or communities as herein provided, one additional person shall be appointed as a commissioner of such authority for each such additional community. Each such commissioner appointed for a municipality shall be appointed by the mayor thereof, by and with the advice and consent of the governing body, and each such commissioner appointed for a county shall be appointed by the governing body thereof. The first appointment of commissioner of a regional authority may be made at or after the time of the adoption of the resolution declaring the need for such authority or declaring the need for the inclusion of such community in the area of operation of such authority. The commissioners of a regional authority and their successors shall be appointed as aforesaid for terms of five years except that all vacancies shall be filled for the unexpired terms.

If the area of operation of a regional authority consists at any time of an even number of communities, the commissioners of the regional authority already appointed in the manner described above shall appoint the additional commissioner whose term of office shall be as provided for a commissioner of a regional authority except that such terms shall end at any earlier time that the area of operation of the regional authority shall be changed to consist of an odd number of communities. The commissioners of such authority already appointed in the manner described above shall likewise appoint each person to succeed such additional commissioner: Provided, That the term of office of such person begins during the terms of
office of the commissioners appointing him. A certificate of the appointment of any such additional commissioner of such regional authority shall be filed with the other records of the regional authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner.

(g) A commissioner of an authority shall receive no compensation for his services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the municipal or county clerk, as the case may be, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers hereunder vested in each urban renewal and redevelopment authority shall be exercised by the board of commissioners thereof. A majority of the commissioners shall constitute a quorum of such board for the purpose of conducting business and exercising the powers of the authority and for all other purposes. Action may be taken by the board upon a vote of a majority of the commissioners present, unless in any case the by-laws of the authority shall require a larger number. Meetings of the board of an authority may be held anywhere within the perimeter boundaries of the area of operation of the authority. Any persons may be appointed as commissioners of the authority if they reside within such area, and are otherwise eligible for such appointments under this article.

The commissioners of an authority shall elect a chairman and vice chairman from among the commissioners. An authority may employ an executive director, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may, with the approval of the mayor (or of the governing body in the case of a county), call upon the chief law
officer of the communities within its area of operation or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

(h) For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the official or public body which appointed such commissioner, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to such hearing and has had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereof, shall be filed in the office of the municipal or county clerk, as the case may be.

(i) In any suit, action or proceeding involving the validity of enforcement of or relating to any contract of or bonds issued by an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of the appropriate resolution prescribed in subsection (a) or (c) above. Each such resolution shall be deemed sufficient if it authorizes the exercise of powers hereunder by the authority or other public body and finds in substantially the terms provided in subsection (b) (no further details being necessary) that the conditions therein enumerated exist. A copy of such resolution duly certified by the municipal or county clerk, as the case may be, shall be admissible in evidence in any suit, action or proceeding.

(j) No commissioner or employee of an authority shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the authority to be included in any such project, or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary such commissioner or employee shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. A commissioner or employee who owns or
controls any interest direct or indirect, in such property
shall not participate in any action by the authority affect-
ing the property. If any commissioner or employee of an
authority owned or controlled within the preceding two
years an interest, direct or indirect, in any property in-
cluded or planned by the authority to be included in any
redevelopment project, he immediately shall disclose such
interest in writing to the authority and such disclosure
shall be entered upon the minutes of the authority. Upon
such disclosure such commissioner or employee shall not
participate in any action by the authority affecting such
property. Any violation of the provisions of this section
shall constitute misconduct in office.

Sec. 24. Additional Findings.—It is hereby found and
declared that (a) there exist in communities of this state
slum, blighted, and deteriorated areas which constitute a
serious and growing menace, injurious to the public
health, safety, morals and welfare of the residents of the
state, and the findings and declarations heretofore made
in this article with respect to slum and blighted areas are
hereby affirmed and restated, (b) certain slum, blighted,
or deteriorated areas, or portions thereof, may require ac-
quision and clearance, as provided in this article, since
the prevailing condition of decay may make impracticable
the reclamation of the area by conservation or rehabilita-
tion, but other areas or portions thereof may, through the
means provided in this article, as amended, be susceptible
of conservation or rehabilitation in such a manner that
the conditions and evils hereinbefore enumerated may be
eliminated, remedied or prevented, and that salvageable slum
and blighted areas can be conserved and rehabilitated
through appropriate public action and the cooperation and
voluntary action of the owners and tenants of property
in such areas, and (c) all powers conferred by this ar-
ticle, as amended, are for public uses and purposes for
which public money may be expended and such other
powers exercised, and the necessity in the public interest
for the provisions of this article, as amended, is hereby
declared as a matter of legislative determination. A com-

munity, to the greatest extent it determines to be feasible
in carrying out the provisions of this article, as amended, shall afford maximum opportunity, consistent with the sound needs of the community as a whole, to the rehabilitation or redevelopment of areas by private enterprise.

Sec. 25. Urban Renewal Projects.—In addition to its authority under any other section of this article, an authority is hereby authorized to plan and undertake urban renewal projects. As used in this article, an urban renewal project may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. Such undertaking and work may include (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project: Provided, That such disposition shall be in the manner prescribed in this article for the disposition of property in a redevelopment project area.

Notwithstanding any other provisions of this article, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe respecting which the governor of the state
has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to any provisions of this article requiring public hearings or requiring that the urban renewal plan conform to a general plan for the community as a whole, or that the urban renewal area be a slum area, or a blighted, deteriorated, or deteriorating area, or that the urban renewal area be predominantly residential in character or be developed or redeveloped for residential uses.

Sec. 26. Urban Renewal Plan.—Any urban renewal project undertaken pursuant to the preceding section shall be undertaken in accordance with an urban renewal plan for the area of the project. As used in this article, an "urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the community as a whole, except as provided for disaster areas, and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives representing appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements. An urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in this article with respect to a redevelopment plan. Where real property acquired by a community is to be transferred in accordance with the urban renewal plan, any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the authority may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.

Sec. 27. Powers with Respect to Urban Renewal.—A community or a public agency created under this article.
shall have all the powers necessary or convenient to un-
dertake and carry out urban renewal plans and urban
renewal projects, including the authority to acquire and
dispose of property, to issue bonds and other obligations,
to borrow and accept grants from the federal government
or other source and to exercise the other powers which
this article confers on an authority with respect to re-
development projects. In connection with the planning
and undertaking of any urban renewal plan or urban
renewal project, the authority, the community, and all
public and private officers, agencies, and bodies shall have
all the rights, powers, privileges, and immunities which
they have with respect to a redevelopment plan or re-
development project, in the same manner as though all
of the provisions of this article applicable to a redevelop-
ment plan or redevelopment project were applicable to
an urban renewal plan or urban renewal project: Pro-
vided, That for such purpose the word "redevelopment"
as used in this article (except in this section and in the
definition of "redevelopment project" in section three)
shall mean "urban renewal", and the word "slum" and
the word "blighted" as used in this article (except in this
section and in the definitions in section three) shall mean
"blighted, deteriorated, or deteriorating", and the finding
prescribed in subsection (b) of section four with respect
to a blighted area shall not be required: Provided further,
That any disaster area referred to in section twenty-five
(b) shall constitute a "blighted area". In addition to
the surveys and plans which an authority is otherwise
authorized to make, an authority is hereby specifically
authorized to make (i) plans for carrying out a program
of voluntary repair and rehabilitation of buildings and
improvements, (ii) plans for the enforcement of laws,
codes, and regulations relating to the use of land and the
use and occupancy of buildings and improvements, and
to the compulsory repair, rehabilitation, demolition, or
removal of buildings and improvements, (iii) plans for
the relocation of persons (including families, business
concerns and others) displaced by an urban renewal
project, (iv) preliminary plans outlining urban renewal
activities for neighborhoods to embrace two or more ur-
ban renewal areas, and (v) preliminary surveys to determine if the undertaking and carrying out of an urban renewal project are feasible. The authority is authorized to make relocation payments to or with respect to persons (including families, business concerns and others) displaced by an urban renewal project, for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government. The authority is also authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight.

Sec. 28. Assistance to Urban Renewal by Communities and Other Public Bodies.—Any community or other public body is hereby authorized (without limiting any provisions in the preceding section) to do any and all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project in the area in which such community or public body is authorized to act, including the furnishing of such financial and other assistance as the community or public body is authorized by this article to furnish for or in connection with a redevelopment plan or redevelopment project. An authority is hereby authorized to delegate to a community or other public body any of the powers or functions of the authority with respect to the planning or undertaking of an urban renewal project in the area in which such community or public body is authorized to act, and such community or public body is hereby authorized to carry out or perform such powers or functions for the authority. Any public body is hereby authorized to enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this article, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

Sec. 29. Workable Program; Powers Conferred Are Sup-
plemental.—The governing body of the community, or such public officer or public body as it may designate, is hereby authorized to prepare a workable program (which may include an official plan of action, as it exists from time to time for effectively dealing with the problem of urban slums and blighted, deteriorated, or deteriorating areas within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program.

The powers conferred by this article shall be in addition and supplemental to the powers conferred by any other law.

CHAPTER 140
(Com. Sub. for House Bill No. 263—Originating in the House Committee on Finance)

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 March 7, 1957; in effect July 1, 1957. Approved by the Governor.]
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 training from time to time for all members of the department. The superintendent may, in his discretion, hold training classes for other peace officers in the state without cost to such officers, except actual expenses for food, lodging and school supplies.

Members of the department shall receive salaries, as follows:

The inspector shall receive an annual salary of five thousand two hundred twenty dollars; captains shall each receive an annual salary of four thousand four hundred forty dollars; lieutenants shall each receive an annual salary of four thousand one hundred forty dollars; the master sergeants and first sergeants shall each receive an annual salary of three thousand seven hundred eighty dollars; sergeants shall each receive an annual salary of three thousand six hundred dollars; corporals shall each receive an annual salary of three thousand four hundred eighty dollars; and each newly enlisted trooper shall receive a salary of two hundred dollars during the period
of his basic training, and upon the satisfactory completion of such training and assignment to active duty each such trooper shall receive, during the remainder of his first year's service, a salary of two hundred fifty dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of three thousand one hundred twenty dollars; during the third year of his service each trooper shall receive an annual salary of three thousand two hundred forty dollars; and during the fourth and fifth years of his service each trooper shall receive an annual salary of three thousand three hundred sixty dollars. Each member of the department entitled thereto by the provisions hereof shall receive an increase in salary over that hereinbefore set forth in this section, for grade and rank, based on length of service, including that heretofore and hereafter served, with the department, as follows: For each five-year period of service with the department from the date of first enlistment, each member of the department shall receive a salary increase of one hundred twenty dollars per year to be effective during his next five years of service, which increases shall be successive and cumulative until a total of five such increases shall be received.

In applying the foregoing salary schedule where salary increases are provided for length of service, members of the department in service at the time this article becomes effective shall be given credit for prior service and shall be paid such salaries as the same length of service will entitle them to receive under the provisions hereof.

Each member of the department of public safety, except the superintendent and civilian employees, shall, before entering upon the discharge of his duties, execute a bond with the security in the sum of three thousand five hundred dollars payable to the state of West Virginia, conditioned for the faithful performance of his duties as such, and such bond shall be approved as to form by the attorney general, and as to sufficiency by the board of public works, and the same shall be filed with the secretary of state and preserved in his office.
CHAPTER 141

(House Bill No. 334—By Mr. Myles)

AN ACT to repeal sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said chapter fifteen by adding thereto a new article, numbered and designated article six, creating the state armory board and providing for the construction, acquisition, financing, operation, maintenance and disposition of armories and armory facilities by said board.

[Passed March 8, 1957; in effect from passage. Approved by the Governor.]

Article 6. State Armory Board.

Section
1. Legislative purpose and authority.
2. Credit of the state not pledged.
3. Definitions.
4. State armory board.
5. Duties of the board.
7. Authority of board to issue armory board revenue bonds; grants and gifts.
8. Trustee of holders of bonds.
10. Rentals and other revenues.
11. Authority of board to pledge revenue as security.
12. Title to vest in state.
13. Lease of armory or armory facilities by adjutant general.
14. Acquisition of property; condemnation.
15. Preliminary expenses.
16. Municipal aid for armory purposes; issuance of bonds.
17. Disposition of abandoned and unsuitable armories or armory facilities.
18. Exemption from taxation.
19. Article not authority to create state debt.
20. Compliance with this article and state constitution; only restrictions on construction and management of project.

Be it enacted by the Legislature of West Virginia:

That sections seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article one, chapter
fifteen of the code of West Virginia, one thousand nine hundred thirty-one as amended, be repealed; and that said chapter fifteen be amended by adding thereto a new article, numbered and designated article six, to read as follows:

Section 1. Legislative Purpose and Authority.—In order to provide modern and efficient facilities for the training, operations, supply and administration of the national guard, to provide for the defense of the state in time of war and to repel invasion and suppress insurrection, to provide facilities for use in time of fires, floods, riots and other disasters, to provide public meeting places, recreational and other facilities and to promote the general welfare, the state armory board (hereinafter created) is hereby authorized and empowered to construct, acquire, improve, maintain, repair and operate armories and armory projects (as hereinafter defined) and to issue armory board revenue bonds of the state of West Virginia, payable solely from revenues, to pay the cost of such projects.

Sec. 2. Credit of the State not Pledged.—Armory board revenue bonds issued under the provisions of this article shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such bonds shall contain on the face thereof a statement to the effect that neither the state nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

Sec. 3. Definitions.—The following terms, wherever used or referred to in this article shall have the following meanings, unless a different meaning clearly appears from the context:

(a) the word "board" shall mean the state armory
board created by section four of this article, or if such board be abolished, any board or officer succeeding to the functions thereof, or upon whom the powers given by this article to the board shall be given by law.

(b) The word "bonds" shall mean armory board revenue bonds issued under the provisions of section seven of this article.

c) The term "armory" shall mean and embrace buildings, areas and centers and the equipment and other facilities appurtenant thereto, including armories, arsenals, ranges, camp grounds, service centers, training areas, concentration areas, and warehouses, used for the training, administration, operations and maintenance of the national guard or any combination or combinations thereof, and any other equipment and facilities incorporated therein for the accomplishment of the purposes set forth in section one of this article.

(d) The words "project" or "armory project" shall be deemed to mean collectively the acquisition and construction of buildings, structures and other works, together with all roads, incidental approaches and other facilities appurtenant thereto and all property, rights, easements and other interests, which the board shall determine to construct, acquire, or improve under the provisions of this article in order to provide new or improved military facilities, and the necessary maintenance and equipment therefor.

e) The term "cost of project" shall embrace the cost of construction, the cost of all land, rights-of-way, property rights, easements and interest acquired by the board for such construction, the cost of all property, material, labor, machinery and equipment deemed essential thereto, cost of improvements, financing charges, interest during construction and for a period not to exceed one year after completion of construction, cost of preliminary estimates, plans, surveys and other expenses necessary or incident to determining the feasibility or practicability of construction of the project, administrative expenses and all other expenses, including legal fees, trustees', engineers' and architects' fees which may be necessary or incident
to the financing, construction and placing of the project in operation.

(f) The term "rent" or "rental" shall include all monies received for the use of any part of the project, whether from the state of West Virginia, or any officer, department or public corporation thereof, or from any private corporation or person: Provided, That nothing in this article shall be taken to authorize the payment by or on behalf of the state of any rent in excess of the fair rental value of the property used by or for such state officer, or department, or public corporation in the exercise of his or its statutory duties.

Sec. 4. State Armory Board.—There is hereby created a board to be known as the state armory board, and by that name the board may sue and be sued, and plead and be impleaded. It shall be a body corporate and is hereby constituted an agency of the state. The exercise by the board of the powers conferred by this article in the acquisition, financing, construction, operation and maintenance of armories and armory projects shall be deemed and held to be an essential governmental function. The board shall consist of the governor, the secretary of state and the auditor. The governor shall act as chairman of the board and the secretary of state shall act as secretary of the board. Two members of the board shall constitute a quorum and the vote of two members shall be necessary for any action taken by the board.

The members and officers of the board shall not be entitled to compensation for their services, but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

Sec. 5. Duties of the Board.—The board shall be responsible for the acquisition, financing, construction, and disposition of armories. It shall properly maintain, repair, operate, manage and control all armories, fix the rates of rental, and establish by-laws and rules and regulations for their use and operation, and may make and enter into all contracts, agreements necessary and incidental to the performance of its duties and execution of its powers un-
under this article. It shall audit and approve all bills, claims
and accounts in connection with the construction, acquisi-
tion, maintenance, repair and operation of all armories
before such bills, claims and accounts shall be paid, and
it shall perform such other duties as this article may
require or as may be otherwise required by law.

Sec. 6. Powers of the Board.—The board is hereby au-
thorized and empowered:
(a) To adopt by-laws for the regulation of its affairs
and the conduct of its business.
(b) To adopt an official seal and alter the same at
pleasure.
(c) To sue and be sued in its own name, plead and be
impleaded: Provided, however, That any and all actions
at law or in equity against the board shall be brought
only in the county in which the principal office of the
board is located.
(d) To construct, maintain, repair and operate and dis-
pose of armories and armory projects at such locations
within the state as may be determined by the board.
(e) To issue armory board revenue bonds of the state
of West Virginia payable solely from revenues, for the
purpose of paying all or any part of the cost of any one
or more armory projects.
(f) To contract and to acquire in the name of the state
by purchase or otherwise on such terms and in such man-
er as it may deem proper, or by the exercise of the right
of condemnation in the manner hereinafter provided, such
public or private lands, including public parks or reserva-
tions, or parts thereof or rights therein, rights-of-way,
property, rights, easements and interests, as it may deem
necessary for carrying out the provisions of this article;
and to dispose of the same in accordance with the law:
Provided, however, That no compensation shall be paid
for public lands owned by the state or any subdivision
thereof so taken and that all public property damaged
in carrying out the powers granted by this article, shall
be restored or repaired and placed in its original condition
as nearly as practicable.
34  (g) To acquire, hold and dispose of real and personal
35  property in the exercise of its powers and for its corporate
36  purposes.
37  (h) To appoint officers and agents and to fix their com-
38  pensation.
39  (i) To make and execute all contracts, agreements and
40  other instruments necessary or incident to the perform-
41  ance of its duties and for its corporate purposes.
42  (j) To receive and accept from any federal agency
43  grants for or in aid of armory projects, and to receive and
44  accept aid or contributions of either money, property,
45  labor or other things of value, from any source including
46  counties, municipalities, boards of education and other
47  political subdivisions or agencies of the state.
48  (k) To charge rent for the use of any armory or armory
49  project, or any part thereof, subject to and in accordance
50  with such agreements with bondholders as may be made
51  as hereinafter provided.
52  (l) To enter upon any lands or premises for the pur-
53  poses of making surveys, soundings and examinations.
54  (m) To do all things necessary or convenient to carry
55  out the powers granted in this article, including the man-
56  agement and use of armories and armory projects not in-
57  consistent with their use by the state for armory purposes
58  as defined herein.

Sec. 7. Authority of Board to Issue Armory Board
2 Revenue Bonds; Grants and Gifts.—The board is hereby
3 empowered to raise the cost of the project, as defined
4 hereinabove, by the issuance of armory board revenue
5 bonds of the state of West Virginia, the principal of and
6 interest on which bonds shall be payable solely from the
7 special fund provided by section ten of this article for
8 such payment. Such bonds shall be authorized by a reso-
9 lution of the board which shall recite an estimate by the
10 board of such cost, and shall provide for the issuance of
11 bonds in an amount sufficient, when sold as hereinafter
12 provided to produce such cost, less the amount of any
13 grant or grants, gift or gifts, received or in the opinion of
14 the board expected to be received from the United States
of America, or from any other source. Such bonds shall bear interest at not more than four per cent per annum, payable semi-annually, and shall mature in not more than thirty years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the board, at such price and under such terms and conditions as the board may fix prior to the issuance of such bonds. The board shall fix the denominations of said bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of said state, or, at the option of the holder, at some bank or trust company in the city of New York, to be named in the bond, in such medium, as may be determined by the board. Proceeds of such bonds shall be used solely for the payment of the cost of the project and shall be deposited and checked out as provided by section nine of this article, and under such further restrictions, if any, as the board may provide. The board shall determine the form of such bonds, including coupons to be attached thereto, which bonds shall bear the facsimile signature of the governor as chairman of the board and shall be signed by the secretary of state as secretary of the board, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the governor as chairman of the board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board may provide for the registration of such bonds in the name of the owner as to the principal loan, and as to both principal and interest under such terms and conditions as the board may determine, and shall sell such bonds in such manner as it may be determined to be for the best interests of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchaser and especially the availability of the proceeds of the bonds when required for payment of the costs of the
(g) To acquire, hold and dispose of real and personal property in the exercise of its powers and for its corporate purposes.

(h) To appoint officers and agents and to fix their compensation.

(i) To make and execute all contracts, agreements and other instruments necessary or incident to the performance of its duties and for its corporate purposes.

(j) To receive and accept from any federal agency grants for or in aid of armory projects, and to receive and accept aid or contributions of either money, property, labor or other things of value, from any source including counties, municipalities, boards of education and other political subdivisions or agencies of the state.

(k) To charge rent for the use of any armory or armory project, or any part thereof, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided.

(l) To enter upon any lands or premises for the purposes of making surveys, soundings and examinations.

(m) To do all things necessary or convenient to carry out the powers granted in this article, including the management and use of armories and armory projects not inconsistent with their use by the state for armory purposes as defined herein.

Sec. 7. Authority of Board to Issue Armory Board Revenue Bonds; Grants and Gifts.—The board is hereby empowered to raise the cost of the project, as defined hereinabove, by the issuance of armory board revenue bonds of the state of West Virginia, the principal of and interest on which bonds shall be payable solely from the special fund provided by section ten of this article for such payment. Such bonds shall be authorized by a resolution of the board which shall recite an estimate by the board of such cost, and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided to produce such cost, less the amount of any grant or grants, gift or gifts, received or in the opinion of the board expected to be received from the United States
of America, or from any other source. Such bonds shall bear interest at not more than four per cent per annum, payable semi-annually, and shall mature in not more than thirty years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the board, at such price and under such terms and conditions as the board may fix prior to the issuance of such bonds. The board shall fix the denominations of said bonds, the principal and interest of which shall be payable at the office of the treasurer of the state of West Virginia, at the capitol of said state, or, at the option of the holder, at some bank or trust company in the city of New York, to be named in the bond, in such medium, as may be determined by the board. Proceeds of such bonds shall be used solely for the payment of the cost of the project and shall be deposited and checked out as provided by section nine of this article, and under such further restrictions, if any, as the board may provide. The board shall determine the form of such bonds, including coupons to be attached thereto, which bonds shall bear the facsimile signature of the governor as chairman of the board and shall be signed by the secretary of state as secretary of the board, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the governor as chairman of the board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board may provide for the registration of such bonds in the name of the owner as to the principal loan, and as to both principal and interest under such terms and conditions as the board may determine, and shall sell such bonds in such manner as it may be determined to be for the best interests of the state, taking into consideration the financial responsibility of the purchaser, and the terms and conditions of the purchaser and especially the availability of the proceeds of the bonds when required for payment of the costs of the
project, such sales to be made at a price not lower
than a price which, computed upon standard tables
of bond values, will show a net return of five and
one-half per centum per annum to the purchaser upon
the amount paid therefor. If the proceeds of such bonds
by error and calculation or otherwise, shall be less than
the cost of the project, additional bonds may in like man-
er be issued to provide the amount of the deficiency, and
unless otherwise provided for in the trust agreement here-
inafter mentioned, shall be deemed to be of the same issue,
and shall be entitled to payment from the same fund,
without preference or priority as to the bonds before issue.
If the proceeds of the bonds issued for the project shall
exceed the costs thereof, surplus shall be paid into the
fund provided by section ten of this article for payment
of the principal and interest of such bonds. Such fund
may be used for the purchase of any of the outstanding
bonds payable from such fund at the market price, but at
not exceeding the price, if any, of which bonds in the same
year may be redeemable, and all bonds redeemed or pur-
chased shall not again be issued.

Sec. 8. Trustee of Holders of Bonds.—The board may
enter into an agreement or agreements with any trust
company, or with any bank having the powers of a trust
company, either within or outside of the state, as trustee
for the holders of bonds issued hereunder, setting forth
therein such duties of the state and of the board in respect
to the acquisition, construction, improvement, mainte-
nance, operation, repair, and insurance of the project, the
conservation and application of all monies, the insurance
of monies on hand or on deposit, and the rights and
remedies of the trustee and the holders of the bonds, as
may be agreed upon with the original purchasers of such
bonds, and including therein provisions restricting the
individual right of action of bondholders as is customary
in trust agreements respecting bonds and debentures of
corporations, protecting and enforcing the rights and
remedies of the trustee and the bondholders, and pro-
viding for approval by the original purchasers of the bonds
of the appointment of consulting architects, and of the
20 security given by those who contract to construct the
21 projects and by the bank or trust company in which the
22 proceeds of the bonds or rental shall be deposited and
23 for approval by the consulting architects of all contracts
24 for construction. Any such trust agreement may pledge
25 or assign the rents or other revenues to be received by the
26 board, but shall not convey or mortgage any armory or
27 armory projects or any part thereof.

Sec. 9. Application of Proceeds of Bonds, Grants and
2 Appropriations.—The proceeds of all bonds issued and
3 sold under the provisions of this article, the proceeds of
4 any grants, gifts or contributions received by the board
5 and any appropriations for the construction or acquisition
6 of armory projects shall be paid to the treasurer of the
7 state of West Virginia who shall not commingle such monies
8 with other monies, but shall deposit them in separate
9 bank account or accounts. The monies in said accounts
10 shall be paid out on check of the treasurer on requisition
11 of the chairman of the board, or such person as the board
12 may authorize to make such requisition. All deposits of
13 such monies shall if required by the treasurer or the board
14 be secured by obligations to the United States, of the state
15 of West Virginia or of the board, of a market value equal
16 at all times to the deposit and all banking institutions are
17 authorized to give such security for such deposits.

Sec. 10. Rentals and Other Revenues.—The board is
2 hereby authorized to fix, revise, charge and collect rent
3 for the use of armories or any part or parts thereof, and
4 to contract with the adjutant general of the state, with any
5 other officer, department or public corporation or political
6 subdivision thereof and with any person, partnership,
7 association or corporation desiring the use thereof, and to
8 fix the terms, conditions, rents and rates of charges for
9 such use: Provided, however, That the primary purpose
10 of armories shall be their use by the national guard, and
11 their use by other than the national guard shall be sub-
12 ject to and shall not interfere with such primary purpose.
13 Such rents shall be so fixed and adjusted in respect of
14 the aggregate of rents from armories in connection with
which the bonds of any issue shall have been issued as to
provide a fund sufficient with other revenues, if any, to
pay (a) the cost of maintaining, repairing and operating
such armories and (b) the principal of and interest on
such bonds as the same shall become due and payable, and
to create reserves for such purposes. All rents and other
revenues of the board received from the use of armories
shall be paid into a special account of the treasurer of the
state of West Virginia to be known as the general armory
fund and shall be used solely for the purposes of this
article. Such monies shall be checked out and secured in
the same manner as provided in section nine of this article.

Sec. 11. Authority of Board to Pledge Revenue as Se-
curity.—The board 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 board may deem it advisable it
shall also have the authority to pledge the revenue de-
derived from any existing armories as additional security for
the payment of any bonds issued under the provisions of
this article to pay the cost of any armory project.

Sec. 12. Title to Vest in State.—Title to all property,
armories and armory projects, upon delivery and accept-
ance, shall vest in the state and shall be held in the name
of the state. The board may, upon such terms as the board
may deem to be in the best interest of the state, transfer
title to any armory to the United States, but may provide
for the retention by the state of civil and police jurisdic-
tion through such armory and a right to tax persons
residing thereon.

All money received by the board from any armory sold,
damaged or destroyed, unless pledged as security for the
payment of bonds issued under the provisions of this
article, shall be paid to the treasurer of the state and
credited to the account of the board, and may be expended
for the construction, acquisition or improvement of
armories under the provisions and limitations of this
article.

Sec. 13. Lease of Armory or Armory Facilities by*
Adjutant General.—Nothing contained in this article shall be construed as limiting the authority of the adjutant general to enter into leases for armories on behalf of the national guard or state guard.

Sec. 14. Acquisition of Property; Condemnation.—The board is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction or operation of any armory or armory project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the board and the owner thereof, and to take title thereto in the name of the state. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the board is hereby authorized and empowered to acquire, by the exercise of the power of condemnation in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property, rights, rights-of-way, franchises, easements or other property deemed necessary or convenient for the construction or the efficient operation of any armory project or necessary in the restoration of public or private property damaged or destroyed. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the board and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the board to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the board shall impose any liability upon the state or the board except such as may be paid from the funds provided under the authority of this article.

Sec. 15. Preliminary Expenses.—The adjutant general is hereby authorized in his discretion to expend out of
any funds available for the purpose such monies as may be necessary for the study of any preliminary armory project or projects and for making necessary estimates, plans and surveys to determine the feasibility of the construction and financing thereof; and all such expenses incurred by the adjutant general prior to the issuance of bonds under the provisions of this article shall be paid by the adjutant general and charged to the appropriate armory project, and the adjutant general shall keep separate records and accounts showing such amounts so charged. Upon the sale of bonds for any armory project the funds so expended by the adjutant general in connection with such project shall be reimbursed to the adjutant general from the proceeds of such bonds.

Sec. 16. Municipal Aid for Armory Purposes; Issuance of Bonds.—Any county or municipality or two or more municipalities jointly may raise and appropriate money in the aid of the acquisition, construction, maintenance, repair and improvement of any armory located therein, and to that end may issue bonds payable not more than thirty years after their issue and bearing interest at a rate not exceeding six per cent per annum, and may deposit such money and funds and the proceeds of the sale of such bonds with the state treasurer in the special account provided by section nine of this article to the credit of the proper armory project, and may make such further provisions for the maintenance and improvement of such armory and its joint use with the national guard as may be deemed necessary: Provided, That whenever the board deems it expedient and in furtherance of the purpose of this article it may purchase and finish armories already built or partly built. Counties and municipalities constructing and financing armories under the provisions of this article or the provisions of article four-a, chapter eight of this code shall convey such armories to the armory board upon payment of all bonds, and interest thereon, issued for the construction or improvement thereof.

Sec. 17. Disposition of Abandoned and Unsuitable Armories or Armory Facilities.—Whenever any armory shall be no longer needed by the national guard, or other
military organization, or in the judgment of the board is
unsuitable for military purposes, the board shall have the
authority, and it is hereby expressly empowered to sell,
transfer and convey such armory to the municipality,
county or county board of education or any two or more
of the same or combination thereof in which the same
is located, for public purposes, upon such terms as the
board may deem to be in the best interest of the state:
Provided, That if such municipality, county or board of
education shall not purchase such armory, the board shall
then be authorized to sell, transfer and convey the same to
any person, firm, or corporation upon such terms as the
board may deem to be in the best interest of the state:
Provided further, That if the armory cannot be sold
in this manner, the board may lease it for other than mili-
tary purposes as provided in section ten of this article.

Sec. 18. Exemption from Taxation.—The exercise of the
powers granted in this article will be in all respects for
the benefit of the people of this state, and, as the construc-
tion, acquisition, improvement, operation and mainte-
nance of armories will constitute the performance of
essential governmental functions, the board shall not be
required to pay any taxes or assessments upon any armory
or any property acquired or used by the board under the
provisions of this article or upon the income therefrom,
and the bonds issued under the provisions of this article,
their transfer and the income therefrom, including any
profit made on the sale thereof, shall at all times be
exempt from taxation within the state.

Sec. 19. Article Not Authority to Create State Debt.—
Nothing in this article contained shall be so construed or
interpreted as to authorize and permit the incurring of
state debts of any kind or nature as contemplated by the
provisions of the constitution of the state of West Virginia
in relation to state debt, or any subdivision thereof.

Sec. 20. Compliance With This Article and State Con-
stitution; Only Restrictions on Construction and Manage-
ment of Project.—It shall not be necessary to secure from
any officer or board not named in this article any approval
or consent, or any certificate or finding, or to hold an election, or to take any proceedings whatever, either for the construction of such project, or the improvement, maintenance, operation, or repair thereof, or for the issuance of bonds hereunder except such as are provided by this article or are required by the constitution of the state.

CHAPTER 142

(Senate Bill No. 97—By Mr. Martin)

AN ACT to amend and reenact section three, article four, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allotment or sale of property and the procedure therefor.

[Passed February 28, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 4. Partition.

Section 3. Allotment or sale; procedure for allotment.

Be it enacted by the Legislature of West Virginia:

That section three, article four, 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 3. Allotment or Sale; Procedure for Allotment.

When partition cannot be conveniently made, the entire subject may be allotted to any party or parties who will accept it, and pay therefor to the other party or parties such sums of money as his or their interest therein may entitle him or them to; or in any case in which partition cannot be conveniently made, if the interests of one or more of those who are entitled to the subject, or its proceeds, will be promoted by a sale of
the entire subject, or allotment of part and sale of the residue, and the interest of the other person or persons so entitled will not be prejudiced thereby, the court, notwithstanding the fact that any of those entitled may be an infant, insane person, or convict, may order such sale, or such sale and allotment, and make distribution of the proceeds of sale, according to the respective rights of those entitled, taking care, when there are creditors of any deceased person who was a tenant in common, joint tenant, or coparcener, to have the proceeds of such deceased person's part applied according to the rights of such creditors. Where it clearly appears to the court that partition cannot be conveniently made, the court may order sale without appointing commissioners. The court making an order for sale shall, when the dividend of a party exceeds the value of three hundred dollars, if such party be an infant, insane person, or convict, require security for the faithful application of the proceeds of his interest, in like manner as if the sale were made under article one of this chapter.

In the event that allotment shall be made as aforesaid and the person or persons entitled to the proceeds, for any reason, cannot agree upon the value of the subject, the court, or the judge thereof in vacation, shall appoint three disinterested and qualified persons to fix the value of the whole subject, who, after being duly sworn to make an appraisal of the fair market value of the subject, shall within thirty days from the taking of such oath, appraise the subject and make and file a written report of their findings in the office of the clerk of the court in which the suit is pending. If such appraisers report their disagreement, or fail to file such report within thirty days, other appraisers may in like manner be appointed, and so again, from time to time, as often as may be necessary. The report of the appraisers when filed, shall be conclusive and binding upon all persons having any interest in the subject, unless an objection is filed thereto in said clerk's office within thirty days after the date of the filing of such report by the appraisers. If objection is made to such report, the court, or the judge thereof in
vacation, shall take evidence upon the value of the sub-
ject in the same manner as in other chancery matters,
shall find the fair market value of the subject and shall
decree payment therefor according to the respective rights
of those entitled thereto as their interest may appear,
taking care to protect the rights of creditors as aforesaid
in this section.
If any party to the suit refuses, or is unable because of
any disability, including but not limited to infancy, in-
sanity and conviction of crime, to make, execute and de-
lider a deed or other instrument transferring title to the
subject to the person or persons to whom the subject has
been allotted, the court, or the judge thereof in vacation,
shall appoint a special commissioner for the purposes of
accepting the purchase money from the person or per-
sons to whom the subject has been allotted, making, exe-
cuting and delivering thereto a deed or other instrument
therefor and distributing such purchase money according
to the respective rights of those persons entitled thereto.
The special commissioner so appointed shall give bond
and be governed in all respects as provided in section
one, article twelve, chapter fifty-five of this code.

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CHAPTER 143
(Senate Bill No. 4—By Mr. Ballard and Mr. Reed)

AN ACT to repeal articles two and two-a, chapter seventeen
of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof two
new articles, designated articles two and two-a; to amend
and reenact sections four and nineteen, article four of
said chapter; and to amend article nineteen of said chapter
by adding thereto a new section, designated section four,
all relating to the organization, administration and super-
vision of a system of state roads and highways.

[Passed March 9, 1957; in effect from passage. Approved by the Governor.]
Article

2. State Road Commission.
2-a. State Road Commissioner.
4. State Road System; Primary and Secondary Roads.

Be it enacted by the Legislature of West Virginia:

That articles two and two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that two new articles, designated articles two and two-a, be enacted in lieu thereof; that sections four and nineteen, article four of said chapter, be amended and reenacted; and that article nineteen of said chapter be amended by adding thereto a new section, designated section four, all to read as follows:

Article 2. State Road Commission.

Section
1. State road commission; purposes and responsibilities.
2. Members; appointment.
3. Offices and place of business.
4. Terms of office; vacancies.
5. Appointments; qualifications; status of present members; removal for cause.
6. Disqualifications; vacation of office.
7. Oath.
8. Commission meetings and organizations.
9. Compensation and expenses.
11. Intrastate toll bridges, acquisition; discharge of obligations.

Section 1. State Road Commission; Purposes and Responsibilities.—The state road commission of West Virginia, heretofore created and existing as a corporation, shall be and is hereby continued as in this article provided. The commission is hereby authorized and empowered to adopt and use a seal; to negotiate and enter into contracts; to institute, prosecute and defend suits, actions and proceedings; and to otherwise exercise all powers and functions necessary and germane to its public corporate existence and purposes.

Sec. 2. Members; Appointment.—The commission shall be composed of seven members, who shall be appointed by the governor by and with the advice and consent of the Senate. Nominations for all appointments hereunder shall be submitted by the governor to the Senate at the
first meeting thereof next after such appointments are made.

Sec. 3. *Offices and Place of Business.*—The commission shall be provided adequate offices at the state capital where its books and records shall be kept and where its meetings shall be held and its business transacted, except as otherwise provided in this article.

Sec. 4. *Terms of Office; Vacancies.*—The term of office of each member of the commission shall be seven years, except that the first appointments made pursuant to this article shall be for terms of one, two, three, four, five, six and seven years, respectively. Terms shall commence as of the first day of July and shall end as of the thirtieth day of June. Any vacancy on the commission shall be filled by appointment by the governor for a new term of seven years or an unexpired term of less than seven years, as the case may be.

Sec. 5. *Appointments; Qualifications; Status of Present Members; Removal for Cause.*—On or before the first day of July next after the effective date of this article, the governor shall appoint the members of the commission. Not more than four of the members shall be of the same political party.¹ One member shall be appointed from each of the six congressional districts and one member shall be appointed from the state at large.² Each member shall be a citizen and resident of the state. Each member appointed from a congressional district shall be a citizen and resident of such congressional district. Removal of a member from the state or from the particular congressional district from which he was appointed shall immediately vacate his office. In making appointments to the commission, the governor shall consider each appointee's age, ability, experience and general qualifications. Members of the commission shall be eligible for reappointment to fill an unexpired term or a new term of seven years.

Any members of the commission, who have been duly appointed and qualified and approved by the Senate and are in office when this article becomes effective, shall con-
continue in office until their respective terms expire or until their death, resignation or removal from office. In making his initial appointments to the commission pursuant to the provisions hereof, the governor shall ascertain the names, residence addresses and political party affiliation of any such members of the commission then in office and shall select his first appointees with reference thereto and due consideration thereof so as to comply with the residence and political party affiliation qualifications as herein prescribed.

As terms expire or positions on the commission otherwise become vacant, the governor shall appoint persons to fill all such vacancies on the commission as provided in this article.

No member of the commission may be removed from office by the governor except for official misconduct, incompetence, neglect of duty or gross immorality, and then only in the manner prescribed by law for the removal by the governor of state elective officers.

Sec. 6. Disqualifications; Vacation of Office.—No person while in the employ of, or holding, or who has within twelve months held any official relation to any person, firm or corporation selling or furnishing any materials entering into the construction, reconstruction, repair or maintenance of any road or highway of this state, or any part thereof, or who is pecuniarily interested therein, as a stockholder or otherwise, shall be a member of the state road commission. No member of the commission shall be a candidate for or hold any public office other than that of member of the commission. A member of the commission shall not be a member of any political committee while a member of the commission. In case any member of the commission becomes a candidate for or is appointed to any other public office or any political committee, his office as a member of the commission shall automatically and immediately be vacated.

Sec. 7. Oath.—Prior to the assumption of the duties of his office as a member of the commission, each member shall take and subscribe to the oath of office prescribed by
the constitution, the certificate of which oath shall be filed
with the secretary of state.

Sec. 8. Commission Meetings and Organizations.—The
commission shall convene in regular meetings at least once
every three months, unless necessity of any such quarterly
meeting is negatived by order entered in the minute rec-
ord of the commission. Special meetings shall be held,
on call of the chairman or any three members of the com-
mission, at such other times as circumstances and busi-
ness may warrant. All meetings of the commission shall
be held at its offices at the state capital unless by a ma-
jority vote the commission selects another meeting place.
Four members of the commission shall constitute a quo-
rum for transaction of business and a majority vote shall
be necessary for any action taken by the commission. At
the meeting held in July of each year, the commission
shall organize by electing one of its members as chairman
and another member as vice chairman for such year and
may also select a secretary who need not be a member of
the commission. The vice chairman shall have and may
exercise all of the powers of the chairman in the chair-
man’s absence or inability to serve. In the event of the
absence or inability of the chairman and vice chairman
to serve as such at any meeting, a quorum of the members
of the commission present shall select a chairman pro
tempore. The commission shall keep a minute record of
its proceedings and transactions. Such record shall be
open to public inspection and examination. It shall adopt
and enter of record in its minutes such other rules for the
conduct of its meetings and the transaction of its business
as may be found expedient.

Sec. 9. Compensation and Expenses.—The members of
the commission shall each receive an honorarium of twen-
ty-five dollars for each day actually devoted to commis-
sion business and shall be reimbursed for their actual ex-
penses incurred in the discharge of their official du-
ties. The total honorarium paid to each member during
any one fiscal year shall not exceed three hundred dollars.
Statements covering expenses shall be itemized and veri-
fied by the member by whom submitted for payment.
Sec. 10. Powers and Duties.—The state road commission shall be an advisory body to the state road commissioner and shall have the following powers and duties:

1. To consider and study the entire field of legislation and administration concerning roads and highways, and motor vehicle regulation.

2. To advise the commissioner concerning the highway needs of particular localities or districts of the state.

3. To recommend policies and practices to the commissioner relative to any duty imposed upon him by law.

4. To investigate the conduct and the work of the department, and for this purpose it shall have access at any time to all books, papers, documents and records of the department.

5. To advise or make recommendations to the governor and the Legislature relative to the highway policy of the state.

Sec. 11. Intrastate Toll Bridges, Acquisition; Discharge of Obligations.—The commission is authorized to include any or all existing intrastate toll bridges within the system of state roads and highways and is further authorized to expend out of the proceeds of any sale of West Virginia state road bonds, authorized by the Legislature and the “Good Roads Amendment of 1920”, if not otherwise restricted by law, not to exceed one million five hundred thousand dollars, (a) for the purpose of discharging outstanding bonds or obligations upon any of such intrastate toll bridges which become the property of the commission when such bonds or obligations are discharged, and (b) for the purpose of acquiring by eminent domain proceedings any or all of the existing privately-owned intrastate toll bridges for including in such system of roads and highways.

Article 2-a. State Road Commissioner.

Section
1. State road commissioners; appointment and tenure.
2. Qualifications; duties, office, oath and bond.
3. Salary and expenses.
4. Selection and organization of personnel; duties; bonds.
5. Personnel disqualifications; vacation of position.
6. Accounting and auditing.
7. Legal services.
8. Powers, duties and responsibilities of commissioner.
9. Persons required to assist commissioner.
10. Hearings, investigations and proceedings; evidence and subpoena, contempt.
11. Road maps; reproduction and distribution.
12. Set-back lines, islands, curb separations, entrance approaches, walks and parking.
13. Purchase of materials, supplies and equipment.
14. Disposition of equipment and materials; transfers, trades and sales; inventory reports.
15. Other laws not controlling.
16. Information on vendors to commissioner.

Section 1. State Road Commissioner; Appointment and Tenure.—The office of state road commissioner heretofore created by law shall be continued. The governor, by and with the advice and consent of the Senate, shall appoint a state road commissioner for a term of four years. Within thirty days after the effective date of this article, the governor shall appoint a state road commissioner whose term shall last until the first day of March, one thousand nine hundred sixty-one. The incumbent commissioner shall continue to serve in that capacity until a successor is appointed pursuant to the terms of this article. Thereafter, all appointments shall be for a term of four years, except that an appointment to fill a vacancy shall be for the unexpired term.

During his term no commissioner who has been duly appointed and qualified and confirmed by the Senate may be removed from office except for official misconduct, incompetence, neglect of duty, gross immorality, permanent and total disability, habitual drunkenness or drug addiction, and then only in the manner prescribed by law for the removal by the governor of state elective officials.

Sec. 2. Qualifications; Duties; Office, Oath and Bond.—The commissioner shall be a person who is experienced in highway planning, finance, construction, maintenance, management and supervision qualifying him for the duties of his office; shall devote his full time and attention to his official duties and responsibilities; shall reside at and maintain his office headquarters at the
state capital; shall be the chief executive officer of
the commission and, subject to other provisions of law,
shall have direct and full control, management and
supervision of the entire state road program and system;
and shall, prior to assumption of the duties of his office,
take and subscribe to the oath prescribed by the consti-
tution and execute a bond, with surety approved by the
commission, in the penal sum of twenty-five thousand
dollars, which executed oath and bond shall be filed with
the secretary of state. Premiums on the commissioner's
bond shall be paid from commission funds.

Sec. 3. Salary and Expenses.—The commissioner shall
receive an annual salary of fourteen thousand dollars.
He shall be allowed and paid necessary traveling ex-
penses incident to performance of his duties. Statements
covering such expenses shall be itemized and verified by
the commissioner.

Sec. 4. Selection and Organization of Personnel; Duties;
Bonds.—The commissioner shall be in charge of and re-
sponsible for the selection, employment and effective
organization of all commission personnel for the entire
state road and highway program. He may establish such
divisions, sections and other functional and organiza-
tional units within the commission as may be necessary
and practical in the full and effective discharge of the
duties and responsibilities of his office. Except as other-
wise provided by law, all commission personnel shall
be classified pursuant to the job classification system
and shall be paid pursuant to the salary scale established
by the commissioner.

The commissioner shall select and employ a busi-
ness manager assistant and a chief engineer assistant,
who shall be a registered professional engineer, and shall
establish such other offices, activities, divisions, sec-
tions and organizational units as may be necessary
and practical. The business manager assistant shall be
in charge of and responsible for matters of finance,
personnel, public relations and such other functions as
may be assigned to him from time to time by the com-
misssioner. The chief engineer assistant shall be in charge
of and responsible for planning, equipment, materials,
construction, maintenance and such other functions
as may from time to time be assigned to him by the
commissioner.

The commissioner shall require every employee who
collects fees or handles funds or who has custody or con-

trol of equipment or supplies belonging to the state to give

bond, with such sureties and in such penal sum as may be
approved by the commissioner, for the faithful discharge
of each such employee's duties and his accounting for all
such fees, funds, equipment and supplies coming into his
hands or under his custody or control. All such bonds,
when approved by the commissioner, shall be filed in the
office of the secretary of state. Premiums on all such bonds
shall be paid from commission funds.

Sec. 5. Personnel Disqualifications; Vacation of Posi-

tion.—No person, while in the employ of or holding any
official relation to any person, firm or corporation selling
or furnishing materials entering into the construction,
reconstruction, repair or maintenance of any state roads
or highways, or any part thereof, or who is pecuniarily
interested therein as a stockholder or otherwise, shall be
appointed commissioner or be otherwise employed in any
capacity or employment by the commission or commis-

sioner. Any such interest in or connection with any such
person, firm or corporation, acquired by the commissioner
or any such employee of the commission or commissioner
subsequent to his appointment or employment, shall im-
mediately disqualify such person from holding the office
of commissioner or any other position or employment by
the commission or commissioner and such office or posi-
tion of employment, as the case may be, shall be imme-
diately vacated.

No person may be appointed as commissioner or em-
ployed in any other capacity or employment by the com-
mission or commissioner when he is a candidate for or
holds any public office or is a member of any political
party committee. In the event the commissioner or any
employee of the commission or commissioner becomes a
candidate for or holds any public office or becomes a
26 member of any political party committee, his office as
27 commissioner or position as employee, as the case may
28 be, shall be immediately vacated.

Sec. 6. Accounting and Auditing.—The commissioner, by
2 and through his business manager assistant, shall central-ize, standardize and integrate the budget, accounting and
4 auditing services of the entire state road and highway
5 program. Whenever there is provided by law a uniform
6 system of accounting and auditing and policies and prac-
tices relating thereto for all state officials, departments
8 and agencies, such uniform system shall be adopted by
9 the commissioner. Until such system, policies and prac-
tices are formulated and prescribed, the commissioner
11 shall establish his own system, policies and practices for
12 all accounting and reporting services.
13 All commission accounting and auditing services shall
14 be on the fiscal year basis. The commissioner shall pre-
15 pare an annual financial report covering all receipts and
16 disbursements for each fiscal year and shall deliver such
17 report to the commission on or before the first day of
18 December next succeeding the end of the fiscal year.
19 The commissioner shall report quarterly to the com-
20 mission on finances, personnel and other aspects and
21 phases of the road program and system.

Sec. 7. Legal Services.—The commissioner shall select
2 and employ a competent legal staff adequate for legal
3 services required by him and shall provide therefor such
4 quarters, equipment, facilities, services and stenographic
5 and other personnel as may be necessary. In addition, the
6 commissioner may call upon the attorney general and the
7 prosecuting attorneys of the several counties, within their
8 respective jurisdictions, for legal assistance and services
9 as provided by law.

Sec. 8. Powers, Duties and Responsibilities of Com-
2 missioner. — In addition to all other duties, powers
3 and responsibilities given and assigned to the com-
4 missioner in this chapter, the commissioner may:
5 (1) Exercise general supervision over the state
6 road program and the construction, reconstruction,
repair and maintenance of state roads and highways;

(2) Determine the various methods of road construction best adapted to the various sections and areas of the state and establish standards for the construction and maintenance of roads and highways therein;

(3) Conduct investigations and experiments, hold hearings and public meetings and attend and participate in meetings and conferences within and without the state for purposes of acquiring information, making findings and determining courses of action and procedure relative to advancement and improvement of the state road and highway system;

(4) Enter private lands to make inspections and surveys for road and highway purposes;

(5) Acquire, in the name of the commission, by lease, grant, right of eminent domain or other lawful means, all lands and interests and rights in lands necessary and required for roads, rights-of-way, cuts, fills, drains, storage for equipment and materials, and road construction and maintenance in general;

(6) Procure photostatic copies of any or all public records on file at the state capitol of Virginia which may be deemed necessary or proper in ascertaining the location and legal status of public road rights-of-way located or established in what is now the state of West Virginia, which photostatic copies, when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of the courts of this state;

(7) Plan for and hold annually a school of good roads, of not less than three nor more than six days' duration, for instruction of his employees, which school shall be held in conjunction with West Virginia university and may be held at the university or at any other suitable place in the state;

(8) Negotiate and enter into reciprocal contracts and agreements with proper authorities of other states and of the United States relating to and regulating the use of roads and highways with reference to weights and types
of vehicles, registration of vehicles and licensing of opera-
tors, military and emergency movements of personnel
and supplies and all other matters of interstate or na-
tional interest;

(9) Locate and relocate primary and secondary roads
and to classify and reclassify and designate by number
the routes within the primary and secondary road sys-
tem;

(10) Create, extend or establish, upon petition of any
interested party or parties or on the commissioner's own
initiative, any new road or highway as may be found
necessary and proper;

(11) Exercise jurisdiction, control, supervision and au-
thority over local roads, outside the state road system, to
the extent determined by him to be expedient and prac-
ticable;

(12) Discontinue, vacate and close any road or high-
way, or any part thereof, the continuance and mainte-
nance of which are found unnecessary and improper,
upon petition and hearing, or upon investigation initiated
by the commissioner;

(13) Close any state road while under construction or
repair and provide a temporary road during the time of
such construction or repair;

(14) Adjust damages occasioned by construction, re-
construction or repair of any state road or the establish-
ment of any temporary road;

(15) Establish and maintain a uniform system of road
signs and markers;

(16) Fix standard widths for road rights-of-way,
bridges and approaches thereto and to fix and determine
grades and elevations therefor;

(17) Test and standardize materials used in road con-
struction and maintenance, either by governmental test-
ing and standardization activities or through contract by
private agencies;

(18) Allocate the cost of retaining walls and drainage
projects, for the protection of a state road or its right-of-
way, to the cost of construction, reconstruction, improve-
ment or maintenance;
(19) Acquire, establish, construct, maintain and operate, in the name of the commission, roadside recreational areas along and adjacent to state roads and highways;

(20) Exercise general supervision over the construction and maintenance of airports and landing fields under the jurisdiction of the West Virginia board of aeronautics, of which the commissioner is a member, and to make a study and general plan of a statewide system of airports and landing fields;

(21) Provide traffic engineering services to municipalities of the state upon request of the governing body of any such municipality and upon such terms as may be agreeably arranged;

(22) Institute complaints before the public service commission or any other appropriate governmental agency relating to freight rates, car service and movement of road materials and equipment;

(23) Invoke any appropriate legal or equitable remedies to enforce his orders, to compel compliance with requirements of law and to protect and preserve the state road and highway system or any part thereof;

(24) Make and promulgate rules and regulations for the government and conduct of personnel, for the orderly and efficient administration and supervision of the state road program and for the effective and expeditious performance and discharge of the duties and responsibilities placed upon him by law;

(25) Delegate powers and duties to his appointees and employees who shall act by and under his direction and be responsible to him for their acts;

(26) Designate and define such construction and maintenance districts within the state road system as may be found expedient and practicable;

(27) Contract for the construction, improvement and maintenance of the roads;

(28) Have authority to comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with and cooperation in programs of the United States govern-
ment and any proper department, bureau or agency thereof relating to plans, surveys, construction, reconstruction, improvement and maintenance of state roads and highways;

(29) Prepare budget estimates and requests;

(30) Establish a system of accounting covering and including all fiscal and financial matters of the commission;

(31) Have authority to establish an advance right-of-way acquisition revolving fund, a materials revolving fund and an equipment revolving fund;

(32) Enter into contracts and agreements with and to cooperate in programs of counties, municipalities and other governmental agencies and subdivisions of the state relating to plans, surveys, construction, reconstruction, improvement, maintenance and supervision of highways, roads, streets and other travel ways when and to the extent determined by the commission to be expedient and practical;

(33) Report, as provided by law, to the governor and the Legislature;

(34) Purchase materials, supplies and equipment required for the state road program and system;

(35) Dispose of all obsolete and unusable and surplus supplies and materials, which cannot be used advantageously and beneficially by the commission in the state road program, by transfer thereof to other governmental agencies and institutions or by exchange, trade or sale thereof;

(36) Investigate road conditions, official conduct of commission personnel and fiscal and financial affairs of the commission and hold hearings and make findings thereon or on any other matters within the jurisdiction of the commission; and,

(37) Establish road policies and administrative practices.

Sec. 9. Persons Required to Assist Commissioner.—At the request of the commissioner, the dean of the college of engineering of West Virginia university, the director
of the experiment station of the university and the heads of the several departments of science shall render to the commissioner all necessary aid and assistance in the performance of his duties, as the requirements of their respective offices and positions will permit, without extra charge or compensation for the service.

Sec. 10. Hearings, Investigations and Proceedings; Evidence and Subpoenas; Contempt. — In any hearing, investigation or proceeding conducted by or before the commission or commissioner, the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing and summons may be issued therefor by the commissioner or any member of the commission. In case of disobedience to a summons or other process so issued, the commissioner, a member of the commission or any party to the proceedings may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents. And upon proper showing, such court shall issue an order requiring such persons to appear before the commissioner or commission, as the case may be, and produce all books and papers and give evidence touching the matter in question. Any person failing to obey such order may be punished by such court as for contempt. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse such witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 11. Road Maps; Reproduction and Distribution.— The commissioner shall prepare and currently maintain a master road and highway map which will show (a) all of the state roads and highways which have been located, created and classified as provided by law, (b) the mileage of each classification of roads and highways, and (c) the status of improvement and, insofar as practicable, the travel condition thereof. The commissioner may make economical reproductions of such map from time to time for official use and public information purposes.
Sec. 12. Set-back Lines, Islands, Curb Separations, Entrance Approaches, Walks and Parking.—In the interest of safety and the convenience, coordination and control of pedestrian and vehicular traffic, the commission may from time to time cause surveys and findings to be made as to the necessity and propriety of set-back lines, traffic islands, curb separations, entrance approaches, sidewalks and other traffic control factors. The commission may, pursuant to such surveys and findings, promulgate and enforce reasonable rules and regulations relating to and controlling the location, construction and maintenance of all such traffic control factors, but shall not, in any case unduly interfere with any abutting property owner's entrance or access rights or approaches to any road or highway unless with the consent and voluntary action of such abutting property owner or through appropriate proceedings in court in the exercise of the right of eminent domain for determination of the lawful rights of the respective parties and the damages, if any, to be assessed. The limitations of this section on the commission's authority to regulate entrance and access to roads and highways shall not apply to freeways as defined in section thirty-nine of article four of this chapter.

The commission may regulate and, when the safety and convenience of the traveling public so require, may prohibit parking of vehicles on and along roads and highways and the rights-of-way thereof.

Sec. 13. Purchase of Materials, Supplies and Equipment.—All materials, supplies and equipment required for the state road program and system shall be purchased and acquired by the commissioner through the department of purchases, except as otherwise provided by law. The director of purchases shall adopt rules and regulations governing and controlling acquisitions and purchases in accordance with accepted business practices so that no persons shall be precluded from participating and making sales thereof to the commission; shall establish and prescribe specifications, in all proper cases, for materials, supplies and equipment to be purchased; shall
adopt and prescribe such purchase order, requisition or
other forms as may be required; shall negotiate for and
make purchases and acquisitions in such quantities, at
such times and under contract, in the open market or
through other accepted business methods and practices,
as may be practicable in accordance with general law;
shall determine whether to advertise for bids, to purchase
by means of sealed bids and competitive bidding or to
effect advantageous purchases through other accepted
methods and practices; and shall post in a public place in
the offices of the commission and the department of
purchases, available to the public during all business
hours, notices of all acquisitions and purchases to be made,
at least two weeks prior to making such purchases.

All purchases and acquisitions shall be made in con-
sideration and within limits of available appropriations
and funds and in accordance with applicable provisions
of article five, chapter five of this code, relating to ex-
penditure schedules and quarterly allotments of funds.

The director of purchases shall make available the
facilities and services of his department to the commis-
sioner in the purchase and acquisition of materials, sup-
plies and equipment and shall cooperate with the com-
mis-
change or trade, then without advertising), in whole or in part, as sound business practices may warrant under existing circumstances and conditions. The commissioner shall inventory all such disposable equipment, supplies and materials from time to time as quantity and stocks may warrant but shall make a complete semiannual inventory thereof as of the thirty-first day of March and the thirtieth day of September of each year. He may report such inventories to the director of purchases whose services and facilities shall be available to the commissioner in making advantageous disposition of any part or all of such disposable equipment, supplies and materials. Such inventories shall briefly describe the disposable items, the date of purchase thereof, the vendor to the commissioner, the purchase price paid therefor and the commissioner's order number authorizing disposition thereof and shall indicate briefly the reason said items are no longer needed or can no longer be used by the commission. All such inventories shall be kept as public records open to public inspection at the office of the commissioner for a period of five years and may thereafter be destroyed.

Sec. 15. Other Laws Not Controlling.—The provisions of chapter twenty-five-a of this code shall not control or govern the purchase, acquisition or disposition of any equipment, materials or supplies by the commissioner, except as provided in sections thirteen and fourteen of this article. The commissioner may, in his discretion, resort to applicable provisions of said chapter twenty-five-a and to rules, regulations and practices of the director of purchases in purchasing, acquiring or disposing of equipment, supplies and materials.

Sec. 16. Information on Vendors to Commissioner.—Every person, firm or corporation selling or offering to sell to the commissioner, upon competitive bids or otherwise, any materials, supplies or equipment shall submit to the commissioner a verified statement disclosing the following information:

(1) If the vendor be an individual, his name and resi-
(2) If the vendor be a firm, the name and residence address of each member, partner or associate of the firm; and,
(3) If the vendor be a corporation, the name and business address of the corporation; the names and residence addresses of the president, vice-president, secretary, treasurer and manager, if any, of the corporation; and the names and residence addresses of each stockholder of the corporation owning or holding twenty-five per cent or more of the capital stock thereof.

The information so received by the commissioner shall be kept in a register of vendors which shall be public record and open to public inspection during regular business hours at the commissioner's office. Such register shall be alphabetically indexed by names of individuals, firms and corporations. It shall be currently revised by including therein information as to new vendors promptly upon the receipt of such information by the commissioner and by removing therefrom, at least semiannually as of the first day of January and July of each year, information as to vendors registered but not selling or offering to sell materials, supplies or equipment to the commissioner within the twelve months next preceding such removal revision date.

Any person, firm or corporation failing or refusing to submit such verified statement as herein required shall be ineligible to sell or offer to sell commodities to the commissioner as provided in this article.

**Article 4. State Road System; Primary and Secondary Roads.**

**Section 4. Interstate and International Highways Planning; Integration of Local Roads.**

Within limits of funds and personnel available therefor, the commissioner shall study, consider and plan the state's part in any contem-
plated interstate or international system of roads and
highways, including superhighways, turnpikes, toll-roads
and other trunkline road developments and may plan and
attend conferences and meetings for discussion and pro-
motion of plans and programs relating thereto. In all
such study, consideration and plans, the commissioner
shall integrate the development of a state system of
feeder and local roads planned and designated to serve
most advantageously the economy and convenience of
the people of the state.

Sec. 19. Contracts for Work and Materials; Advertising
and Bids; Services by State Road Forces and Prison Labor.
—All work of construction and reconstruction of state
roads and bridges, and the furnishing of all materials and
supplies therefor, and for the repair thereof shall be done
and furnished pursuant to contract except that the com-
missioner shall not be required to award any contract for
work, which can be done advantageously, economically
and practicably by commission forces or prison labor and
by use of state road equipment, or for materials and sup-
plies, which are manufactured, processed or assembled by
the commissioner: Provided, however, That the commis-
ioner shall not be required to award any contract for
work, materials or supplies for an amount less than three
thousand dollars. In all such work, the commissioner
shall utilize state road forces or prison labor and state
road equipment and shall manufacture, process and as-
semble all such materials and supplies for such work
whenever and wherever the commissioner, in his dis-
cretion, finds such work and services advantageous, eco-
nomical and practicable in the state road program.

When the commissioner is about to construct, recon-
struct, or improve any road or highway, he shall cause
to be filed with the clerk of the county court, or of the
municipality, as the case may be, in which such road
lies, a certified copy of the plans and specifications there-
for, and a notice that the commissioner is about to enter
upon and proceed with the work in question. If the
work is to be done, or the materials therefor are to be
furnished by contract, the commissioner shall thereupon
advertise once each week for at least two successive weeks in two newspapers of opposite politics, if there be such, but if not, then in one newspaper published in each county or municipality in which the road lies, and once in at least one daily newspaper published in the city of Charleston, and in such other journals or magazines as may to the commissioner seem advisable, for sealed proposals for the construction or other improvement of such road, and for the furnishing of materials therefor, accurately describing the same, and stating the time and place for opening such proposals and reserving the right to reject any and all proposals: Provided, however, That whenever the estimated amount of any contract for work or for materials or supplies is less than three thousand dollars, the commissioner shall not be required to advertise the letting of said contract in newspapers as above required, but may award the contract to the lowest responsible bidder, when two or more sealed proposals or bids have been received by him without such advertisement, but such contract shall not be so awarded unless the bid of the successful bidder is three thousand dollars or less. The commissioner shall have the power to prescribe proper prequalifications of contractors bidding on state road construction work. To all sealed proposals there shall be attached the certified check of the bidder or bidder's bond acceptable to the commissioner, in such amount as the commissioner shall specify in the advertisement, but not to exceed five per cent of the aggregate amount of the bid; but such amount shall never be less than five hundred dollars. Such proposals shall be publicly opened and read at the time and place specified in the advertisement, and the contract for such work, or for the supplies or materials required therefor shall, if let, be awarded by the commissioner to the lowest responsible bidder for the type of construction selected. In case all bids be rejected, the commissioner may thereafter do the work with commission forces or with prison labor, or may readvertise in the same manner as before and let a contract for such work pursuant thereto.

Section 4. Solicitations, assessments and receipts for political party funds unlawful; penalties.

Section 4. Solicitations, Assessments and Receipts for Political Party Funds Unlawful; Penalties.—It shall be unlawful for any commission member, the commissioner or any employee thereof, acting individually or by or through any organization, committee, corporation or other program or agency, to plan, promote, encourage or participate in any manner in the contribution, solicitation, assessment or receipt of any money, donation, contribution or gift of any kind or character for political party campaign or fund purposes or uses, when such money, donation, contribution or gift arises from, is related to, is measured by or is in any manner identified with a percentage, aliquot or fractional part or all of the daily, monthly or other salary, wages, pay or compensation of personnel and employees of the commission. A violation of the provisions of this section shall be cause for employment termination and dismissal of any commission member, the commissioner or employee guilty thereof and every such violation shall constitute a misdemeanor offense, upon conviction of which the guilty person shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days, or be both fined and imprisoned within said limits.

CHAPTER 144

(Senate Bill No. 280—By Mr. Carey and Mr. Anderson)

AN ACT to amend and reenact section twenty-one, article ten, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the transfer of unneeded and unexpended funds by the sheriffs and treasurers of the various counties and/or the state sinking fund commission.

[Passed March 5, 1957; in effect ninety days from passage. Approved by the Governor.]
Article 10. County Courts; General Authority and Duties as to Roads.

Section
21. Existing bonded indebtedness to remain debt of property originally pledged as security; levies for payment; transfer of funds.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article ten, 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 21. Existing Bonded Indebtedness to Remain Debt of Property Originally Pledged as Security; Levies for Payment; Transfer of Funds.—The bonded indebtedness incurred by the county and by its magisterial districts for road purposes shall remain the debt of the property originally pledged as security for the payment of the obligation. The county court shall impose upon the property in the county for county obligations, and in the magisterial district for district obligations, levies in the manner provided in sections seven and thirteen, article eight, chapter eleven, as amended, for the payment of the current requirements of principal and interest of the bonded indebtedness on and after July first, one thousand nine hundred thirty-three. All county courts, and other bodies acting in lieu thereof, are authorized to transfer to the general county fund any unexpended balances remaining in the county road and bridge funds or in district road funds, other than interest and sinking funds required for bonded indebtedness incurred for road purposes, and to transfer to the general county fund any unexpended balances of funds raised to pay the interest on and create sinking funds for any such bonded indebtedness where said bonded indebtedness has been fully paid off and discharged or where there remains no other bonded debt within such taxing district to which such unexpended balances might be applied, as well as any balance remaining in any special road fund created by law, and all moneys which may hereafter be paid into such funds through the collection of delinquent taxes or otherwise.
When there is in the state sinking fund commission to the combined credit of all district road bonds in any county issued prior to November eight, one thousand nine hundred thirty-two, a sufficient amount to pay principal and interest on all such outstanding road bonds, the state sinking fund commission is authorized to apply from said balance a sufficient amount to pay all outstanding road bonds of said districts, together with the interest thereon to maturity, and to remit any balances remaining thereafter to the sheriff and treasurer of said county to be credited to the general fund of the county.

CHAPTER 145

( House Bill No. 14—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact section one, article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibited signs and other markings along, on, or over the right-of-way of any public road or highway.

[Passed March 6, 1957; in effect ninety days from passage. Approved by the Governor.]


Section 1. Signs and other markings prohibited; penalty; removal; recovery of expenses.

Be it enacted by the Legislature of West Virginia:

That section one, article nineteen, 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 1. Signs and Other Markings Prohibited; Penalty; Removal; Recovery of Expenses.—No person shall paint, mark, post, tack, nail, or otherwise affix any sign,
advertisement, notice, picture, drawing, emblem, poster, printing, or writing, other than those placed and main-
tained in pursuance of law, on or to any stone, rock, tree, fence, stump, post, pole, building, or other structure, which is in or upon the right-of-way of any public road or highway, including the road or highway itself, except that the commissioner may provide for suitable road signs, danger signals and other signs of informational nature. No such sign or other marking shall be suspended over the right-of-way of any public road or highway. These prohibitions include, but are not limited to, such devices which are intended to invite or draw attention of the pub-
lic to the candidacy of any person for any public office; and any such device which exists in violation of the pro-
visions of this section shall constitute prima facie evidence that the person whose candidacy appears thereon violated this section: Provided, however, That the installation and/or maintenance of newspaper, postal or mailboxes shall not be prohibited or affected by this section.

Any person violating this section, whether as principal, agent, or employee, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of this section is committed or continued. Every such prohibited sign or other marking is hereby declared to be a public nuisance. Upon receiving notice of any violation of this section, the commissioner shall cause the prohibited sign or other marking to be removed within ten days and shall cause the appearance of the property on which it was affixed to be restored, as near as may be practicable, to its condition immediately before such violation occurred. The commissioner shall, in the name of the state, recover from the persons who hereafter violate this section the amounts expended by the state in removing the sign or other marking and in restoring the appearance of the property on which it was affixed.

The commissioner is empowered to remove any such
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 salaries of certain state officers.

[Passed January 10, 1957; in effect from passage. 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 on and after the first Monday after the second Wednesday in January, one thousand nine hundred fifty-seven, the salary of the governor shall be seventeen thousand five hundred dollars per year.

The salary of the attorney general and superintendent of free schools shall each be twelve thousand dollars per year; the salary of the state auditor, secretary of state, state treasurer and the commissioner of agriculture shall each be eleven thousand dollars per year.

The salaries of each of the judges of the supreme court of appeals shall be seventeen thousand five hundred dollars per year.

Such salaries shall be paid out of the state treasury.
CHAPTER 147

(House Bill No. 3—By Mr. Seibert and Mr. Myles)

AN ACT to amend article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated and numbered two-a, fixing the compensation of certain appointive state officers.

[Passed March 9, 1957; in effect from passage. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

2-a. Salaries of certain appointive state officers.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. Salaries of Certain Appointive State Officers.—Notwithstanding any other provisions of this code to the contrary, on and after the effective date of this section, the annual salary of the following named appointive state officers shall be as follows:

The adjutant general eight thousand dollars; each member of the West Virginia board of probation and parole eight thousand two hundred dollars; the chief of the department of mines ten thousand dollars; the commissioner of banking nine thousand dollars; the commissioner of labor eight thousand dollars; the commissioner of motor vehicles eight thousand dollars; the superintendent of the department of public safety eight thousand dollars; the director of the budget nine thousand dollars; the director of conservation nine thousand dollars; the director of the department of veterans affairs eight thousand dollars; the
17 director of employment security nine thousand dollars; 
18 the director of public assistance eight thousand dollars; 
19 the director of purchases nine thousand five hundred dol-
20 lars; each member of the public service commission ten 
21 thousand dollars, of which sum eight thousand dollars 
22 shall be payable from the special fund collected from pub-
23 lic utilities under the provisions of section six, article 
24 three, chapter twenty-four of this code, and two thousand 
25 dollars from the special motor carrier fund collected from 
26 motor carriers under the provisions of section six, article 
27 six, chapter twenty-four-a of this code; the state compen-
28 sation commissioner eight thousand dollars; the tax com-
29 missioner ten thousand dollars; and the West Virginia 
30 nonintoxicating beer commissioner eight thousand dollars.

CHAPTER 148

(Com. Sub. for Senate Bill No. 161—Originating in the 
Senate Committee on Finance)

AN ACT to amend and reenact article six, chapter twenty-six 
of the code of West Virginia, one thousand nine hundred 
thirty-one, as amended, relating to the discontinuance of 
the Denmar tuberculosis sanitarium and the establishment 
of the Denmar state hospital in lieu thereof for the mainte-
nance and care of certain chronically ill patients.

[Passed March 6, 1957; in effect from passage. Approved by the Governor.]

Article 6. Denmar State Hospital.

Section
1. Location; management; superintendent. 
2. Patients; admission; maintenance.

Be it enacted by the Legislature of West Virginia:

That article six, chapter twenty-six of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended, be 
amended and reenacted to read as follows:
Section 1. Location; Management; Superintendent.—
The state tuberculosis sanitarium for colored persons, heretofore established at Denmar, West Virginia, for the care and treatment of persons of the negro race afflicted with tuberculosis, shall be discontinued. There shall be established at the same location, under the name of the Denmar state hospital, a hospital for the chronically ill which shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer thereof shall be the superintendent, who shall be a regularly qualified physician, shall be a person of good executive ability, and shall be appointed by the governor by and with the advice and consent of the Senate.

Sec. 2. Patients; Admission; Maintenance.—Any person, a resident of West Virginia, other than an inmate in a penal institution, and who is suffering a chronic illness, may upon proper order by the state board of control be admitted or transferred to Denmar state hospital. The board of control may charge each patient for his maintenance a sum not to exceed one dollar per day; but the board may, whenever it is deemed just and expedient to do so, exonerate any patient chargeable with such maintenance from the payment thereof, in whole or in part, if it finds that he is unable to pay or that payment would work an undue hardship upon him or upon those dependent upon him, who, by law, are financially responsible for him.

CHAPTER 149

(Senate Bill No. 183—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section thirty-one, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to mentally diseased convicts.

(Passed March 6, 1957; in effect ninety days from passage. Approved by the Governor.)
Article 5. The Penitentiary.
Section 31. Mentally diseased convicts.

Be it enacted by the Legislature of West Virginia:

That section thirty-one, 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 31. Mentally Diseased Convicts.—When any convict in any of the state's prisons becomes mentally ill before his or her term of sentence expires, it shall become the duty of the warden or superintendent of such prison to notify the director of mental health, who, in turn, shall cause such convict to be sent to such mental institution as the director may determine. It shall then be the duty of the examining board of the hospital in which such convict shall be confined to observe said convict for a period of thirty days. If it be determined that said convict is not mentally diseased, he or she shall forthwith be returned to prison. If it be determined that said convict is mentally diseased, then the examining board shall forthwith forward to the clerk of the county court of the county in which such person is a resident a detailed report of their examination, which report shall immediately be presented to the mental hygiene commission of said county. Such commission shall give full faith and credit to this report, and, if satisfied that such person is mentally ill, shall issue an order legally committing the mentally ill person to the hospital making the report, as though the person had been brought before it. All expenses incurred in this proceeding, as well as the hospitalization of the mentally ill person, shall be borne by the county of which he is a resident.

When it is determined that such mentally diseased convict has recovered, he or she shall be returned forthwith to prison. Any time spent in such institution shall be computed as part of the term for which he or she was sentenced. If the sentence of such convict expires while said convict is at such institution then, upon his or her
recovery, he or she shall be discharged from said hospital in accordance with section three, article six, and section one, article seven of chapter twenty-seven of the official code.

CHAPTER 150

(House Bill No. 211—By Mr. Kidd)

AN ACT to amend and reenact section thirty-three, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of committee of convict.

[Passed February 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 5. The Penitentiary.

Section 33. Committee of convict; appointment; bond.

Be it enacted by the Legislature of West Virginia:

That section thirty-three, 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 33. Committee of Convict; Appointment; Bond.

2 —When a person is confined in the penitentiary of this or any other state, or of the United States, under sentence for one year or more, or to suffer death, the estate of such convict in this state, if he have any, both real and personal, shall, on the motion of any party interested, be committed by the county court of the county in which his estate or some part thereof may be, to a person selected by such county court, who, after giving bond before the county court in such penalty as it may prescribe, shall have charge and management of such estate until the convict is discharged from confinement or dies; and upon
such motion the county court shall appoint said com-
mittee, although the convict has no estate, either real or
personal, located in this state. In the event said convict
has no such estate, or his estate does not exceed one
thousand dollars, reference to a commissioner of accounts
shall not be necessary. All appointments of committees
heretofore made and decrees or judgments heretofore
awarded by any court of record in this state against or
on behalf of any convict shall not be considered invalid
for the reason that the convict had no such estate at the
time of the appointment of such committee.

CHAPTER 151
(1House Bill No. 451—By Mr. White, of Harrison, and Mr. Garrett)

AN ACT to establish the West Virginia Stonewall Jackson me­
memorial fund; to set forth the purpose for which such fund
is to be established; to set up a board of trustees to ad­
minster the fund.

[Passed March 4, 1957; in effect from passage. Approved by the Governor.]

Section
1. West Virginia Stonewall Jackson memorial fund created.
2. Board of trustees created.

Be it enacted by the Legislature of West Virginia:

Section 1. West Virginia Stonewall Jackson Memorial
Fund Created.—There is hereby created and established
the West Virginia Stonewall Jackson memorial fund,
which fund is to be composed of any moneys hereafter
appropriated, given or bequeathed, together with any
accruals from the income from the fund or repayments
thereto. The purpose of this fund is to memorialize that
great American and confederate general, “Stonewall”
Jackson, through a program of education initiated by
Stonewall Jackson Memorial, Incorporated, including both
essay contests and scholarships. The benefits of this fund shall accrue only to West Virginians.

Sec. 2. Board of Trustees Created.—There is hereby created a board of trustees, who shall serve without pay or personal expenses, to administer the West Virginia Stonewall Jackson memorial fund.

The trustees shall be the state superintendent of free schools, the president of the Stonewall Jackson Memorial, Incorporated, and one member to be appointed by the governor. The board of trustees shall be vested with the power to administer this act in its entirety; to prescribe the rules and regulations governing the essay contests and the awarding of scholarships from the West Virginia Stonewall Jackson memorial fund. They are hereby directed to receive any appropriation, gift or bequest hereafter made, and to designate a bank in West Virginia as a depository for the fund, and are further directed to invest said fund in such sound securities as they deem advisable in line with good business procedure; and they are expressly prohibited from spending any part of the principal of this fund, it being the intent of this act that only the income from said fund shall be used in carrying out the purposes of this act. The board of trustees shall require, insofar as possible, the repayment of all scholarship funds by the recipients thereof, under such terms as circumstances may justify, and any money so repaid shall become part of the principal of the fund.

CHAPTER 152

(Senate Bill No. 305—By Mr. Bean, Mr. President and Mr. Carrigan)

AN ACT to amend article eleven, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section one of said article, and by adding to said article a new section, to be designated section two, all relating to the creation
of an agency for the receipt and distribution of surplus property.

[Passed March 1, 1957; in effect from passage. Approved by the Governor.]

Article 11. Surplus Property Agency.

Section

1. Creation and authority of surplus property agency.
2. Surplus property agency a division of the state department of purchases.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section one of said article, and by adding to said article a new section, to be designated section two, all to read as follows:

Section 1. Creation and Authority of Surplus Property Agency.—There is hereby established an agency to be known as the “State Agency for Surplus Property.” This agency shall have exclusive authority to receive from the department of defense and any other federal department or agency such equipment, materials, books and other supplies as may be declared excess and surplus property. The agency also shall have exclusive authority to warehouse and distribute all such excess and surplus property so received to all recipients within the state as may now be or hereafter become eligible therefor under federal laws or regulations.

Sec. 2. Surplus Property Agency a Division of the State Department of Purchases.—The state department of purchases is hereby designated as a sole agency for the purposes of this article, and the director of purchases shall be the director of the state agency for surplus property. As such, he shall have sole authority to: (a) make such reasonable rules and regulations, require such certifications and agreements by eligible recipients of surplus property, and employ such persons as may be necessary for the accomplishment of the purposes of this article;
(b) make such certifications and enter into such agree-
ments or understandings for and in the name of the state
(including cooperative agreements with federal agencies)
as may be appropriate or required by federal law or regu-
lations in carrying out the functions hereby authorized;
and (c) require such reports and make such investiga-
tions and take such action as may be necessary for the
accomplishment of the purposes of this article.

CHAPTER 153

(House Bill No. 129—By Mr. Brotherton and Mr. Deutsch)

AN ACT to amend and reenact section six, article one, chapter
eleven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to forms and in-
structions for assessors and providing penalties for viola-
tions.

[Passed February 12, 1957; in effect from passage. Approved by the Governor.]


Section 6. Forms and instructions for assessors.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Forms and Instructions for Assessors.—The
tax commissioner shall prepare and forward to the
assessors such printed forms for the personal property
books, and the land books, and such lists of taxable sub-
jects to be furnished by the assessors to persons charge-
able with taxes, as will procure a perfect assessment of
all the persons and property, both real and personal, in
this state subject to taxation, and shall have full power
to alter or change any and all forms and books from time to time, so as to procure a just and equal assessment of all taxable property: Provided, however, That county assessors may, with the approval of the tax commissioner, use such printed forms as may be necessary in the use of mechanical devices designed to facilitate the work of the assessor: Provided further, That the county court is hereby authorized to purchase and pay out of the county treasury for such printed forms for use by the assessor. The tax commissioner shall also, by letter or printed circular, give such instructions to the assessors respecting their duties as may seem to him judicious; and if any assessor fail to obey such instructions, so far as they are not contrary to law, he shall forfeit not less than one hundred dollars nor more than five hundred dollars, and, upon being convicted, shall be removed from office.

CHAPTER 154
(House Bill No. 157—By Mr. Bratherton)

AN ACT to amend and reenact section seven, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to state and local meetings of assessors.

[Passed February 12, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.
Section
7. State and local meetings.

Be it enacted by the Legislature of West Virginia:

That section seven, 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 7. *State and Local Meetings.*—There shall be an annual meeting of the assessors, which meeting the assessors of the several counties of the state shall attend. The date and place of such meeting shall be fixed by the tax commissioner and due notice thereof shall be given to the assessors of the state. The tax commissioner shall prepare a program of matters pertaining to assessments and work of the assessors to be discussed at such meeting and he shall attend and be ex officio chairman of the same. The meeting shall continue for a period of at least two days but not more than four days. The actual and necessary expense incurred by any assessor and not more than two deputies to be designated by him in attendance at such meeting shall be paid out of the county treasury of the county of the assessor and deputies so attending. Before such payment, however, the assessor shall file an itemized statement, which shall be sworn to, of his actual and necessary expenses, with the clerk of the county court.

In addition to the meeting hereinbefore provided for, there shall be at least two meetings of each assessor and his deputies between the first day of the assessment year and the twentieth day of June, of the current year, at such time and place as the assessor shall designate, of which meeting all deputies shall have notice, for the purpose of securing uniform valuation of property, both real and personal, throughout the entire county, according to the true and actual value. The last meeting shall be held after the work of listing property has been completed, at which meeting all the lists shall be thoroughly gone over, and, if found to be erroneous, either in the amount of property, real or personal, assessed to any person, firm or corporation, or in the value given to any item of property by the taxpayer shall be revised and corrected by placing on such list the omitted property and giving to it, as well as to any property that has been listed, but which has been incorrectly valued, the true and actual value thereof according to the rule prescribed by law and by omitting property improperly listed.
AN ACT to amend and reenact section ten, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the expenses of assessors.

[Passed February 28, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 2. Assessors.

Section 10. Expenses of assessors.

Be it enacted by the Legislature of West Virginia:

That section ten, 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 10. Expenses of Assessors.—The county court of each county shall allow the assessor or any deputy assessor, when engaged in the assessment of property for the purpose of taxation, seven cents per mile for each mile the assessor or deputy assessor is required to drive his personally owned car. Every assessor shall file monthly, under oath, a full and accurate account of all his actual and necessary mileage mentioned in this section, supported by verified accounts for his deputies before payment thereof shall be allowed by the county court.

CHAPTER 156

(Senate Bill No. 300—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section nine, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to property exempt from taxation.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]
Article 3. Assessments Generally.

Section 9. Property exempt from taxation.

Be it enacted by the Legislature of West Virginia:

That section nine, article three, 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 9. Property Exempt from Taxation.—All property, real and personal, described in this section, and to the extent herein limited, shall be exempt from taxation, that is to say: Property belonging to the United States, other than property permitted by the United States to be taxed under state law; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village, or town in this state, and used for public purposes; property located in this state belonging to any city, town, village, county or any other political subdivision of another state, and used for public purposes; property used exclusively for divine worship; parsonages, and the household goods and furniture pertaining thereto; mortgages, bonds and other evidence of indebtedness in the hands of bona fide owners and holders hereafter issued and sold by churches and religious societies for the purposes of securing money to be used in the erection of church buildings used exclusively for divine worship, or for the purpose of paying indebtedness thereon; cemeteries; property belonging to, or held in trust for, colleges, seminaries, academies and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for charitable purposes, and not held or leased out for profit; all real estate not exceeding one-half acre in extent, and the buildings thereon, and used exclusively by any college or university society as a literary hall, or as a dormitory or club room, if not leased or otherwise used with a view to profit; all property belonging to benevolent associations, not conducted for private profit; property belonging to any public institution for the education of the deaf,
33 dumb or blind, or any hospital not held or leased out for
34 profit; house of refuge, lunatic or orphan asylum; homes
35 for children or for the aged, friendless or infirm, not con-
36 ducted for private profit; fire engines and implements for
37 extinguishing fires and property used exclusively for the
38 safekeeping thereof, and for the meetings of fire com-
39 panies; and all property on hand to be used in the sub-
40 sistence of livestock on hand at the commencement of the
41 assessment year, household goods to the value of two
42 hundred dollars, dead victuals laid away for family use
43 and any other property or security exempted by any
44 other provision of law; but no property shall be exempt
45 from taxation which shall have been purchased or pro-
46 cured for the purpose of evading taxation, whether tem-
47 porarily holding the same over the first day of the assess-
48 ment year or otherwise: Provided, however, That the
49 property, both real and personal, which is exempt from
50 taxation by this section shall be entered upon the asses-
51 sor's books, together with the true and actual value
52 thereof, but no taxes shall be levied upon the same or
53 extended upon the assessor's books.
54 Notwithstanding any other provision of this section,
55 however, no language herein shall be construed to exempt
56 from taxation any property owned by, or held in trust
57 for, educational, literary, scientific, religious or other
58 charitable corporations or organizations, unless such
59 property is used primarily and immediately for the pur-
60 poses of such corporations or organizations.

CHAPTER 157

(House Bill No. 287—By Mr. Whaley)

AN ACT to amend and reenact section one, article eleven, chap-
ter eleven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to inheritance and
transfer taxes.

[Passed March 5, 1957; in effect ninety days from passage. Approved by the
Governor.]
Article 11. Inheritance and Transfer Taxes.

Section

1. When imposed.

Be it enacted by the Legislature of West Virginia:

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

Section 1. When Imposed.—A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, if such transfer be: (a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the state at the time of his death and who shall die seized or possessed of property; (b) by will or by laws regulating descent and distribution of property within the state, or within its taxing jurisdiction, and the decedent was a nonresident of the state at the time of his death; (c) by a resident, or by a nonresident owning taxable property within the state or within its jurisdiction, by deed, grant, sale or gifts, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to, or conferred upon, the grantor, vendor, or donor, either solely or in conjunction with any person, or persons, to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of death of the grantor, vendor, or donor, thus subject to alteration, amendment or revocation. If any one of the transfers mentioned in this subdivision is made for valuable consideration, the portion of the transfer for which the grantor, or vendor receives equivalent monetary value is not taxable, but the remaining portion thereof is taxable. Every transfer by deed, grant, sale or gift, made within three years prior to the death of the grantor, vendor, or donor, without adequate valuable considera-
tion, shall be presumed to have been made in contempla-
tion of death within the meaning of this subdivision;
(d) by any person who shall transfer any property which
he owns, or shall cause any property to which he is ab-
solutely entitled to be transferred to or vested in himself
and any other person jointly, with the right of survivor-
ship, in whole or in part, in such other person, a transfer
shall be deemed to occur and to be taxable under the
provisions of this article upon the vesting of such title
in the survivor: Provided, however, That this subsection
shall not apply to bank accounts payable to the class
designated in section two(a) in a total amount of twenty-
five hundred dollars or less: And provided further, That,
in the case of a surviving spouse, not more than fifty per
centum of the value of any transfer mentioned in this
subsection (d) shall be included and taxed in any such
decedent’s estate; (e) to any person deriving an estate
in property, coupled with a power of appointment, in
which event such estate shall be taxed as other limited
estates; and whenever any person shall exercise a power
of appointment derived from any disposition of property
made, which appointment when made shall be deemed
a transfer taxable under the provisions of this article,
in the same manner as though the property to which
such appointment relates belonged absolutely to the
donee of such power and had been bequeathed or de-
vised by such donee by will; and whenever any person
possessing such a power of appointment so derived shall
omit or fail to exercise the same within the time pro-
vided therefor in whole or in part, a transfer taxable
under the provisions of this article shall be deemed to
take place to the extent of such omission or failure, in
the same manner as though the person thereby becoming
entitled to the possession or enjoyment of the property
to which such power related had succeeded thereto by
a will of the donee of the power failing to exercise such
power, and shall take effect at the time of such omission
or failure: Provided, however, That in either of which
events the tax commissioner, on the application of any
person in interest or upon his own motion, may, after due
notice to the known persons interested, apportion such
taxes, first, as to the interest of the donee of the power
of appointment, and second, to the remainder or rever-
sionary interests of others at the highest probable rate
applicable thereto, and shall make his certificate accord-
ingly, which shall be forwarded and disposed of in the
same manner as other certificates herein provided for.
The portion of any such taxes apportioned as to the re-
mainder or reversionary interest shall be paid out of the
corpus of the estate in like manner as other assessments
as if such interest had vested in possession; and, upon
such assessment and payment of the tax the matter shall
become a finality; (f) by the terms of any annuity or
investment contracts, or similar type or form of contract
or policy, and shall be on the amount payable under any
such contract or policy, on account of a death, to named
beneficiaries, to his estate or in trust for the benefit of
any individual or individuals, including (1) all such poli-
cies or contracts hereafter issued, and (2) all such policies
or contracts now in force: Provided, however, That there
shall be exempt from the provisions of this subsection the
proceeds of such contracts or policies: (a) When the
premiums on such policies or contracts were paid by the
beneficiary named in such policy or contract, to the extent
only of the ratio of premiums paid by the beneficiary
bear to the total premiums paid; (b) when the proceeds
of such policies or contracts have been assigned by the
decedent for a valuable consideration either in form abso-
lute or as collateral security for the payment of a bona
fide indebtedness of the decedent, to the extent that the
proceeds thereof shall be necessary to pay and satisfy such
indebtedness. It is provided, however, that no annuity
settlement or arrangement accepted in lieu of cash settle-
ment of a life insurance policy, whereby the proceeds of
such policy are payable in instalments, shall be subject
to taxation under the provisions of this article, nor shall
the provisions of this article apply to the proceeds of any
policy of life or accident insurance payable to a named
beneficiary or beneficiaries whether directly or in trust
or otherwise.
Where annuity or investment contracts or policies are left by a decedent in such manner that the proceeds thereof cannot be subjected to the payment of his debts, and where the proceeds of such annuity or investment contracts are received by beneficiaries thereof, the fact that the decedent may have been insolvent and that a portion of his debts may remain unpaid shall not affect the liability for inheritance tax on such proceeds.

CHAPTER 158
(Senate Bill No. 332—By Mr. Bean, Mr. President and Mr. Carrigan)

AN ACT to amend section five, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to determination of market value for inheritance and transfer tax purposes.

(Passed March 7, 1937; in effect from passage. Approved by the Governor.)

Article 11. Inheritance and Transfer Taxes.
Section
5. Determination of market value.

Be it enacted by the Legislature of West Virginia:
That section five, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended to read as follows:

Section 5. Determination of Market Value.—The market value of property is its actual market value after deducting debts and encumbrances for which the same is liable, and to the payment of which it shall actually be subjected. In fixing such market value, allowances shall not be made for debts incurred by the decedent, or encumbrances made by him, unless such debts or encumbrances were incurred or created in good faith for an
9 adequate consideration, nor for any debt in respect where-
10 of there is a right to reimbursement from any other estate
11 or person, unless such reimbursement from any other
12 estate or person cannot be obtained.
13 For the purpose of the tax there shall be deducted from
14 the market value of the property transferred the value at
15 which it was assessed for any inheritance or transfer tax
16 paid to the state of West Virginia upon a transfer to the
17 decedent at any time within three years prior to the
18 death of the decedent. That part of the value of property
19 which was allowed as an exemption and upon which the
20 tax was not actually measured and paid shall not be de-
21 ducted as previously taxed property. This paragraph shall
22 apply only to transferees designated in subdivisions (a)
23 and (b) of section two of this article.

CHAPTER 159
(Com. Sub. for Senate Bill No. 49—Originating in the
Senate Committee on the Judiciary)

AN ACT to amend and reenact section nine, article eleven,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to a lien or
indebtedness created by nonpayment of inheritance and
transfer taxes, and limitation upon the collection thereof.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the
Governor.]

Article 11. Inheritance and Transfer Taxes.
Section
9. Lien for tax; limitation upon collection.

Be it enacted by the Legislature of West Virginia:

That section nine, article eleven, chapter eleven of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:
Section 9. Lien for Tax; Limitation upon Collection.—
All such taxes upon any transfer, and the interest that may accrue thereon, shall, until paid, be and remain a charge and lien upon the property transferred, superior to any lien created after such transfer, and no title shall vest or be transferred as to any such property, except subject to the lien for such taxes, and no such property shall be transferred or delivered, in whole or in part, until the payment into the treasury of the state of the amount of such tax: Provided, however, That this restriction shall not apply to the transfer or delivery of twenty-five hundred dollars or less from the balance of a joint bank account of which the decedent was a co-owner when such transfer or delivery is to the surviving co-owner or co-owners and such co-owner or co-owners are within the class designated in section two (a) of this article. The person to whom the property is transferred, if he shall receive the same before the tax thereon is paid, and the executors, administrators and trustees having charge of every estate so transferred, shall be personally liable for such tax and interest until its payment: Provided further, That such lien and the tax and interest represented thereby shall not be enforceable or collectible either against the property or from any person whatsoever after the expiration of ten years from and after the death of the decedent whose property is subject to tax under the provisions of this article, whether there has been a qualification or not upon the estate of the decedent. The limitation aforesaid shall apply regardless of whether or not a personal representative has been appointed or qualified upon the estate of the decedent: Provided further, That the limitation of ten years prescribed by this section shall not be construed to apply to any suit or proceeding now pending and undetermined, commenced prior to the effective date of this act, for the enforcement of any such lien otherwise legally enforceable but for said limitation.
AN ACT to repeal sections one through sixty-six, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof thirty-one new sections, to be designated sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one, relating to licenses on businesses, activities, trades and employments.

[Passed March 9, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 12. License Taxes.

Section
1. Definitions.
2. License taxes levied.
3. Slot machines and automatic devices.
4. Circuses, carnivals and other public shows.
5. Trading stamps.
6. Fortune telling.
8. Hawkers and peddlers.
10. Itinerant vendors.
11. Theatres and public shows.
12. Collection agencies.
14. Bowling alleys, billiard, pool or bagatelle tables.
15. Application for and issuance of licenses; evidence of license; fec.  
17. Licenses coextensive with the state.
18. Effect of state license.
19. Effect of state license within municipalities.
20. Time for which licenses granted.
21. Injunction against collection of license tax; payment under protest.
22. Exhibition of licenses.
23. Licenses, a personal privilege.
24. Effect of change in partners or name of firm.
25. Collection by distraint.
26. Injunction against unlicensed business.
27. Additional penalties when business transacted without license.
28. Collection of back taxes.
29. Collection by action or suit.
30. Criminal liability for violation of provisions of article; jurisdiction.
31. Interpretation of preceding sections.

Be it enacted by the Legislature of West Virginia:

That sections one through sixty-six, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that thirty-one new sections, to be designated sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one be enacted, to read as follows:

Section 1. Definitions.—When used in this article the term “person” shall mean and include natural persons, partnerships, associations, corporations, and all other organizations or groups by means of which any of the hereinafter specified businesses, activities, trades or employments are engaged in or prosecuted.

The term “tax commissioner” shall mean the tax commissioner.

Sec. 2. License Taxes Levied.—No person shall, without a license, engage in or prosecute, within the state of West Virginia, any of the businesses, activities, trades or employments named in the following sections of this article.

The license taxes hereinafter specified are hereby levied on every person engaging in or prosecuting, within this state, any such businesses, activities, trades or employments.

Sec. 3. Slot Machines and Automatic Devices.—The annual license fee to keep or maintain an automatic baggage or parcel checking machine or device which is used for the storage of baggage or parcels of any character, shall be fifty cents for each section of any such device which is operated on the coin-in-the-slot principle; the annual license fee to keep or maintain any automatic toilet locker or device shall be fifty cents for every such
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9 locker or device; the annual license fee to keep or main-
10 tain any other automatic penny slot machine or device,
11 which is not a gambling device under any law of this
12 state, shall be at the rate of two dollars for each machine
13 or device kept or maintained by the licensee; the annual
14 license fee to keep or maintain any other automatic slot
15 machine or device, which is not a gambling device as
16 aforesaid, shall be at the rate of five dollars for each such
17 machine or device kept or maintained by the licensee.
18
19 The term “slot machine” when used in this section
20 shall not be deemed to mean or include any pay telephone
21 or postage stamp vending machine operated on the coin-
22 in-the-slot principle.
23
24 Application for the license required herein shall contain
25 the number of such machines or devices to be kept or
26 maintained by the licensee within this state during the
27 ensuing license year. One license certificate shall be
28 issued to each person keeping or maintaining such ma-
29 chines or devices as aforesaid, but the tax commissioner
30 shall issue to any such licensee a decalcomania stamp or
31 other evidence of license for each such machine or device,
32 which decalcomania stamp or other evidence of license
33 shall be securely attached to the side or front of each
34 such machine or device properly protected and plainly
35 visible. Every such machine or device shall also bear on
36 the side or front thereof so as to be plainly visible the
37 name and address of the person keeping or maintaining
38 such machine or device.
39
40 The proprietor or owner of the business conducted in
41 the place where such machine is kept or maintained is
42 charged with the responsibility of satisfying himself that
43 such decalcomania stamp or other evidence of license,
44 is so attached before permitting its installation in his
45 place of business and in the event the owner of any auto-
46 matic machine or device refuses, neglects or fails to pay
47 the license fee due upon any such machine or device,
48 then the proprietor or owner of the business conducted
49 in the place where such machine is installed, operated
50 or maintained shall be liable for the payment of such
51 license fee, and upon his refusal or failure to pay such
49 fee the tax commissioner or his agents may take such
50 machine or device into possession and deliver the same
51 to the sheriff of the county in which such machine or
52 device is found, or the sheriff of such county on his own
53 initiative or upon order or direction of the tax commis-
54 sioner, or his agents, may take such machine or device
55 into possession, and in either event said machine or de-
56 vice shall be impounded until such license fee is paid:
57 in the event the license fee and penalties are not paid
58 to such sheriff within ten days after the date of such
59 impounding, then the sheriff shall sell such machine or
60 device in the manner provided by law for the sale of
61 personal property for taxes, and from the proceeds there-
62 of shall discharge and pay the license fee due on such
63 machine or device and his costs, including costs of im-
64 pounding, storage, penalties and other fees due the state
65 and the sheriff; and the balance, if any there be, shall be
66 forfeited to the state.
67
68 Except where the principal business of the operation
69 of the store is the operation of such machines or devices,
70 no license fee shall be required of persons keeping or
71 maintaining such machines or devices owned by them
72 in their own licensed stores: Provided, however, That
73 any person exempt from such license shall obtain from
74 the tax commissioner a license receipt, decalcomania
75 stamp, or other evidence of exemption, at a cost not to
76 exceed fifty cents each, showing that he is so exempt,
77 which shall be effective for the period as provided for
78 annual licenses in this article; but to obtain such license
79 receipt or other evidence of exemption, he shall make an
80 affidavit and produce such other evidence as to the fact
81 entitling him to such exemption as the tax commissioner,
82 in his discretion, may require, which shall be on a form
83 to be prescribed by the tax commissioner.

Sec. 4. Circuses, Carnivals and Other Public Shows.--
2 The license to exhibit a circus or menagerie, a circus and
3 menagerie combined, wild west show, or other itinerant
4 show not exhibited in a theatre, opera house or other
5 permanent place for public shows, shall be based upon
6 the number of railroad cars or motor trucks used to trans-
including railroad cars or motor trucks used to transport
the personnel thereof. If railroad cars are used the fee
shall be four dollars for each car for each day which any
performance is given; if motor trucks are used the fee
shall be three dollars for each truck for each day on which
any performance is given.

The license fee to exhibit a street or other carnival
shall be five dollars a week for each entertainment, per-
formance or exhibition given at or in the vicinity of any
such carnival. Each such entertainment, performance or
exhibition shall require a separate license, whether or
not shown under the same canvas and whether or not
exhibited for additional compensation; and upon any
such entertainment, performance or exhibition being con-
cluded, so that an additional fee for admission is charged.
an additional license fee shall be required for any further
or additional entertainment, performance or exhibition.
To operate any riding device of any kind at or in the
vicinity of any street or carnival show, the fee shall be
ten dollars a week for each such device.

To keep or maintain any concession stand selling service,
goods, wares or merchandise, such as food, soft drinks,
ice cream, candy floss and the like, at or in the vicinity
of such street or carnival show, the fee shall be five dol-
lars a week for each such concession. To maintain any
concession stand such as ball games, bingo, cane rack,
penny pitch-till-you-win, striking machine, weighing ma-
chine, shooting gallery, artful dodger, bumper, fish pond,
dart game, or other legitimate games of skill, none of
which shall be controlled by the operator, at or in the
vicinity of any street or carnival show, the fee shall be
ten dollars a week for each such concession. To operate
or maintain a candy wheel or any other legitimate mer-
chandise wheels, when operated without control of the
operator, shall be twenty-five dollars a day. To operate
or maintain rides of all kinds shall be ten dollars each
a week: Provided, however, That such games as roll
downs, blowers, spinners, swinging ball, creepers, race
tracks, spot the spot, and all other games controlled by
the operator are hereby forbidden and no license shall
be granted to any circus, show or street carnival where
such games are operated: Provided further, That no circus, show or street carnival shall be licensed which has any gypsy fortune tellers or gypsies connected therewith in any manner.

The provisions of this section shall not apply to any educational, literary, dramatic, musical or benevolent society, or volunteer fire companies, not conducted for private profit, where such exhibitions are confined to one county, unless professional or paid talent, other than director, is employed in such exhibitions.

Sec. 5. Trading Stamps.—The annual license fee to sell or offer for sale merchants’ trading stamps, premium stamps or stamps or certificates of like nature, or to undertake to redeem such stamps or certificates in money or goods, shall be one hundred seventy-five dollars: Provided, however, That this section shall not apply to any coupon or similar device issued and redeemed by a manufacturer or packer.

The license imposed by this section shall not be co-extensive with the state, but a separate license shall be required for each county in which the licensee operates.

Sec. 6. Fortune Telling.—The annual license to act as a fortune teller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader, or any other person who performs the art or profession of telling the past or forecasting the future shall be two hundred dollars.

Sec. 7. Junk Dealers and Their Agents.—(a) The term “junk” as used in this section shall mean old or scrap gold, copper, brass, rope, rags, batteries, paper, rubber, automobile parts, iron, steel and other old scrap ferrous or non-ferrous metals.

The term “junk dealers” shall include all persons engaged in the business of buying or selling junk as hereinabove defined.

The term “junk dealer’s agents” shall include all persons who buy or sell junk as hereinbefore defined for or on behalf of a junk dealer, as hereinabove defined, but the term “junk dealer’s agent” shall not be construed to include any persons regularly employed upon a salary by
a regularly licensed junk dealer engaged in such business within the state of West Virginia.

The term "itinerant junk collector" shall include only such persons who gather junk from place to place with the aid of a cart or vehicle hand drawn or propelled, who have no fixed place of business.

The term "nonresident junk dealer" or "nonresident junk dealer's agent" shall include all persons who act as junk dealers or junk dealer's agents who are nonresidents of West Virginia, and all firms so engaged whose members are nonresidents of West Virginia and all corporations which have not been admitted to hold property and transact business in the state of West Virginia.

(b) No person within the state of West Virginia shall engage in the business of junk dealer, junk dealer's agent or itinerant junk collector without a state license therefor, which license shall be issued as provided in this article: Provided, however, That no resident license shall be issued to any junk dealer, junk dealer's agent or itinerant junk collector who has not been a resident of the state of West Virginia for a period of at least one year prior to the application for such license.

(c) No corporation or firm shall engage in the business of junk dealer or junk dealer's agent in the state of West Virginia unless the officers or agents of such corporation or firm who engage in the business of junk dealer or junk dealer's agent, in behalf of such corporation or firm shall be eligible to be duly licensed as resident junk dealers or junk dealer's agents in accordance with the provisions of this section.

(d) The annual license fee to act as a resident junk dealer shall be twenty-five dollars; to act as a junk dealer's agent, ten dollars; to act as a nonresident junk dealer or his agent who buys or solicits for the purchase of junk within the state, one hundred fifty dollars; to act as an itinerant junk collector, two dollars. Such licenses shall be coextensive with the state, but no nonresident licensee shall be permitted to maintain a fixed place of business within the state: Provided, however, That any nonresident junk dealer may purchase junk from any resident
junk dealer without complying with the provisions of this section, but if said nonresident junk dealer comes into the state in any motor vehicle or horse-drawn vehicle, said nonresident junk dealer shall not be permitted to transport from the state in said vehicle or horse drawn wagon junk purchased from resident junk dealers, unless there is a compliance with this section.

(e) Every resident junk dealer shall certify to the tax commissioner the name or names of the agents for whom he desires a license certificate and shall give to each agent so engaged by him a certificate of authority, which certificate the agent shall at all times keep with his license and no such junk dealer's agent's license shall be valid and effective without such certificate of authority. The tax commissioner shall give to each license certificate a numerically designated permit, and such permit so given shall be plainly stenciled or printed as “Dealer's Permit No.______”, “Agent's Permit No.______”, “Itinerant Collector's Permit No.______”, “Nonresident Permit No.______”, as the case may be, upon both sides of all trucks or other vehicles used in the collecting and transporting of junk. But the tax commissioner shall not issue a junk dealer's agent's license until the applicant therefor shall first have presented a certificate from a duly licensed junk dealer showing such authorization, and no license shall be issued to a junk dealer's agent or itinerant junk collector unless he shall file with the tax commissioner an affidavit setting forth that such applicant has not been convicted of a felony; that he has not been convicted of a misdemeanor in connection with the junk business within a five year period to the time of his application, and that in the event the application is for a resident dealer's license that he has resided in the state for a period of one year next preceding the date of his application, which said certificate and affidavit shall be filed by the tax commissioner issuing the license in his office.

No license hereunder shall be transferable.

No one who has been convicted of a felony shall be licensed as a junk dealer, junk dealer's agent or itinerant junk collector, and no one convicted of a misdemeanor in connection with the junk business within a five year
period prior to the passage of this article shall be licensed
as a junk dealer, junk dealer’s agent or itinerant junk
collector.

No person engaged in the junk business shall engage a
person as a junk dealer’s agent who is ineligible to receive
a resident junk dealer’s or junk dealer’s agent’s license.

Any license issued upon false affidavit or any imprope:
license issued hereunder shall be ipso facto void.

(f) Any person who shall violate the provisions of
this section shall be subject to the applicable provisions
of chapter sixty-one, article three, section forty-nine of
this code.

Sec. 8. Hawkers and Peddlers.—(a) The annual license
fee to act as a hawker or peddler, if the person licensed
travels without a motor vehicle, shall be ten dollars; if
he travels with a motor vehicle of not more than one-half
ton capacity, fifteen dollars; if he travels with a motor
vehicle of more than one-half ton capacity, but not exceed-
ing one ton capacity, fifty dollars; if he travels with a motor
vehicle of more than one ton capacity, but not exceeding
two tons’ capacity, one hundred dollars; and if he travels
with a motor vehicle of more than two tons’ capacity, one
hundred fifty dollars, plus one hundred dollars for each
additional ton or fraction thereof over two tons’ capacity;
and the person licensed shall pay at the same rate for each
and every motor vehicle so used. Such person shall carry
his license in some conspicuous place in his vehicle or
about his pack; and in addition thereto he shall cause
to be painted or stenciled in a conspicuous place on the
left-hand side of his vehicle the number of such license
and the words “West Virginia Hawker and Peddler” and
the license year for which said license is issued, which
said information shall be in black letters on a white back-
ground, and the whole thereof shall be at least eight by
twenty inches in size.

When used in this section, the term “sale” shall mean
and include both sales for money payment or for barter,
and offers to make any such sale and offers to render any
service or the rendering thereof.
27a Any person who shall carry goods, wares, or merchandise from place to place, either in person or by agent or employee, and sell, for delivery at the same time, any such goods, wares or merchandise to any purchaser, at wholesale or retail, and any person who shall solicit for the purpose of rendering any service, shall be deemed a hawker or peddler under this section.

(b) The provisions of this section shall not apply to any person who sells any goods, wares or merchandise to be delivered in the future; or to any of the following who offer immediate delivery of the goods, wares or merchandise being sold:

1. Any person or persons engaged within this state in the business or calling of agriculture, horticulture or grazing, who sells or sell individually or collectively, one or more for the other or others, the products derived from his or their business or calling aforesaid;

2. Any person engaged in the maintenance or operation of a retail merchandise store to exchange goods, wares or merchandise from such store for agriculture, horticultural or grazing products or to resell any such products received in due course of such business; nor to any other retail business concern, established and operating continuously for one year or more within this state in the sale of any product or products over regular routes;

3. Any wholesaler or jobber selling soft drinks or non-intoxicating beer for which he is duly licensed under other provisions of this chapter;

4. Any person who sells petroleum products, ice, wood, meat, milk, ice cream, bread, cakes, pies, and other bakery products, butter and eggs, manufactured, grown or produced by any such person and not purchased by him for resale;

5. Any sales by societies, groups or organizations acting for charitable, religious or benevolent purposes;

6. Any agent or salesman selling manufactured products, except green groceries and canned or bottled fruit products, produced by his employer, and who sells the same to retail dealers for the purpose of resale;
Any firm, corporation or individual having a stock of goods, or merchandise, or manufacturing or processing plant or plants kept or operating at a fixed situs in the state of West Virginia, and declared for taxation in the county where located, and using a vehicle, or vehicles over a fixed route or routes, for the purpose of selling or distributing, at wholesale, their, his or its said merchandise, stock of goods or plant products: Provided, however, That any person exempt from license as above provided, shall obtain from the tax commissioner a license receipt, without cost, showing that he is so exempt, which shall be effective for the period as provided for annual licenses in this article and shall be coextensive with the entire state; but to obtain such license receipt he shall make an affidavit and produce such other evidence as to the fact entitling him to such exemption as the tax commissioner, in his discretion, may require, which shall be on a form to be prescribed by the tax commissioner.

Sec. 9. *Pawnbrokers.*—The annual license fee to engage in the business of pawnbroker shall be one hundred dollars. The term pawnbroker shall include any person, firm, partnership, association or corporation engaged in the business of lending money on deposit or pledge of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, such as articles made of or containing gold, silver, platinum or other precious metals or jewels of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased and reselling or marketing the product.

Sec. 10. *Itinerant Vendors.*—(a) When used in this section the term “itinerant vendor” shall mean and include all persons who engage or conduct within this state, either in one locality, or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or
occupy for such purposes a room or rooms in any hotel or lodging house, for the exhibition and sale of such goods, wares and merchandise; and the person so engaged shall not be relieved from the provisions of this section by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as part of the business of, or in the name of, any local dealer, trader, merchant or auctioneer. The provisions of this section shall not apply to sales made to persons by commercial travelers, or selling agents in the usual course of business, nor to bona fide sales of goods, wares or merchandise by sample for future delivery; nor to hawkers or peddlers in the streets, roads or highways, from packs or vehicles, nor to persons selling meat or the products of the farm, garden or dairy, nor to any sales of goods, wares or merchandise on the grounds of any agricultural association during the continuance of any annual fair held by such association; nor to any sales by societies acting for charitable, religious or benevolent purposes; nor to judicial sales directed by law, or under the orders of any court; nor to the sales of the common necessities of life in any public market place.

(b) No itinerant vendor shall advertise, represent or hold forth a sale of goods, wares or merchandise as a bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, attorney, manufacturer's wholesale or closing out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless before so doing he shall state in writing, under oath, to the tax commissioner at the time he makes application for a license, hereinafter provided for, all the facts relating to the reason and character of such special sale as advertised, held forth, or represented, including a statement of the names of the persons from whom such goods, wares or merchandise were purchased, and the date of the delivery of the same to the person applying for license; the place, if any, where such goods, wares or merchandise were previously exposed for sale, and such details as are necessary to exactly locate and fully identify all such goods, wares and merchandise
proposed to be sold. And such itinerant vendor shall also
include in such statement the name and residence of the
owner or owners in whose interest the business is con-
ducted, to be kept on file in the office of the tax com-
mis-sioner and a record shall be kept by said tax commissioner
of all such statements, in convenient form and open to
public inspection.

(c) Every itinerant vendor shall execute a continuing
bond in the form prescribed by the tax commissioner with
satisfactory corporate surety in the penalty of five thou-
sand dollars, payable to the state of West Virginia, con-
ditioned that such itinerant vendor will pay all damages
accruing to anyone by reason of any act or action done,
performed or taken by such itinerant vendor in or about
the conduct of his business and further conditioned that
such itinerant vendor will pay all taxes, fees and penalties
imposed by this state and the political subdivisions there-
of: Provided, however, That the aggregate liability of the
surety for all such damages, taxes, fees, and penalties shall,
in no event, exceed the sum of said bond.

(d) This bond shall be filed with the tax commissioner
and shall be open to inspection during business hours to
any person desiring to inspect the same.

(e) The annual license fee to carry on the business of
itinerant vendor shall be five hundred dollars.

(f) Every itinerant vendor who sells or exhibits for
sale at public or private sale, any goods, wares or mer-
chandise without first obtaining a license therefor, and in
all other respects complying with the provisions of this
article, or who makes any false statement in reference to
the matter set out in subsection (b) hereof, or who fails
to comply with the requirements of any of the sections of
this article, and every person, whether principal or agent.
who, by circular, handbills, newspaper, or in any manner
advertises such sale, as herein described, before proper
licenses are issued to the vendor, and before he has com-
plied with the provisions of this article, shall be guilty of
a violation of this article, and shall be punished accord-
ingly.
Sec. 11. Theatres and Public Shows.—A theatre, opera house or other permanent place for public shows, may be kept or maintained upon the payment of the license fee hereinafter specified. In a city or town with a population of thirty thousand or more, according to the last official census, for three months, the fee shall be one hundred dollars; for six months, one hundred thirty dollars; and for one year, one hundred sixty dollars. In a city or town with a population of less than thirty thousand but more than twenty thousand, as aforesaid, for three months, the fee shall be seventy-five dollars; for six months, one hundred dollars; and for one year, one hundred twenty-five dollars. In a city or town with a population of less than twenty thousand but more than ten thousand, as aforesaid, for three months, the fee shall be forty dollars; for six months, sixty dollars; and for one year, one hundred dollars. In a city or town with a population of less than ten thousand but more than five thousand, as aforesaid, for three months, the fee shall be twenty dollars; for six months, thirty dollars; and for one year, forty dollars. In a city or town with a population of less than five thousand, as aforesaid, or at any other place within the state, for three months, the fee shall be ten dollars; for six months, fifteen dollars; and for one year, twenty dollars. Provided further, that if such theatre, opera house, or other permanent place for public shows is conducted outside of but within one mile of the corporate limits of any city or town, the license fee shall be the same as if such performance were given within such city or town; and, if outside of but within one mile of the corporate limits of two or more cities or towns, the license fee shall be the same as if it had been given within the largest of such cities or towns: Provided further, That any theatre, opera house or other permanent place for public shows, including drive-in theatres, kept, maintained or operated in such a location
as to be exempt from the foregoing provisions of this sec-

Sec. 12. Collection Agencies.—The annual license fee
to engage in the business of a collection agency within
this state shall be one hundred dollars. For purposes of
this section, solicitation or collection by or through an
agent operating within this state shall be considered to be
engaging in the business of a collection agency within this
state. Before such certificate of license is issued, the per-
son applying for the same shall execute a continuing bond
in the form prescribed by the tax commissioner with satis-
factory corporate surety in the penalty of two thousand
dollars, conditioned that such person will pay all damages
resulting from any unlawful act or action by such person
or his or its agent in connection with the conduct of the
business of the collection agency. This bond shall be filed
with the tax commissioner.

Sec. 13. Employment Agent.—The annual license fee to
conduct the business of an employment agent, to receive
applications for employment, to hire or contract with per-
sons for employment shall be two hundred dollars, except
that the annual license fee for an agency or registry for
the employment of nurses, practical nurses or undergrad-
uate nurses, shall be twenty-five dollars.

When used in this section the term "employment agent"
shall be deemed to mean and include the same persons as
defined in section four of article two of chapter twenty-
one of this code.

Sec. 14. Bowling Alleys, Billiard, Pool or Bagatelle
Tables.—The annual license fee to keep or maintain a
bowling alley, a billiard, pool or bagatelle table, or table
of like kind, for public use, where any charge is made for
the use of the same, shall be twenty-five dollars; but, if
more than one of such alleys or tables be kept or main-
tained in the same building by the same person, the fee
shall be twenty-five dollars for the first one and fifteen
dollars for each additional one.

The licensee, his agents or employees shall not permit
any person in any manner to bet or wager anything of
value upon any game played upon such alleys or tables. Such licensee, his agents or employees shall not permit any one to bring any intoxicating liquors of any kind into such building or other place where such alleys or tables are located.

Persons keeping or maintaining billiard, pool or bagatelle tables, or other tables of like kind, their agents or employees, shall not permit any person under the age of eighteen years to play at such tables and shall not permit any such person under the age of eighteen years to remain or loiter, whether playing at such tables or not, in the room where such tables are located.

Sec. 15. Application for and Issuance of Licenses; Evidence of License; Fee.—The licenses provided for in this article shall be issued in the form of a certificate by the tax commissioner to any person making proper application therefor on forms to be prescribed and furnished by the tax commissioner and tendering the license tax and a filing tax fee of fifty cents for each license certificate requested. In addition to the required license certificate there shall be required and issued at the time of the issuance of said certificate to the person owning coin operated devices a decalcomania stamp or other evidence of said license certificate, at a cost not to exceed fifty cents each, for each coin operated device licensed by said certificate. The tax commissioner shall collect in full the proper taxes and fees and determine to his satisfaction that all the conditions precedent to the granting of such license have been fulfilled by the applicant before issuing a certificate of license.

Sec. 16. Conditions Precedent to Doing Business.—Payment in full of the proper tax and fee as specified in this article, the issuance of a certificate of license under the provisions of the preceding section, and the fulfillment of all terms and conditions of such grant shall be conditions precedent to the transaction of any business, activity, trade or employment for which a license is required by this article.

Sec. 17. Licenses Coextensive With the State.—Except
as herein otherwise expressly provided, licenses issued pursuant to this article shall be coextensive with the state.

Sec. 18. Effect of State License.—Nothing in this article, and no payment or issuance of any certificate of license under the provisions hereof, shall be deemed to legalize any act which otherwise may be in violation of law, or to exempt any person from any penalty prescribed for such violation.

Sec. 19. Effect of State License within Municipalities.—When any municipality is authorized by its charter or by any law of this state to impose a penalty for engaging in or prosecuting any business, activity, trade or employment within the limits of such municipality without first having obtained a license therefor pursuant to the ordinances of such town, no state license issued under this article shall exonerate the licensee from any such penalty, unless otherwise expressly provided, whether such penalty be greater or less than that imposed for the violation of the provisions of this article.

Sec. 20. Time for Which Licenses Granted.—Except as may be herein otherwise expressly provided, all annual licenses issued under the provisions of this article shall be for a period of one year beginning on the first day of July and ending on the thirtieth day of the following June: Provided, however, That no license for any purpose for any length of time shall be issued for less than two dollars.

Sec. 21. Injunction against Collection of License Tax; Payment Under Protest.—No injunction shall issue from any court in this state enjoining the collection of any license tax provided herein, but the party claiming that any license is not due, for any reason, shall pay the same under protest and petition for refund in accordance with the provisions of section two-a of article one of this chapter.

Sec. 22. Exhibition of Licenses.—Every person to whom a certificate of license shall be issued under the provisions of this article shall keep such certificate posted in a conspicuous position in the place where the privileges of such
license are exercised, except as otherwise specifically pro-
vided for in this article.

Such certificate of license shall be produced for inspec-
tion whenever required by the tax commissioner or his
deputies or by the prosecuting attorney or sheriff of the
county wherein the privileges of such license are exercised.

Sec. 23. Licenses, a Personal Privilege.—Every license
issued under the provisions of this article shall confer a
personal privilege only to transact the business, activity,
trade or employment which may be the subject of the
license and shall not be exercised except by the person
holding the same and shall not be assignable.

Sec. 24. Effect of Change in Partners or Name of Firm.—
No changes in the name of the firm, nor the taking in of
one or more new partners, nor the withdrawal of one or
more members of the firm, so long as at least one member
remains the same, shall be considered as terminating the
privileges of any license granted to such partners or firm.

Sec. 25. Collection by Distraint.—The tax commissioner,
or his agents, may distrain upon any personal property,
including intangibles, of any person delinquent in the pay-
ment of taxes and penalties accrued and unpaid under the
provisions of this article and may require the assistance
of the sheriff of any county in levying such distress in the
county in which such sheriff is an officer. A sheriff so
collecting taxes due hereunder shall be entitled to com-
ensation in the amount of all penalties collected over and
above the principal amount of tax due, but in no case shall
such compensation exceed twenty-five dollars. All taxes
and penalties so collected, less the compensation above,
shall be remitted within ten days after the collection to
the tax commissioner. The tax commissioner shall pre-
scribe by general regulation the manner of remittance of
such funds and of allowing the collecting officer the com-
pensation due him under this section. The sheriff shall be
authorized to distrain immediately upon request, as afore-
said, for the amount with which any person may have been
assessed under the provisions of this article, and to sell
upon ten days’ notice so much of said person’s personal
property, subject to such distress, as may be necessary to pay the tax so assessed, including penalties.

Sec. 26. Injunction against Unlicensed Business.—If any person engages in or prosecutes any business, activity, trade or employment contrary to any of the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, the circuit court, or the judge thereof in vacation, of the county in which such violation occurred, shall, upon proper application in the name of the state, and after ten days written notice thereof to such person, grant an injunction prohibiting such person from continuing such business, activity, trade or employment until he has fully complied with the provisions of this article. The remedy provided in this section shall be in addition to all other penalties and remedies provided by law.

Sec. 27. Additional Penalties when Business Transacted without License.—Any person engaging in or prosecuting any business, activity, trade or employment contrary to the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, shall, in addition to paying the license tax, be liable to the following penalties: If the license tax to which he is subject is an annual one, or for a period of one month or more, ten per cent of such tax for each month or part thereof during which he had been in default; if the license tax aforesaid is for any period less than one month, ten per cent of such tax for each such tax period or part thereof during which he has been in default. It shall be the duty of the tax commissioner to collect the full amount of the license and penalty therefor.

Sec. 28. Collection of Back Taxes.—Any person engaging in or prosecuting any business, activity, trade or employment contrary to the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the
termination of the effective period of any such license, shall, in addition to all other penalties provided for in this article, be liable to the payment of all back taxes and penalties for a period not exceeding five years.

Sec. 29. Collection by Action or Suit.—The tax commissioner may collect any license tax and penalty unpaid under the provision of this article by action in debt, motion for judgment or other appropriate proceeding, including suit in the court of any justice in the county in which the defaulting licensee resides or in the county in which the activity subject to license was engaged in.

Sec. 30. Criminal Liability for Violation of Provisions of Article; Jurisdiction.—Except as may be herein otherwise expressly provided, any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty nor more than two hundred dollars, or confined in jail not more than three months, or both, in the discretion of the court; and each day or part thereof that any violation shall continue shall be deemed to constitute a distinct and separate offense and be punishable accordingly. Justices of the peace shall have concurrent jurisdiction with any other courts having jurisdiction for the trial of all misdemeanors arising under this section.

Sec. 31. Interpretation of Preceding Sections.—None of the provisions of the preceding sections shall affect any of the sections dealing with corporation land-holding or charter taxes, unless specifically so provided.

CHAPTER 161

(House Bill No. 87—By Mr. Myles)

AN ACT to repeal article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article thirteen-a, chapter eleven, relating to the license for establishing, maintaining or operating a store.
Article 13-a. License for Operation, etc., of Stores.

Section 1. Definitions.
2. Unlawful to operate store without license.
3. Annual license tax.
4. Exemptions.
5. License tax for part year.
6. Application for license; filing fee.
7. Return of application for correction; granting and display of license.
8. License not assignable and not transferable.
9. Change of location of store.
10. Expiration and renewal of license.
11. Penalties.
12. Injunction against unlicensed store.
13. Collection of license taxes for past years.
14. Collection by action or suit.
15. Injunction against collection of license tax; payment under protest.
16. Criminal liability for violations of this article.
17. Cost of administration; disposition of money collected.
18. Effective date; refund of duplicate tax.

Be it enacted by the Legislature of West Virginia:

That article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article, thirteen-a, be enacted to read as follows:

Section 1. Definitions.—The term "person" shall include any group or combination acting as a unit, individual, committee, guardian, trustee, executor, administrator, partnership, co-partnership, joint adventure, association, trust, firm or corporation, either domestic or foreign, which is controlled or held with others by majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

The term "special store" as used in this article shall be construed to mean and include any store or stores or any mercantile establishment or establishments, in which goods, wares, or merchandise of any kind except cigarettes, tobacco products and soft drinks are purchased, ordered, sold or offered for sale, either at retail or wholesale, and which contains no coin operated device, or devices, owned and operated by the store proprietor.

The term "general store" as used in this article shall be construed to mean and include any store or stores or any
mercantile establishment or establishments, in which goods, wares, or merchandise of any kind are purchased, ordered, sold or offered for sale either at retail or whole-

sale.

For the purpose of this article, no coin operated device, or devices, shall be construed to be a store.

Sec. 2. *Unlawful to Operate Store Without License.*—It shall be unlawful for any person to establish, operate or maintain any store in this state without first having obtained a license so to do from the state tax commis-
sioner as hereinafter provided.

Sec. 3. *Annual License Tax.*—Every person establish-
ing, operating or maintaining one or more special stores within this state under the same general management, supervision or ownership shall pay the annual license taxes hereinafter prescribed for the privilege of estab-
lishing, operating or maintaining such stores: (1) For one store or more, but not to exceed five stores, five dol-

lars for each store; (2) for six stores, or more, but not to exceed ten stores, twenty dollars for each additional store; (3) for eleven stores, or more, but not to exceed fifteen stores, forty dollars for each additional store; (4) for sixteen stores, or more, but not to exceed twenty stores, sixty dollars for each additional store; (5) for twenty-one stores or more, but not to exceed thirty stores, eighty dollars for each additional store; (6) for thirty-one stores, or more, but not to exceed fifty stores, two hundred dollars for each additional store; (7) for fifty-one stores, or more, but not to exceed seventy-five stores, four hundred dollars for each additional store; (8) for each store in excess of seventy-five, five hundred dollars for each additional store.

Every person establishing, operating or maintaining one or more general stores within this state under the same general management, supervision or ownership shall pay the annual license taxes hereinafter prescribed for the privilege of establishing, operating or maintaining such stores: (1) For one store or more, but not to exceed five stores, fifteen dollars for each store; (2) for six stores, or
more, but not to exceed ten stores, forty dollars for each additional store; (3) for eleven stores, or more, but not to exceed fifteen stores, eighty dollars for each additional store; (4) for sixteen stores, or more, but not to exceed twenty stores, one hundred twenty dollars for each additional store; (5) for twenty-one stores or more, but not to exceed thirty stores, one hundred sixty dollars for each additional store; (6) for thirty-one stores, or more, but not to exceed fifty stores, four hundred dollars for each additional store; (7) for fifty-one stores, or more, but not to exceed seventy-five stores, eight hundred dollars for each additional store; (8) for each store in excess of seventy-five, one thousand dollars for each additional store.

Sec. 4. Exemptions.—The establishment, operation or maintenance of stores by the following shall be exempt from the license tax imposed by this article: (1) The United States of America, the state of West Virginia and its political subdivisions; (2) religious and charitable organizations; (3) any person or persons engaged within this state in the business of producing agricultural products who, individually or collectively, sell in such store only agricultural products which he or they have produced.

Sec. 5. License Tax for Part Year.—Each license issued prior to the first day of January of any year shall be charged for at the full rate and each license issued on or after the first day of January shall be charged for at one-half of the full rate, as prescribed in section three.

Sec. 6. Application for License; Filing Fee.—Any person desiring to establish, operate or maintain a store in this state shall apply to the state tax commissioner for a license so to do. The application for a license shall be made on the form which shall be prescribed and furnished by the state tax commissioner and shall set forth the name and address of the applicant, the name and location of such store, and such other facts as the state tax commissioner may require. If the applicant desires to operate more than one such store, he shall make a separate appli-
cation for each such store. Each such application shall be accompanied by a filing fee of fifty cents for each license requested, and by the license tax prescribed in section three.

Sec. 7. Return of Application for Correction; Granting and Display of License.—As soon as practicable after the receipt of any such application, the state tax commissioner shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the state tax commissioner shall find that any such application is not in proper form and does not contain the necessary and requisite information, he shall return such application for correction. If an application is found to be satisfactory, and if the filing fee and license tax, as herein prescribed, shall have been paid, the state tax commissioner shall issue to the applicant a license for each store for which an application for license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Sec. 8. License not Assignable and not Transferable.—The license imposed by this article shall not be assignable and shall not be transferable.

Sec. 9. Change of Location of Store.—Licenses issued under the provisions of this article may be altered so as to permit removal of the store to another location. In order to be effective at the new location, however, the certificate of license must show upon its face an endorsement of the change by the state tax commissioner.

Sec. 10. Expiration and Renewal of License.—All licenses shall be so issued as to expire on the thirtieth day of June of each year. On or before the first day of July of each year, every person having a license shall apply to the state tax commissioner for a renewal for the year next ensuing, unless such person has ceased to operate such store or does not propose to continue operation of the store during the year next ensuing, in which event
he shall notify the state tax commissioner that he has ceased operation of the store or that he proposes to cease operation of the store prior to the first day of July of the year next ensuing. All applications for renewal shall be made on the forms prescribed by the state tax commissioner. Each application for a renewal shall be accompanied by a filing fee of fifty cents for each license requested and by the license tax as prescribed in section three.

Sec. 11. Penalties.—Any person who establishes, operates or maintains a store without obtaining a license therefor or continues to operate the same after the termination of a license therefor shall, in addition to paying the license tax, be subject to a penalty of ten per cent of such license tax for each month or part thereof during which he had been in default. This penalty shall be assessed and collected in the same manner as the license tax.

Sec. 12. Injunction Against Unlicensed Store.—If any person establishes, operates or maintains a store without obtaining a license therefor, or continues to operate or maintain such store after the termination of the effective period of any such license, the circuit court, or the judge thereof in vacation, of the county in which such violation occurred, shall, upon proper application in the name of the state, and after ten days' written notice thereof to such person, grant an injunction prohibiting such person from continuing the operation of such store until he has fully complied with the provisions of this article.

Sec. 13. Collection of License Taxes for Past Years.—Any person establishing, operating or maintaining a store contrary to the provisions of this article, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, shall, in addition to all other penalties provided for in this article, be liable to the payment of all license taxes and penalties for a period not exceeding five years.

Sec. 14. Collection by Action or Suit.—The state tax commissioner may collect any license tax and penalty
unpaid under the provisions of this article by action in debt, motion for judgment or other appropriate proceeding, including suit in the court of any justice, in the county in which the store or any one of the stores is located.

Sec. 15. Injunction Against Collection of License Tax; Payment Under Protest.—No injunction shall issue from any court in this state enjoining the collection of any license tax provided herein, but the party claiming that any license tax is not due, for any reason, shall pay the same under protest and petition for refund in accordance with the provisions of section two-a, article one of this chapter.

Sec. 16. Criminal Liability for Violations of this Article. —Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Sec. 17. Cost of Administration; Disposition of Money Collected.—Any and all expenses incurred by the state tax commissioner in the administration of this article shall be paid out of the funds accruing from the taxes and fees imposed by and collected under the provisions of this article. All money collected under the provisions of this article shall be paid into the state treasury, monthly, by the state tax commissioner, and shall be added to and shall constitute a part of the general fund for the elementary schools.

Sec. 18. Effective Date; Refund of Duplicate Tax.—This article shall become effective on the first day of July, one thousand nine hundred fifty-seven. The state tax commissioner shall refund to each licensee one-half of the tax and filing fee which the licensee has paid for the calendar year one thousand nine hundred fifty-seven by the issuance of his requisition in accordance with the refund procedure provided in section two-a, article one of this chapter. Return of the old license to the state tax
CHAPTER 162
(Com. Sub. for House Bill No. 108—Originating in the House Committee on Finance)

AN ACT to amend and reenact section twenty, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refund of tax on gasoline used for certain purposes.

[Passed February 27, 1957; in effect ninety days from passage. Approved by the Governor.]

Section 20. Refund of tax on gasoline used for certain purposes.

Be it enacted by the Legislature of West Virginia:
That section twenty, 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 20. Refund of Tax on Gasoline Used for Certain Purposes.—Any person who shall buy in quantities of twenty-five gallons or more, at any one time, gasoline as defined by this article, for the purpose of and the same is actually used (a) as a motor fuel for diesel engines not operated upon the public highways or streets of this state, or (b) as a motor fuel to operate tractors and gas engines or threshing machines for agricultural purposes, when such operation is not, in whole or in part, upon the public highways or streets of this state, or (c) as a motor fuel to operate aeroplanes or other aircraft, or (d) by any
railway company subject to regulation by the public serv-

ice commission of West Virginia, for any purpose other

than upon the public highways or streets of this state, or

(e) in the business of manufacturing, or in the production

of natural resources, either as a motor fuel or for any

other purpose except upon the public highways and

streets of this state, or (f) as a cleaning fluid in any laun-
dry or dry cleaning business, or (g) as a motor fuel in

motor boats or other water craft operated upon the navi-
gable streams of this state, may, if the gasoline tax im-
posed by this article shall have previously been paid upon
such gasoline, be refunded a sum equal to the amount of
such tax, upon presenting to the tax commissioner an affi-
davit accompanied by original or top copy sales slips or
invoices, or certified copies thereof, from the distributor
or retail dealer, showing such purchases, together with
evidence of payment thereof, which affidavit shall set
forth the total amount of such gasoline purchased and
used by such consumer, other than upon any public high-
ways, streets or alleys of this state, and how used; and
the tax commissioner upon the receipt of such affidavit
and such paid sales slips or invoices shall cause to be
refunded such tax paid on gasoline purchased and used
as aforesaid. The right to receive any refund under the
provisions of this article shall not be assignable and any
assignment thereof shall be void and of no effect. Nor
shall any payment be made to any person other than the
original person entitled thereto using gasoline as herein-
before in this section set forth: Provided, however, That
the tax commissioner shall cause refund to be made under
authority of this section only when application for refund
is filed with the tax commissioner, upon forms prepared
and furnished by the tax commissioner, within ninety
days from the date of purchase or delivery of the gaso-
line: And provided further, however, That any claim
for refund not filed within ninety days from the date of
purchase or delivery of the gasoline shall not be construed
to be or constitute a moral obligation of the state of West
Virginia for payment.
CHAPTER 163

(House Bill No. 430—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact section three, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition and computation of the consumers sales and service tax.

[Passed March 9, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section 3. Amount of tax.

Be it enacted by the Legislature of West Virginia:

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

Section 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.
Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though such sales are aggregated in the billing or payment therefor.

CHAPTER 164

(From House Bill No. 43—By Mr. Ours, by request)

AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, insofar as the same relates to exemptions of sales of personal property and services to fire departments from consumers sales tax.

(Passed February 26, 1957; in effect July 1, 1957. Approved by the Governor.)

Article 15. Consumers Sales Tax.
Section 9. Exemptions.

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

Section 9. Exemptions.—The following sales and services shall be exempt:
(1) Sales of gasoline, taxable under article fourteen, chapter eleven of the code, one thousand nine hundred thirty-one;
(2) Sales of gas, steam and water delivered to consumers through mains or pipes, and sales of electricity;
(3) Sales of textbooks required to be used in any of the public schools of this state;
(4) Sales of property or services to the state, its institutions or subdivisions, and to the United States, including agencies of federal, state or local governments for distribution in public welfare or relief work;

(5) Sales of motor vehicles which are titled by the department of motor vehicles and which are subject to the tax imposed by section one, article seven, chapter seventeen of the code;

(6) Sales of property or services to churches and bona fide charitable organizations who make no charge whatsoever for the services they render or to persons engaged in this state in the business of contracting, manufacturing, transportation, transmission, communication, or in the production of natural resources: Provided, however, That the exemption herein granted shall apply only to services, machinery, supplies and materials directly used or consumed in the businesses or organizations named above;

(7) An isolated transaction in which any tangible personal property is sold, transferred, offered for sale, or delivered by the owner thereof or by his representative for the owner’s account, such sale, transfer, offer for sale or delivery not being made in the ordinary course of repeated and successive transactions of like character by such owner or on his account by such representative;

(8) Sales of tangible personal property and services rendered for use or consumption in connection with the conduct of the business of selling tangible personal property to consumers or dispensing a service subject to tax under this article and sales of tangible personal property and services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which will be subject to the tax imposed by this article: Provided, however, That sales of tangible personal property and services to be used or consumed in the construction of or permanent improvement of real property shall not be exempt;

(9) Sales of tangible personal property for the purpose of resale in the form of tangible personal property;

(10) Sales of property or services to nationally charter-
ed fraternal or social organizations for the sole purpose
of free distribution in public welfare or relief work.
(11) Sales and services, fire fighting, or station house
equipment, including construction and automotive, made
to any volunteer fire department organized and incor-
porated under the laws of the state of West Virginia.

CHAPTER 165
(Senate Bill No. 163—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section five, article four, chap-
ter twenty-one-a of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
compensation and expenses of members of the board of
review on unemployment compensation.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 4. Board of Review.
Section 5. Compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 5. Compensation.—Each member of the board
shall receive an annual salary of seven thousand dollars
and the necessary traveling expenses incurred in the
performance of his duties.
Requisition for traveling expenses shall be accompanied
by a sworn and itemized statement which shall be filed
with the auditor and permanently preserved as a public
record.
The salaries and the expenses of the members shall be
paid from the administration fund.
AN ACT to amend and reenact section seven, article five, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and that a new section be enacted and added to article eight of said chapter twenty-one-a, such new section to be designated section fifteen, all relating to unemployment compensation.

[Passed March 9, 1957; in effect from passage. Approved by the Governor.]

Article 5. Employer Coverage and Responsibility.

7. Separate and joint accounts.

Section 7. Separate and Joint Accounts.—(1) The director shall maintain a separate account for each employer, and shall credit his account with all contributions heretofore and hereafter paid by him. He shall also credit to all active employers' accounts which have a credit balance on a computation date in an amount equal to all interest credited to the West Virginia unemployment trust fund deposited with the secretary of the treasury.
of the United States for all periods prior to the computation date of June thirty, one thousand nine hundred fifty-three, and thereafter for the period that has intervened since the last preceding computation date. The proportionate share to be credited to each employer's account which has a credit balance on the computation date shall be at a ratio of his credit balance to the total of the credit balances of all employers: Provided, That any adjustment made in an employer's account after the computation date shall not be used in the computation of the credit balance of an employer until the next following computation date: Provided further, That nothing in this chapter shall be construed to grant an employer or individual in his service prior claims or rights to the amounts paid by him into the fund, either on his own behalf or on behalf of such individuals. The account of any employer which has been inactive for a period of four consecutive calendar years shall be terminated for all purposes.

(2) Benefits paid to an eligible individual for total unemployment beginning after the effective date of this act shall be charged to the account of the last employer with whom he has had as much as three weeks of continuous employment: Provided, That no employer's account will be charged with benefits paid to any individual who has been separated from non-covered employment in which he was employed as much as three weeks: And provided further, That benefits paid to an eligible individual for partial unemployment beginning after the effective date of this act shall be charged to the account of the claimant's current employer.

(3) The director may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.
Article 8. Unemployment Compensation Fund.

Section 15. Administrative use of money credited to account of this state in unemployment trust fund pursuant to section 903 of the social security act, as amended.

Section 15. Administrative Use of Money Credited to Account of This State in Unemployment Trust Fund Pursuant to Section 903 of the Social Security Act, as Amended.—(1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section nine hundred three of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this act pursuant to a specific appropriation by the Legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be expended to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be used during a twelve-month period beginning on July one and ending on the next June thirty to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section nine hundred three of the Social Security Act, as amended, during the same twelve-month period and the four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts used pursuant to this subsection and charged against the amounts credited to the account of this state during any of such five twelve-month periods.

For the purposes of this subsection, amounts used during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount used during any such twelve-month period may be charged
against any amount credited during such a twelve-month period earlier than the fourth preceding such period.

(2) Money credited to the account of this state pursuant to section nine hundred three of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this act and of public employment offices pursuant to this section.

(3) Money requisitioned for the payment of expenses of administration pursuant to this section shall be deposited in the employment security administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The director shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated, or, if it remains unexpended at the end of the period specified by the law appropriating such money, it shall be withdrawn and returned to the secretary of the treasury of the United States for credit to this state’s account in the unemployment trust fund.

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**CHAPTER 167**

*House Bill No. 362—By Mr. Speaker, Mr. Flannery*

AN ACT authorizing the issuance and sale of bonds of the state of West Virginia to raise money for the purpose of paying a bonus to veterans under and by virtue of the “Korean Veterans Bonus Amendment” to the constitution adopted at the general election held in November, one thousand nine hundred fifty-six, providing for the disposition and expenditure of the proceeds of the sale thereof, and providing for the payment of such bonds and for the rights and security of the holders thereof.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]
Korean Veterans Bonus Bonds.

Section

1. Korean veterans bonus bonds; authority to 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. Korean veterans bonus sinking fund for payment of bonds and interest; investment thereof.
7. Covenants of state.
8. Sale by governor; minimum price.
10. Plates property of state.
11. Treasurer to be custodian of unsold bonds.
12. Payment of expenses.
13. Refunding bonds.

Be it enacted by the Legislature of West Virginia:

Section 1. Korean Veterans Bonus Bonds; Authority to Issue.—Bonds of the state of West Virginia are hereby authorized to be issued and sold for the purpose of raising funds for the payment of a cash bonus to veterans, including the costs of administration necessarily incident thereto, under and by virtue of the “Korean Veterans Bonus Amendment” to the constitution adopted at the general election held in November, one thousand nine hundred fifty-six. Such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such times and bearing such date or dates as the governor may determine, and shall become due and payable serially beginning one year and ending not more than twenty years from the date thereof. The amount of such bonds maturing in each year shall be so arranged by the governor that the aggregate amount of principal of and interest on such bonds maturing and becoming due in each year shall be approximately equal. A variation of not more than three per cent in such aggregate amounts of principal and interest maturing and becoming due in each year shall be considered a proper compliance with such requirement. All of such bonds maturing more than ten years after the date of issuance thereof shall be redeemable prior to maturity, at the option of the state of West Virginia, at such time or times, at
such premium or premiums, and upon such other condi-
tions as the governor shall determine and prescribe in
the notice of sale thereof.

The principal amount of bonds so issued shall not ex-
ceed the maximum amount fixed in the Korean veterans
bonus amendment. These bonds shall constitute a legal
investment for the workmen’s compensation fund and the
teachers’ retirement fund.

Sec. 2. Transfer, Fee; Registration, Fee; Where Payable;
Interest Rate; Tax Exempt.—The auditor and the treasurer
are hereby authorized to arrange for the transfer of reg-
istered bonds, and for each such transfer a fee of fifty
cents shall be charged by and paid to the state of West
Virginia, to the credit of the Korean veterans bonus sink-
ing fund. Bonds taken in exchange shall be canceled by
the auditor and treasurer and be carefully preserved by
the treasurer. The treasurer shall make provisions for
registering “payable to bearer” bonds, and for each bond
registered a fee of fifty cents shall likewise be charged
by and paid to the state of West Virginia, to the credit
of the sinking fund. All of such bonds shall be payable at
the office of the treasurer of the state of West Virginia,
or, at the option of the holder, at some bank in the city
of New York to be designated by the governor. The bonds
shall bear interest payable semi-annually, on the first
day of .......... and the first day of .......... ,
of each year, to bearer, at the office of the treasurer of the
state of West Virginia at the capitol of the state, or at
the bank designated by the governor, upon presentation
and surrender of interest coupons then due, in the case of
coupon bonds. In the case of registered bonds the treas-
urer of the state of West Virginia shall issue his check for
the interest then due on the first day of ......................
and the first day of .............. , of each year, and
mail it to the registered owner at his address as shown by
the record of registration. Both the principal and interest
of the bonds shall be payable in lawful money of the
United States of America and the bonds shall be exempt
from taxation by the state of West Virginia, or by any
county, district, or municipality thereof, which facts shall appear on the face of the bonds as part of the contract with the holder thereof.

Sec. 3. Form of Bond.—The bonds and coupons shall be engraved and the bonds shall be signed on behalf of the state of West Virginia, by the treasurer thereof, under the great seal of the state, and countersigned by the auditor of the state, and shall be substantially in the following form or to the following effect, namely:

KOREAN VETERANS BONUS

COUPON BOND

(Or registered bond, as the case may be)

OF THE

STATE OF WEST VIRGINIA

$.................... SERIES................... No......................

The state of West Virginia, under and by virtue of authority of an act of the Legislature passed at the regular session of one thousand nine hundred fifty-seven, on the ............. day of .................., one thousand nine hundred fifty-seven, and approved by the governor on the ............. day of .................., one thousand nine hundred fifty-seven, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to, and hereby promises to pay to the bearer hereof (in the case of a coupon bond) or to assigns (the owner of record, in case of a registered bond) on the ............. day of ............., 19............., in lawful money of the United States of America at the office of the treasurer of the state of West Virginia at the capitol thereof, or at the option of the holder at ............. bank in the city of New York, the sum of ............. dollars, with interest thereon at ............. per cent per annum from date, payable semi-annually in like lawful money of the United States of America at the treasurer’s office or bank aforesaid, on the first day of ............. and the first day of ............. of each year, (and in the case of a coupon bond) according to the tenor of the annexed coupons, bearing the engraved facsimile signature of the treasurer of the state of West
Virginia, upon surrender of such coupons. This bond (in the case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the treasurer of the state of West Virginia.

This bond is hereby made exempt from any taxation by the state of West Virginia, or by any county, district, or municipal corporation thereof.

In testimony whereof, witness the signature of the treasurer of the state of West Virginia, and the countersignature of the auditor of the state, hereto, affixed according to law, dated the day of, and the seal of the state of West Virginia.

(Seal)

Treasurer of the State of West Virginia

Countersigned:

Auditor of the State of West Virginia

Sec. 4. Form of Coupon.—The form of coupon shall be substantially as follows, to-wit:

STATE OF WEST VIRGINIA

On the first day of , the state of West Virginia will pay to the bearer, in lawful money of the United States of America, at the office of the treasurer of the state, or at the option of the holder at bank in the city of New York, the sum of dollars, the same being semi-annual interest on Korean Veterans Bonus Bond No. , series .

The signature of the treasurer to such coupon shall be by his engraved facsimile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. The bonds and coupons may be signed by the present treasurer and auditor, or by any of their respective successors in office, and bonds signed by the persons now in office may be sold by the governor or his
successor in office without being signed by the successor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor.—All coupon and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and post office address of the person, firm or corporation registered as the owner thereof.

Sec. 6. Korean Veterans Bonus Sinking Fund for Payment of Bonds and Interest; Investment Thereof.—There is hereby created a Korean veterans bonus sinking fund. Into such fund there shall be paid all moneys received from all taxes or charges made applicable by law to the payment of such bonds or the interest thereon, from transfer fees as herein provided, and from any other source which is made liable by law for the payment of the principal of such bonds or the interest thereon.

All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all money belonging to the fund shall be deposited in the state treasury to the credit thereof.

Such fund shall be applied by the treasurer of the state, first to the payment of the principal and semi-annually interest on such bonds as they shall become due as herein provided. The remainder of the fund shall be turned over by the state treasurer to the state sinking fund commission, whose duty it shall be to invest the same in bonds of the government of the United States, bonds of the state of West Virginia, or any political subdivision thereof: Provided, however, That bonds so purchased by the state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided for as they may become due. The money so paid into the Korean veterans bonus sinking fund under the provisions of this act shall be expended for the purpose of paying the interest and principal of the bonds hereby provided for as they severally become due and payable and for no other
Sec. 7. **Covenants of State.**—The state of West Virginia hereby covenants and agrees with the holders of bonds issued pursuant hereto that all the provisions of this act shall be and constitute an irrevocable contract with the holders of such bonds from time to time; that the additional charge on the sale of each bottle of alcoholic liquor, otherwise provided by law for payment of such bonds, shall not be reduced so long as any of the bonds, or any interest thereon, are outstanding and unpaid, unless the payment thereof has been adequately provided for; that to the full extent permitted by the constitution of West Virginia any of the covenants, agreements and provisions of this act may be enforced in any court of competent jurisdiction by any holder of such bonds or of any interest coupon appearing thereto.

The state of West Virginia further covenants and agrees that if in any fiscal year thereafter the amount of money derived from such tax or charge, is insufficient to meet all principal and interest payments due on such bonds during that year, it will levy and collect such additional tax or charge on alcoholic liquor as may be necessary to produce sufficient revenue to meet such payments as the same shall become due; or that in lieu of such increased tax or charge on alcoholic liquor, it may levy and collect an additional tax on cigarettes, on beer, an additional general consumers sales tax, or a graduated income tax, or a combination of such taxes and charges, in an amount necessary for such purpose.

Sec. 8. **Sale by Governor; Minimum Price.**—The governor shall sell the bonds herein mentioned at such time or times as he may determine necessary to provide funds for payment of the bonus as herein provided. All sales shall be at not less than par and accrued interest and an interest cost not to exceed three and one-fourth per cent. All interest coupons becoming payable prior to the sale date shall be cancelled by the treasurer and rendered ineffective, before the delivery of the bonds so sold.
Sec. 9. Proceeds Paid into Korean Veterans Bonus Fund; Expenditure.—The proceeds of all sales of bonds herein authorized shall be paid into the Korean veterans bonus fund, which is hereby created, and shall be expended solely for the payment of the veterans bonus and the costs of administration necessarily incident thereto.

If deemed advisable, the governor may direct the state treasurer to invest a part of the moneys in the Korean veterans bonus fund, in direct obligations of the United States of America, having a maturity of not exceeding one hundred eighty-five days from date of purchase. Any interest or profit accruing from such purchases shall be credited to the Korean veterans bonus fund.

Sec. 10. Plates Property of State.—The plates from which the bonds authorized by this act are engraved shall be the property of the state of West Virginia.

Sec. 11. Treasurer to Be Custodian of Unsold Bonds.—The state treasurer shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

Sec. 12. Interim Certificates.—The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of engraved bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the engraved and permanent bonds.

Sec. 13. Payment of Expenses.—All necessary expenses incurred in the execution of this act shall be paid out of the Korean veterans bonus fund on warrants of the auditor of the state drawn on the state treasury.

Sec. 14. Refunding Bonds.—Whenever it shall be advantageous to do so, authority is hereby conferred for the issuance of refunding bonds of the state of West Virginia in an amount sufficient to refund all unpaid veterans bonus bonds heretofore issued under and by virtue of the veterans ninety million dollar bonus amendment to the constitution, adopted at the general election held in No-
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Whenever such refunding bonds are issued, all taxes and charges heretofore imposed, collected and pledged for the payment of such bonds heretofore issued, are hereby dedicated and may be pledged for the payment of such refunding bonds: Provided however, That such bonds issued under the provisions of section one of the article may be funded or refunded at any time in the manner provided in this paragraph for funding or refunding bonds of the “Veterans Bonus Amendment of one thousand nine hundred fifty”.

CHAPTER 168

(House Bill No. 363—By Mr. Speaker, Mr. Flannery)

AN ACT providing for the payment of the Korean veterans bonus and for the administration thereof, prohibiting certain acts with respect thereto, and prescribing penalties for the violation of such provisions.

[Passed March 8, 1957; in effect July 1, 1957. Approved by the Governor.]

Payment of Korean Veterans Bonus.

Section

1. Department of veterans affairs to administer act; veterans advisory committee.
2. Veterans entitled to bonus.
3. Payment of bonus to relatives of deceased veterans.
4. Amount of bonus.
5. Limitation on time of filing application.
6. Determination by director of the validity of claims.
7. Review board hearing.
8. Court review of final orders of review board.
10. Penalty for making false statements.
11. Penalty for filing more than one application.
12. Bonus payment not subject to taxation or legal process; claim therefor not assignable.
13. Collection of fees or charges; penalty.
Be it enacted by the Legislature of West Virginia:

Section 1. Department of Veterans Affairs to Administer Act; Veterans Advisory Committee.—The West Virginia department of veterans affairs is hereby designated as the state agency to administer the provisions of this act. The director of the department of veterans affairs shall do all things necessary for the proper administration thereof. The director, with the advice and consent of the veterans council, may adopt and promulgate such reasonable rules and regulations, not inconsistent herewith, as may be necessary to effect the purposes of this act, including regulations concerning evidence or other data required to establish eligibility and qualifications for the bonus as herein provided. The director shall prepare and furnish all necessary forms which shall be distributed by him through such veterans and other organizations as he may deem most practicable.

The department of veterans affairs shall, insofar as possible, utilize the personnel, supplies and equipment of the department in the administration of this act. The department may employ such additional personnel as may be necessary for the proper administration of this act, subject, however, to the approval of the commissioner of finance and administration, who must also approve the salaries and other compensation for such personnel.

The governor may appoint a veterans advisory committee, consisting of representatives of veterans organizations chartered under acts of Congress and operating in this state, to advise and counsel with the director in the administration of this act. Such committee shall meet on the call of the director at such times and places as he may specify.

Sec. 2. Veterans Entitled to Bonus.—In grateful recognition of their services in time of grave national emergency, a cash bonus as herein provided shall be paid to veterans of the Korean conflict. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States during the Korean conflict 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 immediately prior thereto, who were not dishonorably discharged from such forces, and who within the period specified actively served in such armed forces for a period of at least ninety days. A cash 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.

As used in this act, "armed forces" means the army, navy, air force, marine corps and coast guard of the United States.

As used in this act, "active duty" means full-time active military or naval service with full duty pay status, but shall not include time absent from leave, absent over leave, while in confinement or any other time classified by the respective branches of the armed forces as "bad" or "lost" time.

Sec. 3. Payment of Bonus to Relatives of Deceased Veterans.—The bonus to which any deceased veteran would have been entitled, had he lived, shall be paid only to the following surviving relatives of such veteran, provided that such relatives are residents of this state when application for payment is made: Any unremarried widow, or if none, any child or children under the age of sixteen, or if none, any dependent parent or parents.

As used in this act, "unremarried widow" means the female spouse of a deceased veteran, legally married to the veteran at the time of his death, who has not remarried at the time of making application.

As used in this act, "child" means the natural son or daughter of the deceased veteran upon whose service eligibility is derived and who has not attained the age of sixteen years at the time of making application.

As used in this act, "parent" means the father or mother
by blood of the deceased veteran upon whose service eligibility is derived. "Dependency" of such parent shall be deemed to exist when such parent's taxable income for the twelve months preceding application is less than two thousand dollars. If surviving parents live together, they shall file joint applications and, in such case, "dependency" shall be deemed to exist if their combined taxable income for the twelve months preceding date of application is less than thirty-five hundred dollars.

Sec. 4. Amount of Bonus.—The amount of such cash bonus shall be calculated on the basis of ten dollars for each month, or major fraction thereof, served during the prescribed period 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 during the prescribed period outside such limits. Such bonus, however, shall in no case exceed three hundred dollars for those who served only within the territorial limits specified, and four hundred dollars for those who served outside such limits.

Sec. 5. Limitation on Time of Filing Application.—No bonus shall be paid to any person, otherwise entitled thereto, unless application therefor shall be filed with the department of veterans affairs on or before the thirtieth day of June, one thousand nine hundred fifty-nine. No warrant for the payment of any bonus shall be issued or reissued to any applicant after the thirty-first day of December, one thousand nine hundred sixty-one.

Sec. 6. Determination by Director of the Validity of Claims.—Upon receipt of an application for benefits hereunder, the director shall, as soon as may be practicable, determine the validity of the claim. As soon as such determination has been made, the director shall mail to the applicant a warrant in the amount of the bonus payment he finds to be due. If the determination is made that no benefits hereunder are payable then the director shall mail to the applicant a notification denying benefits and citing the reason or reasons for such denial.

Any applicant who is aggrieved by any such determi-
nation of the director may demand that his claim be re-
viewed as hereinafter provided. Such demand for review
shall be filed with the director, in writing, within sixty
days after the date on which the warrant of award or
notice of denial was mailed to the applicant. Upon receipt
of such demand for review the director shall certify the
demand, together with all files and records relating to
the application, to a board of review. Unless such demand
for review is duly filed with the director, all findings and
orders of the director with reference to such claim shall
be final and conclusive upon the applicant.

Sec. 7. Review Board Hearing.—For the purposes of
this act, the veterans council of the department of veterans
affairs is hereby designated as the “Korean Veterans
Bonus Review Board”. Under rules and regulations
adopted by the veterans council, any one or more mem-
ers of a board of review may conduct hearings on a
demand by an applicant for review of the determination
of the director, and may report his or their findings
thereon, together with the entire record of the case, to
the review board for its final determination and decision.

If the number of demands for review hereunder shall
become too numerous to be handled expeditiously by
the veterans council, the governor, upon the recom-
mandation of the council, may appoint one or more
additional boards of review. Additional boards shall con-
sist of not more than three members, one of whom shall
be a lawyer, who shall have the same qualifications as
the members of the veterans council, and who shall serve
at the will and pleasure of the governor for such time
as may be necessary for the purposes of this act. Each
such additional review board shall have the same author-
ity and its final decision shall have the same force and
effect as that of the veterans council under the provisions
of this act.

Upon receipt from the director of the files and records
relating to any claim, the board, or a member or mem-
ers thereof as the case may be, shall fix a time and
place for a hearing thereon. The applicant shall be noti-
ified of the time and place fixed and shall be informed
of his right to demand a public hearing if he so desires. At the hearing the claim shall be reexamined de novo and the submission of additional evidence may be required or permitted. Upon the conclusion of such hearing the board of review, on the basis of the record and the recommendations, if any, made by the member or members who conducted the hearing, shall enter its order reversing, affirming or modifying the determination made by the director.

Any order so entered by the board shall be final and conclusive upon the applicant and the director unless an application is made for review to the supreme court of appeals as hereinafter provided. The board shall mail to the applicant and to the director a copy of the order entered by it in each case.

All notices and correspondence shall be directed to the applicant at the address listed on his application and all notices and correspondence to the director shall be addressed to him at his office in the city of Charleston.

The director shall provide for each review board such clerical and stenographic assistants and such supplies as may be necessary for the performance of its duties.

Each member of a review board shall receive as compensation fifteen dollars per day for each day actually spent in the performance of his duties under the provisions of this act, and shall be reimbursed for all traveling and other expenses necessarily incurred by him in the performance of such duties.

Sec. 8. Court Review of Final Orders of Review Board.—Within thirty days after notification of an entry of any final order of a board of review, the director or any applicant may petition for review of such order by the supreme court of appeals in the same manner as is provided by section four, article five, chapter twenty-three of the code, for judicial review of final decisions by the workmen's compensation appeal board.

Sec. 9. Payments from Korean Veterans Bonus Fund; Balance to Korean Veterans Bonus Sinking Fund.—All bonus payments and other expenses and costs of adminis-
Sec. 10. *Penalty for Making False Statements.*—Any person who shall knowingly make any false or misleading statement or representation, oral or written, in support of any claim for a bonus under the provisions of this act, shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

Sec. 11. *Penalty for Filing More than One Application.*—Only one application shall be filed by any veteran or by any person who claims that he is entitled to a share of the bonus payable in the case of any deceased veteran. Any person who, with intent to defraud, violates the provisions of this section shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one nor more than two years, or by both such fine and imprisonment.

Sec. 12. *Bonus Payment not Subject to Taxation or Legal Process; Claim Therefor not Assignable.*—The bonus provided by this act is hereby declared to be a gift or gratuity made as a token of appreciation for the service rendered by the veteran to the people of West Virginia in time of grave national emergency and is in no sense compensation for such services. The money received as such bonus shall be exempt from taxation and such money, or any claim therefor, shall not be subject to garnishment, attachment or levy of execution. A claim for payment of a bonus under the provisions of this act shall not be assignable for any purpose whatsoever.

Sec. 13. *Collection of Fees or Charges; Penalty.*—No fee or charge shall be made by any person, attorney, agent or representative for any service in connection with the
filing of an application for payment of a bonus hereunder, except such fees as are provided by law for the performance of official duties by a duly elected or appointed officer of this state or a political subdivision thereof. No person shall, for a consideration, discount or attempt to discount or advance money upon any warrant issued for payment of any bonus provided for in this act.

If an applicant shall employ an attorney to represent him in connection with the prosecution of his claim before a board of review, or before the supreme court of appeals, the attorney shall file with the director an executed copy of his contract of employment, and the total amount of the fee therein provided shall not exceed twenty-five percent of the amount under dispute.

Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment for not less than ten days nor more than twelve months, or by both such fine and imprisonment.

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CHAPTER 169

(House Bill No. 27—By Mr. Hubbard)

AN ACT to amend and reenact section two, article one, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to who may not make will.

[Passed February 12, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 1. Capacity to Make, and Requisites and Validity of, a Will.

Section
2. Who may not make will.
Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter forty-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. Who May Not Make Will.—No person of un-2 sound mind, or under the age of eighteen years, shall be 3 capable of making a will.

CHAPTER 170
(House Bill No. 268—By Mr. Speaker, Mr. Flannery)

AN ACT to amend and reenact sections six and ten, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to benefits and procedures under the workmen's compensation law.

[Passed March 8, 1957; in effect ninety days from passage. Approved by the Governor.]

Article 4. Disability and Death Benefits.
Section
10. Classification of death benefits; “dependent” defined.

Be it enacted by the Legislature of West Virginia:

That sections six and ten, article four, chapter twenty-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. Classification of Disability Benefits.—Where compensation is due an employee under the provisions of this chapter for a personal injury other than silicosis, such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability,
the employee shall receive during the continuance there-
of sixty-six and two-thirds per cent of his average weekly 
earnings, not to exceed a maximum of thirty-three dol-
lars a week nor to be less than a minimum of twenty 
dollars a week.

(b) Subdivision (a) shall be limited as follows: Ag-
gregate award for a single injury causing temporary dis-
ability shall be for a period not exceeding two hundred 
eight weeks.

(c) If the injury causes permanent disability, the per-
centage of disability to total disability shall be determined 
and the award computed and allowed as follows:
For permanent disability of from one per cent to eighty-
four per cent, inclusive, sixty-six and two-thirds per cent 
of the average weekly earnings for a period to be com-
puted on the basis of four weeks compensation for each 
per cent of disability determined.

For a disability of eighty-five to one hundred per cent, 
sixty-six and two-thirds per cent of the average weekly 
earnings during the remainder of life.

(d) If the injury results in the total loss by severance 
of any of the members named in this subdivision, the per-
centage of disability shall be determined in accordance 
with the following table, and award made as provided in 
subdivision (c) of this section:

The loss of a great toe shall be considered a ten per cent 
disability.
The loss of a great toe (one phalanx) shall be considered 
a five per cent disability.
The loss of other toes shall be considered a four per 
cent disability.
The loss of other toes (one phalanx) shall be considered 
a two per cent disability.
The loss of all toes shall be considered a twenty-five 
per cent disability.
The loss of fore part of foot shall be considered a thirty 
per cent disability.
The loss of foot shall be considered a thirty-five per 
cent disability.
The loss of leg shall be considered a forty-five per cent disability.

The loss of thigh shall be considered a fifty per cent disability.

The loss of thigh at hip joint shall be considered a sixty per cent disability.

The loss of little or fourth finger (one phalanx) shall be considered a three per cent disability.

The loss of little or fourth finger shall be considered a five per cent disability.

The loss of ring or third finger (one phalanx) shall be considered a three per cent disability.

The loss of ring or third finger shall be considered a five per cent disability.

The loss of middle or second finger (one phalanx) shall be considered a three per cent disability.

The loss of middle or second finger shall be considered a seven per cent disability.

The loss of index or first finger (one phalanx) shall be considered a six per cent disability.

The loss of index or first finger shall be considered a ten per cent disability.

The loss of thumb (one phalanx) shall be considered a twelve per cent disability.

The loss of thumb shall be considered a twenty per cent disability.

The loss of thumb and index finger shall be considered a thirty-two per cent disability.

The loss of index and middle finger shall be considered a twenty per cent disability.

The loss of middle and ring finger shall be considered a fifteen per cent disability.

The loss of ring and little finger shall be considered a ten per cent disability.

The loss of thumb, index, and middle finger shall be considered a forty per cent disability.

The loss of index, middle and ring finger shall be considered a thirty per cent disability.
The loss of middle, ring and little finger shall be considered a twenty per cent disability.

The loss of four fingers shall be considered a thirty-two per cent disability.

The loss of hand shall be considered a fifty per cent disability.

The loss of forearm shall be considered a fifty-five per cent disability.

The loss of arm shall be considered a sixty per cent disability.

The total and irrecoverable loss of the sight of one eye shall be considered a thirty-three per cent disability, and the injured employee shall be entitled to compensation for a period of one hundred and thirty-two weeks.

For the partial loss of vision in one, or both eyes, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of one eye.

(e) Should a claimant to whom has been made a permanent partial award of from one per cent to eighty-four per cent, both inclusive, die from sickness of non-compensable injury, the unpaid balance of such award shall be paid to claimant's dependents as defined in this chapter, if any; such payment to be in the same installments that would have been paid to claimant if living: Provided, however, That no payment shall be made to any widow of such claimant after her remarriage, and that this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, such estate.

(f) The award for permanent disabilities intermediate to those fixed by the foregoing schedule and permanent disability of from one per cent to eighty-four per cent shall be in the same proportion and shall be computed and allowed by the commissioner.

(g) The percentage of all permanent disabilities other than those enumerated in subdivisions (c), (d), (e) and (f) of this section shall be determined by the commissioner, and award made in accordance with the provisions of subdivision (c).
(h) Compensation payable under any subdivision of this section shall be limited as follows: Not to exceed a maximum of thirty-three dollars a week, nor to be less than a minimum of twenty dollars a week.

(i) Where an injury results in temporary total disability for which compensation is awarded under subdivision (a) of this section and such injury is later determined permanent partial disability under subdivision (c), the amount of compensation so paid shall be considered as payment of the compensation payable for such injury in accordance with the schedule in subdivision (c). Compensation, either total temporary or permanent partial, under this section shall be payable only to the injured employee and the right thereto shall not vest in his or her estate, except that any unpaid compensation which would have been paid or payable to the employee up to the time of his death, if he had lived, shall be paid to the dependents of such injured employee if there be such dependents at the time of death.

(j) The following permanent disabilities shall be conclusively presumed to be total in character:

- Loss of both eyes or the sight thereof.
- Loss of both hands or the use thereof.
- Loss of both feet or the use thereof.
- Loss of one hand and one foot or the use thereof.

In all other cases permanent disability shall be determined by the commissioner in accordance with the facts in the case, and award made in accordance with the provisions of subdivision (c).

Sec. 10. Classification of Death Benefits; "Dependent" Defined.—In case a personal injury other than silicosis or other occupational disease, suffered by an employee in the course of and resulting from his employment, causes death within a period of six years and disability is continuous from date of such injury until date of death, or if death results from determined third stage silicosis or from any other occupational disease within six years from the date of the last exposure to the hazard of silicon dioxide dust or to the other particular occupational hazard in-
volved, as the case may be, the benefits shall be in the
amounts and to the person as follows:
(a) If there be no dependents, the disbursements shall
be limited to the expense provided for in sections three
and four of this article.
(b) If the deceased employee leaves a dependent
widow or invalid widower, the payment shall be sixty-
five dollars a month until death or remarriage of such
widow or widower, and in addition seventeen dollars
fifty cents a month for each child under eighteen years
of age, to be paid until such child reaches such age, or,
if an invalid child, twenty dollars a month, to continue as
long as such child remains an invalid: Provided, however,
That if such widow or invalid widower shall remarry
within ten years from the date of the death of such em-
ployee, such widow or widower shall be paid at the time
of remarriage twenty per cent of the amount that would
be due for the period remaining between the date of such
remarriage and the end of ten years from the date of
death of such employee, and such widow or widower
shall be advised in writing by the commissioner of his or
her rights under this proviso at the time of making the
original award: Provided further, That if upon investi-
gation and hearing, as provided in article five of this
chapter, it shall be ascertained that such widow or widow-
er is living with a man or woman, as the case may be, as
man and wife and not married, or that the widow is liv-
ing a life of prostitution, the commissioner shall stop the
payments of the benefits herein provided to such widow
or widower.
If the deceased employee be a widow or widower and
leaves a child or children under the age of eighteen years,
the payments shall be twenty dollars a month to each
child until he or she reaches the age of eighteen years.
In all awards of compensation to children, unless other-
wise provided herein, the award shall be until they reach
the age of eighteen years or until their death prior
thereto.
(c) If the deceased employee leaves no dependent
widow or widower and leaves a wholly dependent father
or mother, he or she shall be paid the sum of fifty dollars a month, payments to continue until death, and if there be no widow or widower and both the father and mother are wholly dependent, then a joint award shall be made to the father and mother in the sum of fifty dollars a month until death. Upon the death of either the father or mother in any case in which a joint award has been made to them, the full award of fifty dollars a month shall be paid to the survivor until his or her death.

(d) If the deceased employee leaves no dependent widow or widower or wholly dependent father or mother but there are other wholly dependent persons, as defined in paragraph (f) of this section, the payment shall be fifty dollars a month, to continue for six years after the death of the deceased, except as otherwise provided herein.

(e) If the deceased employee leaves no dependent widow or widower, child under eighteen years of age, or wholly dependent person, but there are partially dependent persons at the time of death, the payment shall be twenty dollars a month, to continue for such portion of the period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b), (c), (d) and (e) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(f) Dependent, as used in this chapter, shall mean a widow, invalid widower, child under eighteen years of age, invalid child or a posthumous child, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; also the following persons who are and continue to be residents of the United States or its territorial possessions: Stepchild under eighteen years of age, child under eighteen years of age legally adopted prior to the injury causing death, father, mother, grandfather or
grandmother, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; an invalid brother or sister wholly dependent for his or her support upon the earnings of the employee at the time of the injury causing death.

CHAPTER 171

(House Bill No. 127—By Mr. Myles)

AN ACT to amend and reenact section two, article five, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to workmen's compensation appeal board.

[Passed March 4, 1957; in effect July 1, 1957. Approved by the Governor.]

Article 5. Review.

Section 2. Workmen's compensation appeal board.

Be it enacted by the Legislature of West Virginia:

That section two, article five, chapter twenty-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. Workmen's Compensation Appeal Board.—

There shall be a board to be known as the “Workmen's Compensation Appeal Board,” which shall be referred to in this chapter as the “board,” to be composed of three members, none of whom shall be a contributor to the compensation fund or in any way connected with a contributor thereto and none of whom shall be a beneficiary of the compensation fund or in any way connected with a beneficiary thereof. Two members of such board shall be of opposite politics to the third, and all three shall be
citizens of this state who have resided therein for a period of at least five years. All members of the board shall be appointed by the governor for a term of six years. The governor is hereby vested with power to remove any member of the board according to section four, article six, chapter six of this code. They shall each receive an annual salary of three thousand six hundred dollars, payable in monthly installments, and shall also be entitled to reasonable and necessary traveling and other expenses incurred while actually engaged in the performance of their duties. The governor shall designate one of the members of the board as chairman thereof, and the board shall meet at the capitol or at such other places throughout the state as it may deem proper, at regular sessions commencing on the first Tuesday in February, April, June, August, October and December, and continuing as long as may be necessary for the proper and expeditious trans- action of the business before it. All clerical services re- quired by the board shall be paid for by the compensation commissioner from any funds at his disposal. The board shall, from time to time, compile and promulgate such rules of practice and procedure as to it shall appear proper for the prompt and efficient discharge of its business and such rules shall be submitted to the supreme court of appeals for approval, and if approved by such court shall have the same force and effect as the approved rules of procedure of circuit courts. The board shall employ such clerical staff as may be necessary for the efficient conduct of its business but the number of such employees shall not exceed two. Salaries of the board, and its employees, and all of its necessary operating expense shall be paid from the workmen's compensation fund. The board shall submit its annual budget to the state compensation com- missioner for inclusion as a separate item in the budget estimates prepared by him annually, and, within the limits of such budget, all expenses of the board shall be by requisition to the commissioner. Salaries of the employees of the board shall be fixed by the board.
CHAPTER 172

(Senate Bill No. 248—By Mr. Martin)

AN ACT authorizing the board of education of Berkeley county to reimburse Elizabeth DeHaven for medical, hospital and other necessary expenses incurred as the result of the negligence of said board of education of Berkeley county, and to declare a moral obligation to exist on the part of said board of education in favor of said Elizabeth DeHaven.

WHEREAS, On the seventh day of September, one thousand nine hundred fifty-six, Elizabeth DeHaven, a student of Burke street school in Berkeley county, West Virginia, was present on the playground of said school, under authorization of the authorities of said school; and

WHEREAS, While there present upon said playground the said Elizabeth DeHaven was seriously injured by a steel window sash, which was dislodged from a second-story window of the school building, falling to the playground, striking the said Elizabeth DeHaven; and

WHEREAS, As a result of being so struck the said Elizabeth DeHaven suffered severe injuries, and necessarily incurred certain medical, hospital and other expenses; and

WHEREAS, Said Elizabeth DeHaven was in no sense at fault on the premises; therefore,

[Passed March 1, 1957; in effect from passage. Approved by the Governor.]

Section 1. Authorization for reimbursement.

Section 2. Finding of moral obligations.

Be it enacted by the Legislature of West Virginia:

Section 1. Authorization for Reimbursement.—The board of education of Berkeley county, West Virginia, is hereby authorized, as in its discretion it may see fit, to pay the necessary expenses incurred by Elizabeth DeHaven and/or her parents, for hospital, medical and other
treatment necessitated as a result of the said Elizabeth DeHaven being injured by a steel window sash becoming dislodged from a second-story window of the Burke street school, Berkeley county, West Virginia, on September seven, one thousand nine hundred fifty-six, and falling upon her, which injury was caused by the negligence of said county board of education: Provided, however, That the authorization hereby granted to said county board of education shall not exceed the sum of four hundred fifty-three dollars and seventy cents.

Sec. 2. Finding of Moral Obligation.—It is hereby declared to be the finding of the Legislature that a moral obligation on the part of the board of education of Berkeley county exists in favor of said Elizabeth DeHaven.

CHAPTER 173
(Senate Bill No. 250—By Mr. Martin)

AN ACT to amend and reenact chapter one hundred seventy-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-five, authorizing the county court of Berkeley county to transfer unexpended funds and surpluses in any funds of said county into a fund to be used and expended by the county court for county fire protection equipment, apparatus and facilities and county courthouse and jail repairs, improvements and additions.

[Passed February 22, 1957; in effect ninety days from passage. Approved by the Governor.]

Section
1. Berkeley county unexpended and surplus funds; use and disposition for fire protection and courthouse and jail improvements.
2. Use of funds for courthouse and jail repairs, improvements and additions; apportionment of funds; expenditure.
Be it enacted by the Legislature of West Virginia:

That chapter one hundred seventy-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-five, be amended and reenacted to read as follows:

Section 1. Berkeley County Unexpended and Surplus Funds; Use and Disposition for Fire Protection and Courthouse and Jail Improvements.—Subject to the use and allocation of available moneys and funds, as provided in section two hereof, 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 Legislature, regular session, one thousand nine hundred forty-nine.

Sec. 2. Use of Funds for Courthouse and Jail Repairs, Improvements and Additions; Apportionment of Funds; Expenditure.—The county court of Berkeley county may, in its discretion, allocate the available moneys and funds, as provided in section one of this chapter, for such fire protection uses and services as it may find to be expedient and practicable, and is hereby authorized and empowered to use and expend the balance of all such available moneys and funds for repairs, improvements and additions to the courthouse and jail of Berkeley county. Such available moneys and funds may be used and expended for necessary or emergency repairs or improvements to the courthouse or jail and may be accumulated for other repairs and improvements and structural additions to the
CHAPTER 174
(House Bill No. 457—By Mr. Tompos)

AN ACT providing for the creation and maintenance of a children's shelter in Hancock county; establishing a board of trustees to manage said shelter and prescribing the powers and duties of such board; creating a Hancock county children's shelter fund and authorizing the county court of Hancock county to transfer certain funds to the special fund so created; and to repeal chapter one hundred eighty-five, acts of the Legislature, regular session, one thousand nine hundred fifty-three, and chapter one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-five.

[Passed March 4, 1957; in effect July 1, 1957. Approved by the Governor.]

Section
1. Hancock county children's shelter; payment of personnel.
2. Board of trustees.
3. Powers and duties of the board of trustees.
4. Officers; meetings.
5. Hancock county children's shelter fund; board of trustees children's shelter fund; disbursements.
6. Title to property.
7. Repeal of acts of the Legislature and inconsistent acts.

Be it enacted by the Legislature of West Virginia:

Section 1. Hancock County Children's Shelter; Payment of Personnel.—The Hancock county court is hereby expressly authorized to create and maintain a children's shelter in Hancock county and to pay all salaries and
wages of all personnel employed by the county court in connection therewith including that of the secretary and treasurer of the board of trustees hereinafter created.

Sec. 2. Board of Trustees.—There is hereby created a board of trustees of the children's shelter in Hancock county, hereinafter referred to as the board of trustees which shall be composed of nine members. Three members of the board of trustees shall be the commissioners of the county court of Hancock county and the six remaining members shall be two residents from each of the three magisterial districts in Hancock county, to be appointed by the county court of Hancock county. The terms of office for the six members to be appointed by the Hancock county court shall be as follows: the first two appointments shall be residents of Grant district for a term of two years beginning January one, nineteen hundred fifty-eight, and thereafter the appointments from Grant district shall be six years; the next two appointments shall be residents of Clay district for a term of four years beginning January one, nineteen hundred fifty-eight, and thereafter the appointments from Clay district shall be for six years; the remaining two appointments shall be residents of Butler district for a term of six years beginning January one, nineteen hundred fifty-eight, and thereafter the appointments from Butler district shall be for six years. Should any appointed member remove his residence from the magisterial district from which appointed, his office shall be deemed vacated. The county court shall fill all vacancies that may arise from time to time for the unexpired terms.

Sec. 3. Powers and Duties of the Board of Trustees.—The board of trustees shall serve as an advisory board to the county court without compensation except such as may be fixed by the board from time to time for the secretary and treasurer and approved by the county court; shall formulate policy and recommend purchases; shall recommend and adopt administrative procedures; shall recommend the employment of and the salaries for necessary personnel to operate the shelter; shall recommend improvements in the way of construction of permanent
buildings, additions or remodeling of present buildings, and for the acquisition of lands; shall recommend ways and means for raising revenue and the amount thereof from county tax sources for the maintenance and improvement of the said shelter; shall have the power and authority to undertake any proper activity or campaign to raise funds for the maintenance and improvement of the shelter other than from the county tax revenues, and as well as to solicit the public generally for contributions of money or goods or items of personal property; and shall have the power to do all that is necessary and proper to equip, maintain, supply, and manage the shelter and to do all acts and to have all powers necessary and incident thereto.

Sec. 4. Officers; Meetings.—The officers of the said board shall be a chairman, who shall be the president of the county court, a vice-chairman, who shall be a nonmember of the county court, a secretary, who shall be a nonmember of the county court, and a treasurer, who shall be a nonmember of the county court.

The board shall meet no less than once every two months and at least six times annually, beginning in the year one thousand nine hundred fifty-eight, one meeting to be held in January, one in June, and one in December on or before the fifteenth day of each of those months. The board shall fix the dates of all other required meetings and may fix other regular meetings and may call special meetings when desired. Five members present at a meeting shall constitute a quorum. No member may vote by proxy. The chairman shall preside at all meetings and may vote only in case of a tie.

The secretary shall be required to keep a permanent record of all proceedings before the board and shall record all action taken by the board in a bound book to be furnished for that purpose by the county court.

The treasurer shall keep a permanent record of all expenditures and receipts in a bound book to be furnished for that purpose by the county court. The board shall require of the treasurer a bond with approved surety, the cost of which shall be paid by the county court.
The board may promulgate and adopt and be governed by all rules of procedure and administration, and by-laws not inconsistent with the provisions of this act and the statutes and constitution of the state of West Virginia.

Sec. 5. Hancock County Children’s Shelter Fund; Board of Trustees Children’s Shelter Fund; Disbursements.—(a) The county court of Hancock county is hereby authorized and empowered to create and maintain a fund to be known and designated as the Hancock county children’s shelter fund. In addition to the authority to transfer certain surpluses from its various funds heretofore given to the Hancock county court by legislative enactment, the county court of Hancock county is hereby authorized and empowered to transfer all funds not used by the various departments and administrative divisions, for which funds have been and will in the future be lawfully appropriated by the said county court of Hancock county, to the said children’s shelter fund. Said transfer may be effected only on the last day of each fiscal year. The said fund shall be in the custody of the sheriff of Hancock county who shall be ex officio the treasurer for said board and who shall be liable on his official bond to the board and shall account to the board annually therefor in like manner as he accounts for other public moneys. All disbursements from the said fund in the custody of the sheriff shall be made only on order of the county court in the same manner as all other public funds are disbursed.

(b) The county court is hereby authorized and empowered to levy annually as it does for all other county funds, for the purpose of maintaining and increasing the said fund for the purpose of maintenance, making improvements, additions, purchase of additional land or equipment, construction and maintenance of additional buildings and facilities, installation and construction and improvement of recreational facilities, to, for, and in behalf of said children’s shelter: Provided, however, That the county court before it shall make said levy, shall first give notice of the proposed levy by publishing the same in two newspapers of opposite political affiliation, having
a circulation in Hancock county, which notice shall be published once a week for two successive weeks at least ten days prior to the day the proposed levy shall be made, and which notice shall contain the rate of the proposed levy, the amount of money to be raised by the proposed levy, the precise purpose for raising the money, and the duration of the levy, and said notice shall also fix a time not less than five days before the proposed levy is to be made at which any property owner of the county may appear in person before the county court in a meeting called for that purpose to voice oral objection to the said proposed levy. If more than one hundred property owners of the county appear and protest against the proposed levy, the county court shall not make the proposed levy but shall submit the same to the voters of the county by separate ballot at the next regular primary or general election to be held in the county. If a majority of the votes cast shall be in favor of the proposed levy, said majority vote shall be construed as a mandate of the voters binding on the county court to make the levy at its next annual levy.

(c) The board of trustees is hereby authorized and empowered to create, establish, and maintain a fund to be designated as the board of trustees children's shelter fund. This fund shall be under the control and custody of and administered by the said board. No money raised by taxation or by transfer of funds raised by taxation shall be deposited in this fund. Only moneys raised by or received from any source or method or means other than by taxation or by transfer of funds created by taxation shall be deposited in the said fund. All disbursements from the said fund in the custody and control of the board of trustees shall be on authorization of the said board recorded in the minutes of the said board and on voucher signed by the chairman of the said board and the treasurer thereof.

All record books of the board of trustees shall be available to the public for inspection at the office of the clerk of the county court of Hancock County during regular hours of business on the last five days of each calendar
month, and at no time while said books are in the office of the said clerk shall anyone be permitted to remove them therefrom.

Sec. 6. *Title to Property.*—All property, real and personal, purchased either on order of the county court or on order of the board of trustees, shall become the property of Hancock county under the control and custody of the Hancock county court in the same manner and to the same effect as all other county property.

Sec. 7. *Repeal of Acts of the Legislature and Inconsistent Acts.*—Chapter one hundred eighty-five, acts of the Legislature, regular session, one thousand nine hundred fifty-three and chapter one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-five, and all other acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 175

(House Bill No. 402—By Mr. Robertson and Mr. White, of Harrison)

AN ACT to amend and reenact section four, chapter two hundred five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, relating to the salary of the judge of the criminal court of Harrison county.

[Passed March 4, 1957; in effect ninety days from passage. Approved by the Governor.]

Section

4. Salary of judge.

Be it enacted by the Legislature of West Virginia:

That section four, chapter two hundred five, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:
Section 4. Salary of Judge.—The judge of the criminal court of Harrison county, West Virginia, shall from and after the first day of January, one thousand nine hundred sixty-one, receive for his services a salary of ten thousand dollars per year; said amount to be paid in twelve equal monthly installments from year to year by the county court of said county, out of funds of said county, in the manner provided by statute. The salary of said judge shall continue as provided in section four, chapter two hundred five of the acts of the Legislature, regular session, one thousand nine hundred fifty-one, until the first day of January, one thousand nine hundred sixty-one.

CHAPTER 176

(Senate Bill No. 336—Originating in the Senate Committee on the Judiciary)

AN ACT to define, establish and validate that part of the boundary line between the counties of Jackson, Wirt and Wood extending from the Ohio river to the top of Limestone ridge.

[Passed March 9, 1957; in effect ninety days from passage. Approved by the Governor.]

Section

1. Boundary line between Jackson, Wirt and Wood counties defined and established.

Be it enacted by the Legislature of West Virginia:

Section 1. Boundary Line between Jackson, Wirt and Wood Counties Defined and Established.—That part of the boundary line between the counties of Jackson, Wirt and Wood in the state of West Virginia, extending from the Ohio river to the top of Limestone ridge, is hereby
CHAPTER 177

(House Bill No. 33—By Mr. Taylor)

AN ACT to authorize the county court of Jackson county to use unexpended funds and surpluses in any funds of said county, for the purpose of creating a special building fund for the remodeling or building additions to the present county courthouse or for building separate county buildings and to expend for such purposes the fund so created.

[Passed February 18, 1957; in effect from passage. Approved by the Governor.]

Section
1. Jackson county court authorized to create a special building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Jackson County Court Authorized to Create a Special Building Fund.—The county court of Jackson county is hereby authorized and empowered from year
to year to use any unexpended funds of said county and any surplus of any funds for the purpose of creating a special building fund for the remodeling or building additions to the present county courthouse or for building separate county buildings, and said county court is authorized to expend for such purposes the fund so created.

CHAPTER 178

(House Bill No. 161—By Mr. Davis and Mr. Jones)

AN ACT to establish the Kanawha county public library to serve the residents of the city of Charleston and of the county of Kanawha; to create a library board with power to operate the said public library; to provide a stable method of financing the operation of the said public library; and to confer upon the employees of the said public library the benefits of chapter twenty-three, article seven-a, chapter eighteen, article seven, chapter five and chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 6, 1951; in effect ninety days from passage. Approved by the Governor.]

Section
1. Kanawha county public library created.
2. Board of directors; appointment, powers and duties.
3. Library board to be a corporation.
4. Title to property.
5. Financing.
6. Disbursements.
7. Status of employees.
8. Effect of future amendments of general law.

Be it enacted by the Legislature of West Virginia:

Section 1. Kanawha County Public Library Created.—There is hereby created a public library, which shall be known as the “Kanawha County Public Library,” which shall be supported by the board of education of the county
of Kanawha, the county court of Kanawha county and the
city of Charleston, as a joint endeavor of the three gov-
erning authorities in the manner hereafter prescribed.

Sec. 2. Board of Directors; Appointment, Powers and
Duties.—There shall be a board of eighteen directors, who
shall serve without compensation. Before the first day of
July, one thousand nine hundred fifty-seven, the board of
education of the county of Kanawha shall appoint the
members of the said board of directors, appointing three
persons for one year, three persons for two years, three
persons for three years, three persons for four years, three
persons for five years and three persons for six years,
respectively, the term of office commencing July first, one
thousand nine hundred fifty-seven. Their respective suc-
cessors shall be appointed for a term of six years each,
except that any person appointed to fill a vacancy occur-
ing before the expiration of the term vacated shall serve
only for the unexpired term. A member shall be eligible
for reappointment. The board of education of the county
of Kanawha may remove any director for cause which it
deems sufficient. There shall be an annual meeting of the
board of directors on the first Friday in July in each year;
and a monthly meeting on the day in each month which
the board may designate in its by-laws. A special meeting
may be called by the president, the secretary or any two
members of the board, and shall be held only after all
the directors are given notice thereof. At all meetings
four members shall constitute a quorum. At each annual
meeting the board of directors shall elect, from its mem-
bership, a president, a vice president, a secretary and a
treasurer: Provided, however, That the librarian may be
elected secretary and/or treasurer. The board of directors
shall adopt such by-laws, rules and regulations as are
necessary for its own guidance and for the administration,
supervision and protection of the library and all property
belonging thereto. The board of directors shall have all
the powers necessary, convenient and advisable for the
proper operation, equipment and management of the said
library; and, except as otherwise specially provided in
this act, shall have the powers and be subject to the
duties which are conferred and imposed, respectively, upon library directors by sections six, seven, eight, nine, ten and eleven of article one of chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as presently amended. The board of directors shall have the benefits arising out of the creation and continuance of the state library commission of West Virginia.

Sec. 3. Library Board to be a Corporation.—The board of directors of the public library hereby created shall be a corporation; and as such it may contract and be contracted with, sue and be sued, plead and be impleaded, and shall have and use a common seal.

Sec. 4. Title to Property.—The title to all property, both real and personal, now devoted to public library purposes by the board of education of the county of Kanawha in connection with the operation by it of a public library in the city of Charleston and the county of Kanawha shall, on July first, one thousand nine hundred fifty-seven, vest in the public library hereby created.

Sec. 5. Financing.—In order to provide for the support, maintenance and operation of the public library hereby created, and any and all branches thereof, the supporting governing authorities shall, upon written request by its board of directors, levy annually as follows within the respective taxing districts of the governing authorities, on each one hundred dollars of assessed valuation of the property taxable in the area served by it according to the last assessment for state and county purposes, amounts not exceeding the following amounts for the fiscal year beginning July first, one thousand nine hundred fifty-seven, and for each succeeding fiscal year, as follows: by the board of education of the county of Kanawha, class one, one cent; class two, two cents; class three, four cents; class four, four cents; by the county court of Kanawha county, class one, one cent; class two, two cents; class three, four cents; class four, four cents; and by the city of Charleston, class one, one cent; class two, two cents; class four, four cents. Each year the board of directors shall request each of the three governing authorities to levy
the same amount on each one hundred dollars of assessed valuation of property of the same class, and the amount of the levy on the respective classes of property shall be in the same ratio as the maximum amount of levy on the said classes of property authorized herein. In addition to the aforesaid amounts which, upon written request by the board, the governing authorities shall levy, each governing authority may support the public library with any other general or special revenues or excess levies. All income realized by the operation of the public library from any sources other than the above levies shall be used by the board of directors for the support and maintenance of the public library.

Sec. 6. Disbursements.—All money collected or appropriated by the three governing authorities for library purposes shall be deposited in a special account of the board of education of the county of Kanawha, and shall be disbursed by it, as directed by the board of directors, for salaries, wages, books, magazines, pamphlets, papers, pictures, records, machinery, equipment, supplies, services and other costs and expenses of operating the public library and maintaining, repairing and replacing its property, as well as acquiring additional property.

Sec. 7. Status of Employees.—All employees of the public library hereby created shall be deemed to be employees of the board of education of the county of Kanawha, insofar as the provisions of chapter twenty-three, article seven-a; chapter eighteen, article seven; chapter five and chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as presently amended, are concerned; and the board of education of the county of Kanawha shall be reimbursed from the funds of the public library for all expenditures made for premiums and other costs in accordance with the provisions of the said statutes.

Sec. 8. Effect of Future Amendments of General Law.—Amendments to article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and other general laws shall control this act
only to the extent that they do not conflict with the special
features hereof, or unless the intent to amend this act is
clear and unmistakable.

Sec. 9. Severability.—If any provision hereof is held
invalid, such invalidity shall not affect other provisions
hereof which can be given effect without the invalid pro-
vision, and to this end the provisions of this act are de-
declared to be severable.

CHAPTER 179

(AN ACT to amend and reenact section thirty-seven, chapter
twenty-five, acts of the Legislature, regular session, one
thousand nine hundred seven, as last amended and re-
enacted by chapter one hundred eighty-nine, acts of the
Legislature, regular session, one thousand nine hundred
fifty-three, relating to the probation staff of the interme-
diate court of Kanawha county.

[Passed February 19, 1957; in effect July 1, 1957. Approved by the Governor.]

Section
37. Probation staff; probation officers, chief probation officer, clerical
and secretarial assistants.

Be it enacted by the Legislature of West Virginia:
That section thirty-seven, chapter twenty-five, acts of the
Legislature, regular session, one thousand nine hundred seven,
as last amended and reenacted by chapter one hundred eighty-
nine, acts of the Legislature, regular session, one thousand nine
hundred fifty-three, be amended and reenacted to read as
follows:

Section 37. Probation Staff: Probation Officers, Chief
Probation Officer, Clerical and Secretarial Assistants.—
The court is authorized and empowered to appoint such probation officers, chief probation officer, clerical, secretarial and psychiatric assistants as shall enable the court to discharge all the duties required of it under the provisions of this act and the general laws of the state. The judge may appoint probation officers, chief probation officer, necessary clerical and secretarial assistants and other necessary assistants including a psychiatrist to be paid by the county court. Such appointments shall be made by the judge and the appointees shall serve during the pleasure of the judge.

The probation officers shall receive as compensation an annual salary of not less than four thousand two hundred dollars nor more than six thousand dollars, to be determined by the judge. The chief probation officer shall receive as compensation an annual salary of not less than four thousand eight hundred dollars nor more than seven thousand two hundred dollars, to be determined by the judge. In addition to the annual salaries herein provided for the probation officers and the chief probation officer, they shall be reimbursed by the county court their necessary expenses actually incurred in the performance of official duties, including a mileage allowance for their automobiles driven in the performance of their official duties, the rate of which is to be fixed by the judge and approved by the county court. The appointment of probation officers, chief probation officer, clerical and secretarial assistants, and other necessary help, including a psychiatrist, when made by the judge shall be entered by the order of the court. A copy of the order of appointment shall be transmitted to the clerk of the county court. Thereupon the county court shall make provisions for payment and pay the salaries of said appointees as shown by the order of appointment in equal monthly instalments. Expenses and mileage accounts of the probation officers and chief probation officer shall be itemized and verified and presented to and paid by the county court, if such accounts are approved by the judge. The county court shall provide such office space, equipment and supplies for the probation staff, clerical and secretarial and psychiatric assistance as
the judge shall deem necessary and adequate: Provided, That the appointing judge shall first obtain the approval of the county court of the expenses to be incurred and the salary to be paid any appointee, which approval shall be discretionary with the county court and shall be required before any appointment made hereunder becomes effective.

CHAPTER 180
(Senate Bill No. 217—By Mr. Carey and Mr. Anderson)

AN ACT to amend and reenact chapter one hundred eighty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-five, 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 15, 1957; in effect July 1, 1957. 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 eighty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-five, be amended and reenacted 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 his time to the duties of his office, and may be removed and his successor appointed at any time by the judge. Said law assistant shall receive a salary of eight thousand two hundred dollars per year payable monthly, and the county court of Kanawha county shall annually, at its levy session, provide for the payment out of general county funds the amount of the salary so fixed.

CHAPTER 181

(Senate Bill No. 260—By Mr. Carey and Mr. Anderson)

AN ACT to amend and reenact section nine, chapter one hundred nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifteen, as last amended by chapter one hundred eighty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-five, relating to the salary of the judge of the court of common pleas of Kanawha county.

[Passed February 22, 1957; in effect July 1, 1957. 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 of West Virginia, regular session, one thousand nine hundred fifteen, as last amended by chapter one hundred eighty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-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, from and after the first day of January, one thousand nine
4 hundred sixty-five, receive for his services a salary in the
5 amount of thirteen thousand five hundred dollars per
6 annum, to be paid in monthly installments out of the
7 county treasury of Kanawha county, out of funds of said
8 treasury, in the manner provided by statute. The salary
9 of said judge shall continue as provided in chapter one
10 hundred eighty-seven, acts of the Legislature, regular
11 session, one thousand nine hundred fifty-five, until the
12 first day of January, one thousand nine hundred sixty-
13 five.

CHAPTER 182
(Senate Bill No. 259—By Mr. Carey and Mr. Anderson)

AN ACT to amend and reenact section four, chapter one hun-
dred seventy-two, acts of the Legislature of West Virginia,
regular session, one thousand nine hundred forty-seven,
as last amended by chapter one hundred eighty-eight, acts
of the Legislature, regular session, one thousand nine hun-
dred fifty-five, relating to the salary of the judge of the
domestic relations court of Kanawha county.

[Passed February 22, 1957; in effect July 1, 1957. Approved by the Governor.]

Section

Be it enacted by the Legislature of West Virginia:
That section four, chapter one hundred seventy-two, acts of
the Legislature of West Virginia, regular session, one thousand
nine hundred forty-seven, as last amended by chapter one hun-
dred eighty-eight, acts of the Legislature, regular session, one
thousand nine hundred fifty-five, 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 sixty-five, receive for his services a salary in the amount of thirteen thousand five hundred dollars per annum, to be paid in monthly installments out of the county treasury of Kanawha county, out of funds of said treasury, in the manner provided by statute. The salary of said judge shall continue as provided in chapter one hundred eighty-eight, acts of the Legislature, regular session, one thousand nine hundred fifty-five, until the first day of January, one thousand nine hundred sixty-five.

CHAPTER 183
(Senate Bill No. 261—By Mr. Carey and Mr. Anderson)

AN ACT to amend and reenact section nine, chapter ninety-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred forty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the salary of the judge of the intermediate court of Kanawha county.

[Passed February 22, 1957: in effect July 1, 1957. Approved by the Governor.]

Section

Be it enacted by the Legislature of West Virginia:
That section nine, chapter ninety-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred forty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:
Section 9. Salary of the Judge of the Intermediate Court of Kanawha County, West Virginia.—The judge of the intermediate court of Kanawha county, West Virginia, shall, from and after the first day of January, one thousand nine hundred fifty-nine, receive for his services a salary in the amount of thirteen thousand five hundred dollars per annum, to be paid in monthly installments out of the county treasury of Kanawha county, out of funds of said treasury, in the manner provided by statute. The salary of said judge shall continue as provided in chapter one hundred forty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-nine, until the first day of January, one thousand nine hundred fifty-nine.

CHAPTER 184

(House Bill No. 224—By Mr. Smith, of Lincoln)

AN ACT to authorize the county court of Lincoln county, West Virginia, to use unexpended funds of said county and any surpluses in the funds of said county and any funds derived from capital assets of the county for the purposes of repairing, improving and constructing additions to the courthouse of said county and to expend for such purposes the fund so created.

[Passed February 28, 1957; in effect from passage. Approved by the Governor.]

Section 1. Lincoln county authorized to create special fund for repair and improvement of and construction of additions to county courthouse.

Be it enacted by the Legislature of West Virginia:

Section 1. Lincoln County Authorized to Create Special Fund for Repair and Improvement of and Construction of Additions to County Courthouse.—The county court of
Lincoln 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 and improvement of and construction of additions to the county courthouse of said county. The county court is hereby authorized and empowered to expend for such courthouse purposes the fund so created and, when so created, such fund shall not be used for any other purpose or purposes.

CHAPTER 185

(Senate Bill No. 321—By Mr. Carrigan and Mr. Bowers)

AN ACT authorizing the county court of Marshall county to acquire, construct, finance, lease and convey an armory.

[Passed March 7, 1957; in effect ninety days from passage. Approved by the Governor.]

Section 1. Marshall county armory.

Be it enacted by the Legislature of West Virginia:

Section 1. Marshall County Armory.—The county court of Marshall county is hereby authorized and empowered to acquire and construct armories and other military facilities, to make necessary provision for their maintenance, operation and repair and to convey the same to the state armory board or other proper authority authorized to take title to the same upon payment of the cost of acquisition or construction of the military portion thereof, and in furtherance of such authority are specifically authorized and empowered:
(a) To acquire, by grant, gift, condemnation or other lawful means all necessary real estate, permits, easements and other rights in real estate, and title to and possession thereof, and to convey the same.

(b) To construct, equip, furnish, operate, maintain and repair armories and other military facilities in accordance with the specifications of federal or state authority and to further incorporate therein such additional facilities as may be deemed appropriate to provide for recreational, educational and cultural benefits to the community in which the same may be located and for the furtherance of the general welfare: Provided, however, that such additional improvements and facilities shall not interfere with the primary military purpose or function of said armory or other military facility.

(c) To borrow funds from the United States government, the public works administration or other governmental agency authorized to make loans, or any bank or financial institution authorized by law to make loans or any person for the purpose of acquiring, constructing, furnishing and equipment of said armory or other military facility, and for the purpose of acquiring real estate therefor.

(d) To issue bonds for the purpose of paying the cost of acquisition, construction, furnishing and equipment of such armory or other military facility and the necessary real estate therefor and to pledge a sufficient amount of revenue, within the limitations of article twelve, section eight of the constitution of this state and within the limitations as provided by general law, to pay the principal of said bonds and interest thereon within a period not to exceed thirty years. Such bonds shall be issued in accordance with the provisions of article one, chapter thirteen of this code, and, in the case of counties, in accordance with the further provisions of article three, chapter seven of this code.

(e) To make provision for the participation of the United States government or any federal agency in the financing of the acquisition, construction, furnishing and equipment of said armory or other military facility and
(f) To make and enter into such contract or lease with the adjutant general or other officer or agency of this state authorized to make the same for the acquisition, construction, furnishing, equipment, leasing and renting of any armory or other military facility acquired or constructed under the provisions of this section, with the privilege and authority of the adjutant general or other state officer or agency of renewing said lease from year to year for any period of years not exceeding thirty years, and with the right to purchase said armory or other military facility and the real estate on which the same is situated, and to apply towards the purchase price thereof any and all rentals paid for the use thereof.

(g) To convey to the adjutant general, the state armory board or to any other state officer or agency authorized by law and designated by the adjutant general to hold title thereto any armory or other military facility acquired or constructed under the provisions of this section when there shall have been paid either through rent or rentals paid under the lease-purchase contract authorized by this section or otherwise an amount agreed upon by the county, and the adjutant general or other officer authorized by law to make such agreement, representing that portion of the total cost of such armory or other military facility, exclusive of any gift, grant, donation or other monies received from the United States government or any federal agency or from any other source, incurred in compliance with the military specifications of federal or state authority.

(h) To do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this section.
CHAPTER 186

(Senate Bill No. 257—By Mr. Martin)

AN ACT to authorize the city council of the city of Martinsburg to use unexpended and surplus funds arising from and produced by certain city operations and services for improvement and enlargement of the city's equipment and facilities for such operations and services, including the use of unexpended and surplus funds arising from the city's garbage collection and disposal operations for purchase of garbage collection and disposal equipment and facilities and the use of unexpended and surplus funds arising from the city's sewerage operations and services for purchase of sewerage equipment and facilities.

[Passed February 22, 1957; in effect from passage. Approved by the Governor.]

Section

1. Unexpended and surplus garbage service funds; council authority to use; purposes.
2. Unexpended and surplus sewerage funds; council authority to use; purposes.
3. Funds to be kept separate; uses limited.

Be it enacted by the Legislature of West Virginia:

Section 1. Unexpended and Surplus Garbage Service Funds; Council Authority to Use; Purposes.—The city council of the city of Martinsburg is hereby authorized and empowered to use and accumulate any unexpended and surplus funds arising from and produced by the city's garbage collection and disposal operations and services for purposes of purchasing and acquiring additional and improved garbage collection and disposal equipment and facilities, including automotive equipment and land areas suitable for land fills and incinerator facilities for disposition of garbage, refuse and other waste collected by the city's garbage collection operations and services.

Sec. 2. Unexpended and Surplus Sewerage Funds; Council Authority to Use; Purposes.—The city council of
the city of Martinsburg is likewise authorized and em-
powered to use and accumulate any unexpended and sur-
plus funds arising from and produced by the city’s sewer-
age operations and services for purposes of purchasing,
acquiring, enlarging and improving the city’s sewerage
equipment and facilities, including land areas for sewage
collection, treatment and disposal operations, facilities
and services.

Sec. 3. Funds to Be Kept Separate; Uses Limited.—The
two separate funds produced and accumulated from such
unexpended and surplus funds, as provided in sections
one and two of this act, shall be kept separate and shall
not be commingled and may be used and expended only
for the purposes for which created.

CHAPTER 187
(House Bill No. 428—By Mr. Richardson)

AN ACT to amend and reenact section four, chapter eighteen,
acts of the Legislature, regular session, one thousand eight
hundred ninety-three, as last amended and reenacted by
chapter one hundred ninety-four, acts of the Legislature,
regular session, one thousand nine hundred fifty-three,
relating to the salary of the judge of the criminal court of
Mercer county, West Virginia.

(Passed February 27, 1957; in effect ninety days from passage. Approved by the
Governor.)

Section 4. Salary of the judge of the criminal court of Mercer county.

Be it enacted by the Legislature of West Virginia:
That section four, chapter eighteen, acts of the Legislature,
regular session, one thousand eight hundred ninety-three, as
last amended and reenacted by chapter one hundred ninety-
four, acts of the Legislature, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 4. Salary of the Judge of the Criminal Court of
2 Mercer County.—On and after January one, one thousand
3 nine hundred sixty-one, the judge of said court shall for
4 his services receive ten thousand dollars per annum, pay-
5 able out of the county treasury of said county, as pro-
6 vided by chapter fourteen, section one, acts of the extra-
7 ordinary session of the Legislature of West Virginia, one
8 thousand nine hundred four.

CHAPTER 188
(House Bill No. 173—By Mr. Kessel)

AN ACT to authorize and empower the county court of Mineral
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 purchase of
land for the location of buildings, for the construction of
new buildings and for enlarging, remodeling and improving
county buildings.

[Passed February 15, 1957; in effect ninety days from passage. Approved by the
Governor.]

Section
1. Authorizing the county court of Mineral county to create a special
building fund.
2. Retransfer of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. Authorizing the County Court of Mineral
2 County to Create a Special Building Fund.—The county
3 court of Mineral county is hereby authorized and em-
4 powered from year to year to use any unexpended funds
Section 1. County of Morgan authorized to transfer funds from sinking fund to general school fund, and employ and use said sum to construct and repair school facilities.

Be it enacted by the Legislature of West Virginia:

Section 1. County of Morgan Authorized to Transfer Funds from Sinking Fund to General School Fund, and
Ch. 190)  

PRESTON COUNTY—HOSPITAL FUND  

3. Employ and Use Said Sum to Construct and Repair School Facilities.—The county of Morgan, by and with the consent of the holders of the bonds issued by the board of education of said county, dated October first, one thousand nine hundred thirty-eight, payable on the first day of October of each of the years of one thousand nine hundred thirty-nine to one thousand nine hundred sixty-eight, both years inclusive, is hereby authorized and empowered to transfer the surplus sum of twenty thousand dollars from said county's sinking fund account created in connection with the aforesaid school bond levy of October first, one thousand nine hundred thirty-eight, to the credit of the county's general school fund account, and to employ and use the said sum of money to complete construction of new school plants, and to refurbish and repair existing school facilities.

CHAPTER 190

(House Bill No. 434—By Mr. Whetsell)

AN ACT to authorize the county court of Preston county to use unexpended funds and surpluses in the general fund of said county, and any unexpended balances or surpluses in any special fund of said county, for the purpose of creating a special Preston Memorial hospital fund, and to expend the fund so created.

[Passed March 2, 1957, in effect from passage. Approved by the Governor.]

Section 1. Preston memorial hospital fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Preston Memorial Hospital Fund.—The county court of Preston county is hereby authorized and empowered to create a special Preston Memorial hospital
AN ACT to amend and reenact section nine, chapter two hundred five, acts of the Legislature, regular session, one thousand nine hundred fifty-five, fixing the salary of the judge of the criminal court of Raleigh county.

[Passed March 4, 1957; 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 two hundred five, acts of the Legislature, regular session, one thousand nine hundred fifty-five, 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 sixty-three, receive for his services a salary in the amount of
AN ACT to authorize and empower the circuit court of Wood county to employ a chief probation officer, assistant probation officers, clerical and secretarial assistants, and providing for the manner of payment.

(Passed February 18, 1957; in effect July 1, 1957. Approved by the Governor.)

Section 1. Probation staff of Wood county; chief probation officer; assistant probation officers; clerical and secretarial assistants; manner of payment.

Be it enacted by the Legislature of West Virginia:

Section 1. Probation Staff of Wood County; Chief Probation Officer; Assistant Probation Officers; Clerical and Secretarial Assistants; Manner of Payment.—The circuit court of Wood county, or the judge thereof in vacation, is hereby empowered and authorized to appoint and employ a chief probation officer, two assistant probation officers, and necessary clerical and secretarial assistants as shall enable the court to discharge all the duties required of it under the provisions of this act and the general laws of the state; the salaries and expenses of such appointees shall be paid by the county court of said county. Such appointments shall be made by the judge and the appointees shall serve during the pleasure of the judge. The chief probation officer shall receive as compensation for his or her services an annual salary of not less than nine thousand 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.
four thousand dollars nor more than five thousand four
hundred dollars, to be determined by the judge. Assistant
probation officers shall receive as compensation an annual
salary of not less than three thousand four hundred dol-
lars nor more than four thousand eight hundred dollars,
to be determined by the judge. Clerical and secretarial
assistants shall receive as compensation for his or her
services an annual salary of not less than one thousand
eight hundred dollars nor more than three thousand four
hundred dollars, to be determined by the judge. In addi-
tion to the annual salaries herein provided for, the chief
probation officer and each assistant probation officer shall
be reimbursed by the county court by reason of his or
her necessary expenses actually incurred in the perform-
ance of official duties. The appointment of the chief pro-
bation officer, assistant probation officers, clerical and sec-
retarial assistants, when made by the judge, shall be
entered by the order of the court, a copy of which order
of appointment shall be transmitted to the clerk of the
county court. Thereupon, the county court shall make
provision for payment and shall pay the salaries of the
chief probation officer, the assistant probation officers,
clerical and secretarial assistants, as shown by the order
of appointment. The annual salary provided for in said
order of appointment shall be paid in equal monthly in-
stallments. Expense and mileage accounts of the chief
probation officer and assistant probation officers shall be
itemized, verified, and presented to and paid by the county
court, if such accounts are approved by the judge. The
county court shall provide such office space, equipment
and supplies for the probation staff, clerical and secre-
tarial assistants, as the judge shall deem necessary and
adequate: Provided, That the appointing judge shall first
obtain the approval of the county court of the expenses
to be incurred and the salaries to be paid to the chief
probation officer, assistant probation officers, clerical and
secretarial assistants. Such approval shall be discretion-
ary with the county court and shall be required before
any appointment made hereunder becomes effective.
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. 8
(By Mr. Speaker, Mr. Flannery, and Mr. Seibert)
[Adopted February 18, 1957.]

Proposing a coordinated effort on the part of the State Tax Commissioner, the County Assessors, and State and Local Advisory Committees to equalize and revalue the general property of the State for tax purposes.

WHEREAS, All recent studies have shown that the assessed values of general property as a ratio of appraised values, varies widely as among counties, as among classes of property and as among individual properties; and

WHEREAS, Recent appraisal surveys have shown many weaknesses in the administration of the assessment process that must be corrected if fair and uniform valuations are to be achieved; and

WHEREAS, It is the intent and purpose of the Legislature that these weaknesses be remedied and uniformity of assessments as among counties, as among classes of property and as among individual properties be established and maintained; and

WHEREAS, It is recognized that the assessment process has always been and must remain a local process, but that this process can be strengthened and improved by the cooperation of the State Tax Commissioner and the advice and support of citizen groups; and
WHEREAS, Such strength and improvement will come from a knowledge of modern appraisal methods and experience in applying them, made available to local assessing officers and stimulated and motivated by qualified citizen groups; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

PART I

A State Advisory Committee On Equalization And Revaluation.

1. That there be established a state-wide bi-partisan Advisory Committee on the Equalization and Revaluation of General Property.

2. That such Committee shall consist of thirty representative citizens of the State, ten to be appointed by the President of the Senate; ten to be appointed by the Speaker of the House of Delegates; and ten to be appointed by the Governor of the State. Not more than five members appointed by each appointing authority shall be members of the same political party.

3. The Governor shall appoint one member of the Committee as chairman, and the Committee shall elect a vice-chairman and such other officers as it may deem appropriate.

4. The term of each member shall be four years, and vacancies on the Committee shall be filled by the original appointing authority.

5. The Committee shall meet in Charleston or elsewhere within the State as it may determine. It shall convene at least quarterly throughout the year, and at such other times as its duties may require.

6. The members of the Committee shall serve without compensation, but all legitimate expenses for travel and maintenance in connection with their duties shall be paid in as nearly equal amounts as practical from the contingent funds of the Senate and the House of Delegates.

7. It shall be the duties of the committee:
a. To advise with the State Tax Commissioner or his representatives as to the methods, findings and results of equalization studies; the preparation of assessment manuals, tax maps and measures for the valuation of special or unusual types of property; the conduct of pilot revaluations and complete revaluations as they may develop throughout the State; and such other matters as may be relevant to the development of this program.

b. To establish and maintain communications with the various county advisory committees on equalization and revaluation established in Part II of this resolution; to conduct periodic reviews of revaluation programs in each county; and to prepare and distribute materials illustrative to progress toward uniform valuations.

c. To provide a continuous source of information for the press, study groups and forums pertaining to the need, methods and implications of revaluation programs; to arrange informative radio and television programs featuring cooperative panels of local assessors, state revaluation officers and members of the citizens advisory committees.

d. To report biennially—and at such other times as it may deem appropriate, to the Joint Committee on Government and Finance and to the Commission on Interstate Cooperation as to the activities, program and plans of the Committee, and particularly as to legislative proposals that would guide and strengthen the process of revaluation.

PART II

County Advisory Committees On Equalization And Revaluation

1. There shall be established in each county of the State a bi-partisan County Advisory Committee on the Equalization and Revaluation of General Property.

2. Such county committee shall consist of two persons from each magisterial district, one from each of the major political parties to be appointed by the County Courts of the respective counties.

In the event that the County Court fails to appoint such Com-
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mittee within ninety (90) days after this resolution becomes effective, the State Tax Commissioner shall appoint the committee in accordance with the requirements as set forth in this paragraph.

3. The County Court shall appoint one member of the County Committee as chairman, and the committee shall elect a vice-chairman and such other officers as it may deem appropriate.

4. The term of each member shall be four years, and vacancies shall be filled by the County Court.

5. The County Committee shall meet at the county seat or elsewhere in the county as it may determine. It shall convene at least quarterly throughout the year, and at such other times as its duties may require.

6. The members of the Committee shall serve without compensation, but all legitimate expenses for travel and maintenance in connection with their duties shall be paid by the County Court.

7. It shall be the duty of the county committees:

a. To consult with the local assessors as to methods and plans for the revaluation of general property within their respective counties;

b. To inform the citizens of their respective counties of progress toward revaluation through forums, conferences, hearings, group meetings and the local press;

c. To establish and maintain communications with the State Advisory Committee established in Part I of this resolution; and to participate in forums, conferences, hearings, and group meetings of the State Advisory Committee in such manner and on such occasions as circumstances may warrant and permit;

d. To report biennially and at such other times as it may deem appropriate, to the State Advisory Committee as to the activities, progress and plans of the County Committee; and particularly as to legislative proposals that, in the judgment of the Committee, would strengthen and guide the local programs of revaluation.
PART III
THE STATE TAX COMMISSIONER

1. The State Tax Commissioner shall expand and develop the Division of Property Evaluation in his office to the extent necessary to give effect to this resolution, and within the limits of the appropriation authorized for this purpose.

2. It shall be the duty of the State Tax Commissioner through the Division of Property Evaluation, and such other resources of his department he may elect to use,
   a. To continue the preparation and improvement of assessment manuals and guides to be used in the revaluation program;
   b. To advise local assessors in the performance of their regular duties; and at the request of any county court, to assist in developing revaluation programs for their respective counties;
   c. To continue equalization studies on a state-wide basis; and to conduct sample revaluation projects in selected areas of the State;
   d. To develop methods for the valuation of special and unusual classes of property, and instruct local assessors in their application.

3. It shall be the duty of the State Tax Commissioner to cooperate to the fullest extent possible with the State Advisory Committee on Equalization and Revaluation; as follows:
   a. To provide such office space and conference facilities as may be necessary to the work of the committee;
   b. To provide such technical and clerical assistance as may be necessary to the functions of the committee;
   c. To inform the committee as to the activities of his department in the field of equalization and revaluation, and to advise with it as to methods, program and emphasis;
   d. To arrange such conferences, hearings and public appearances as the Committee may suggest; and to provide such assistance in the preparation of press releases, informational materials and reports as the facilities of his office will permit.
4. It shall further be the duty of the State Tax Commissioner, upon the written request of any county court in the State, to cooperate with the local assessor in undertaking a revaluation of the general property within the county, so far as his resources and facilities will permit. To this end he shall provide competent revaluation teams to cooperate with the local assessors; and lend the full facilities of his office to all details of the work.

5. The State Tax Commissioner is further authorized, from such sums as may be appropriated for the purpose, to assist any county to meet the costs of a revaluation program. In estimating the State's share of such assistance, he shall consider as part of the state's contribution, the personnel, facilities and overhead allocated from his office; but the total contribution in both money and assistance shall not exceed one-half of the total cost of the revaluation project.

HOUSE CONCURRENT RESOLUTION NO. 14
(By Mr. Dahill)
[Adopted February 12, 1957.]

Requesting Congress through the Army Engineers and/or other appropriate agencies to take action on flood control in the Valley of the Guyan and of the Guyandotte River in West Virginia.

WHEREAS, The Valley of the Guyan of the Guyandotte River in Logan County has recently been inundated by what is becoming an annual flood, which flood might have been averted to a marked degree by a proper system of flood control; and

WHEREAS, The recent flood has caused much personal suffering and some loss of life in addition to damages to the extent of well over a million dollars; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Congress of the United States is hereby requested to take such action as will provide proper flood control to stop the annual flooding in the Valley of the Guyan and of the Guyandotte River; and, be it
Further Resolved, That the Secretary of State is hereby directed to forward attested copies of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

HOUSE CONCURRENT RESOLUTION NO. 20
(By Mr. Chilton and Miss Hallanan)
[Adopted March 8, 1957.]
Providing for the investigation of problems relating to providing proper aid to blind persons.

WHEREAS, A great number of the blind persons of this State have been experiencing difficulty in obtaining a livelihood; and

WHEREAS, It is generally recognized that the needs of blind persons are different from the needs of other classes of recipients of public assistance; and

WHEREAS, It is to be desired that these blind persons be relieved of the distress of poverty and encouraged and assisted in their efforts to render themselves more self-supporting; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be requested to conduct an exhaustive study of the entire area of aid to the blind in this State and that such committee 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 fifty-nine.

That the committee is authorized to employ such assistance as it 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 of this committee.
HOUSE CONCURRENT RESOLUTION NO. 24
(By Mr. Speaker, Mr. Flannery)
[Adopted March 1, 1957.]
Continuing the West Virginia Commission on Education.

Resolved by the House of Delegates, the Senate concurring therein:

That the West Virginia Commission on Education, originally established with the adoption of Senate Concurrent Resolution No. 3 on May 13, 1955, and continued by the adoption of House Concurrent Resolution No. 13 on February 9, 1956, is again hereby extended with all power and authority granted by the two foregoing enactments of the Legislature of West Virginia.

The commission shall report recommendations and findings from time to time and shall make a complete report to the next budget session of the Legislature in the year one thousand nine hundred fifty-eight.

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.

HOUSE CONCURRENT RESOLUTION NO. 28
(By Mr. Clark)
[Adopted March 8, 1957.]
Concerning the study and investigation of all phases of the needs of and services to exceptional children in West Virginia.

WHEREAS, Exceptional children are entitled to opportunities to become self-sufficient, self-respecting members of their communities; and

WHEREAS, Special services of some sort and to some extent are needed by at least sixty thousand children (approximately thirteen per cent of our school age population), of whom approximately one thousand five hundred are now receiving special education services; and
WHEREAS, The present services being provided for exceptional children in West Virginia—medical, social, educational—are inadequate, insufficient, and generally substandard; and

WHEREAS, The State of West Virginia has a moral obligation to promptly and thoroughly investigate and determine the needs of this group of its children and young people and to then provide adequately to meet these needs; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Joint Committee on Government and Finance and the Joint Commission on Interstate Cooperation are hereby instructed to make a thorough study and investigation into all phases of the needs of and services to exceptional children in West Virginia, and to make findings and recommendations to the Legislature. The committee is hereby directed to consult and confer with such persons and agencies, public and private, as have information and data pertinent to this study and investigation.

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 one, one thousand nine hundred fifty-nine, make an interim report by mail to the members of the Legislature embracing its findings and recommendations; and not later than the second week after convening of the regular session of the Legislature in the year one thousand nine hundred fifty-nine, 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.

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, and to cause the production of such papers, documents, records, and the like as the committee may deem expedient.

The committee is authorized to employ such consultative, investigative, and advisory assistance and other personnel as it may deem advisable and also to employ such clerical and
steno. graphic personnel as may be necessary in the proper performance of its duties, and to fix reasonable compensation and expenses of such persons as may be employed within the amount made available by the appropriation of this committee.

**HOUSE RESOLUTION NO. 17**

(By Mr. Vennari and Mr. Terry)

[Adopted March 7, 1957.]

Memorializing the Congress of the United States to extend Public Law No. 550, 82nd Congress, relating to education and training benefits, to service men and women as long as the draft continues.

**WHEREAS,** The Congress of the United States, expressing the will of citizenry by the enactment of the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th Congress) and the Veterans' Readjustment Act of 1952 (Public Law 550, 82nd Congress), recognized the justice, equity and general value of a sound educational and training program for the veterans of our country; and

**WHEREAS,** The legislation enacted to provide such education and training benefits was for the purpose of restoring lost educational opportunities to those men and women who served in the armed forces of our country and has accomplished this purpose and has been an immeasurable factor in contributing to the economic security of our veterans and their families as well as to the security of the nation as a result of the increase in our general educational level and professional and technical skills of the veterans; and

**WHEREAS,** The increased earning power of veterans directly attributable to the program is resulting in payment of increased income taxes which will more than repay the total cost of the program; and

**WHEREAS,** Notwithstanding the continuing involuntary military service program, Public Law 7, 84th Congress, denies entitlement to educational and training benefits to all veterans who first entered service after January 31, 1955, which is grossly inequitable; therefore, be it
Resolved by the House of Delegates of the West Virginia Legislature:

That the Congress of the United States extend education and training benefits similar to the benefits provided by Public Law 550, 82nd Congress, as amended, to all veterans of our country who served during any period in which involuntary military service is authorized, and urges the Congress of the United States to enact legislation to accomplish this objective; and, be it

Further Resolved, That the Clerk of the House of Delegates send attested copies of this resolution to the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

HOUSE RESOLUTION NO. 19
(By Mr. Baker and Mr. Tompos)
[Adopted March 7, 1957.]

Relating to coal mining on the property of West Virginia Industrial School for boys.

Whereas, Officials of West Virginia Industrial School for Boys have complained to members of the Committee on Penal and Correctional Institutions of the House of Delegates, that certain persons, firms or corporations are engaged in mining and removing coal from lands of the State of West Virginia and adjacent to the West Virginia Industrial School for Boys in Taylor County; and

Whereas, Said officials of the West Virginia Industrial School for Boys have alleged that such mining operations have been and are now being conducted wholly without authority from any agency of the State of West Virginia; and

Whereas, The persons, firms or corporations thus engaged in mining and removing coal have continued their operations despite protests from officials of the West Virginia Industrial School for Boys; and

Whereas, The persons, firms or corporations have removed by force a gate put on said property by order of State Board of Control; and
WHEREAS, An obligation rests upon the Legislature thoroughly and promptly to investigate and determine the truth of the charges thus made; therefore, be it

Resolved by the House of Delegates:

That the House Finance Committee hereby requesting information as to the right of the persons, firms or corporations mentioned above to continue said mining operations, and the West Virginia House of Delegates does request the Attorney General of the State of West Virginia by and with the authority vested in him to forthwith take the necessary action to protect the property of the State of West Virginia, by determining:

1. The title to the property where said mining operations are now being carried on, and

2. To take such necessary action to resolve said mining question in the best interest of the State of West Virginia.

The Attorney General shall make a report of his findings and action taken on said findings on or before January 1, 1958, to the Governor and the House of Delegates.

In the event the necessary action has not been completed by said date any supplementary report shall be made to the designated parties.

SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Martin)

Providing for the establishment of the true and correct boundary line between Alleghaney (Alleghany) County, Virginia, and Monroe County, West Virginia.

WHEREAS, Available maps of the area of Alleghaney (Alleghany) County, in the Commonwealth of Virginia, and of Monroe county, in the State of West Virginia, show the common boundary line between the two counties to be farther west than provided by chapter twenty-eight, acts of the General Assembly of Virginia, enacted on the fifth day of January, one thousand eight hundred twenty-two, creating said Alleghaney (Alleghany) County; and
WHOZAER, Uncertainty exists among local officials and citizens as to the true and correct location of said boundary line; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a commission of three competent persons be appointed by the Governor of the State of West Virginia to meet and treat with a like commission of the Commonwealth of Virginia to establish the true and correct location of the boundary line between Alleghaney (Alleghany) County, in the Commonwealth of Virginia, and Monroe County of the State of West Virginia. The commission is hereby authorized and empowered to make such surveys and findings as may be necessary to the location and establishment of such true and correct boundary line.

When such boundary line is so located and established, the commission shall report its findings and determinations to the geological survey of the United States Department of Interior, Washington, D. C., and to the State Road Commission, to the Conservation Commission of West Virginia and to the State Geological and Economic Survey Commission and shall likewise report its findings and determinations to the fifty-fourth Legislature of West Virginia when convened in January, one thousand nine hundred fifty-nine, for such action thereon as the Legislature may deem necessary and appropriate.

The actual expenses of the West Virginia commission shall be paid out of funds appropriated by the Legislature for such purpose.

SENATE CONCURRENT RESOLUTION NO. 4
(By Mr. Brubeck)
[Adopted February 28, 1957.]
Creating a commission to study problems of the aging.

WHEREAS, The number of persons sixty-five years of age and over in the State (amounting to fourteen per cent of the population in some localities) has grown enormously—from one hundred thousand in one thousand nine hundred twenty to two
hundred thousand in one thousand nine hundred fifty-five—an increase of one hundred per cent as compared with five and four-tenths per cent for the total population; and

WHEREAS, It is estimated there will be three hundred thousand persons sixty-five and over by one thousand nine hundred sixty of whom more than a third will live in urban areas, about one-third in small towns, and less than one-third in rural areas; and

WHEREAS, Our older citizens possess great potentials of social and economic value to themselves, their communities and the State; and are entitled, in their advancing years, to healthful living and to opportunities for continuing beneficial, useful, and satisfying activity; and

WHEREAS, Numerous organizations, agencies and institutions—public and private—interested in the well-being of our older men and women have urgent need for the best possible information to guide them in adapting a variety of programs and services that work to prevent dependency and to ameliorate hardship for an ever enlarging number of older citizens; and

WHEREAS, There is need to focus public attention on the problems of our aging population and to stimulate and coordinate effective work in this field; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there is hereby created a commission on the aging. The commission shall consist of nine members, no more than five of whom shall belong to the same political party, one of whom shall be a doctor of medicine, one of whom shall be a lawyer, and each member thereof shall be appointed without partisan connection from persons with a demonstrated interest in problems of aging, appointed by the Governor from the State at large. The commission shall make an extensive examination of the problems and potentials of our aging population and report upon the present and future needs of our older citizens with respect to such matters as employment, retirement, economic maintenance, housing and living arrangements, health and rehabilitation, education, recreation, personal adjustment, research and other matters as in its judgment are pertinent to
the subject. The commission shall consider existing programs and services of the State that may be affected by an aging population; with a view to offering concrete suggestions for a long-range plan to coordinate and improve state-wide programs, as well as to encourage and assist the development of local programs.

All agencies of the State shall assist the commission in its study. The members of the commission shall receive no compensation for their services, but shall be paid their necessary expenses for such; and for such secretarial and other assistance as the commission may require, there is hereby appropriated the sum of one thousand dollars to be paid from the contingent fund of the Governor. The commission shall conclude its study and make its report to the Governor and Legislature not later than December thirty-one, one thousand nine hundred fifty-seven.

SENATE CONCURRENT RESOLUTION NO. 5
(By Mr. Bean, Mr. President)
[Adopted February 12, 1957.]
Establishing a commission on constitutional revision.

WHEREAS, The present West Virginia Constitution was adopted in one thousand eight hundred seventy-two under social, economic and political conditions differing greatly from those now existing; and

WHEREAS, Since its adoption our Constitution has undergone no substantial revision, and has been amended in relatively few particulars; and

WHEREAS, Many of the original provisions have through passage of time become obsolete; and

WHEREAS, It is generally recognized that a fundamental charter of government adopted by the people so long ago must of necessity be in need of modernization by substantial amendment or by extensive or complete revision if it is to serve adequately the demands of present-day society for the most effective and responsible administration of governmental affairs; and
WHEREAS, It will require detailed and thorough study to determine the extent of the changes that are needed to adapt our Constitution to modern conditions, and to determine the most practicable method of bringing about such of these changes as may be capable of achievement at the present time; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there be established a West Virginia commission on constitutional revision with the authority and responsibility (1) to make or have made under its supervision and direction a thorough study of all major phases of the constitutional system of the State and from time to time to issue and publish reports thereon to the Governor and the Legislature for the information of the citizens of the State; (2) to determine the most practicable method of bringing about needed constitutional reforms, whether by means of a constitutional convention or by action of the commission itself, and whether by revision of the entire Constitution or of only particular articles or sections thereof; and (3) to recommend to the Legislature the submission to the people of such constitutional amendments or revisions as may be deemed advisable and practicable.

That the commission be composed of three ex officio members, the Governor, the President of the Senate, and the Speaker of the House, and forty-five appointive members. Each of the ex officio members shall appoint fifteen members, including representatives of business, agriculture, labor, industry, civic organizations, and other professional and cultural groups within the State. Among the members appointed by the President of the Senate shall be five senators, not more than three of whom shall be members of the same political party; and among those appointed by the Speaker of the House shall be five delegates, not more than three of whom shall be members of the same political party. Vacancies shall be filled in the same manner as the original appointment was made.

That the members of the commission shall serve without compensation, but shall be reimbursed for all travel and other
expenses necessarily incurred by them in the performance of their duties.

That the commission be authorized to employ a director, who shall serve as the executive officer of the commission, and who with the approval of the commissioner shall have the authority to employ such research and other assistants as may be needed by the commission in the exercise of the authority and in the performance of the duties imposed upon it by this resolution.

That the commission be authorized to hold such meetings and hearings at such times and places, and take such testimony, as may be necessary to accomplish the purposes of this resolution.

That the commission be authorized to secure directly from any agency, officer or employee of the State, or of any political subdivision thereof, all information and data necessary to achieve the purposes of this resolution. Each such agency, officer, or employee is authorized and directed to furnish such information and data upon request made by the commission or its authorized representative.

That the expenses of the commission be paid in as nearly equal amounts as practicable from any moneys made available therefor in the contingent funds of the Senate and the House of Delegates.

That, unless sooner dissolved by concurrent resolution, the commission be continued until the completion of its studies, reports and recommendations.

SENATE CONCURRENT RESOLUTION NO. 6
(By Mr. Bean, Mr. President)
[Adopted February 22, 1957.]
Providing for post audit findings by the Legislative Auditor concerning revenues and expenditures of spending units of the state government.

WHEREAS, Large sums of money are annually appropriated by the Legislature of West Virginia for spending units of the state government, many of which spending units request increased appropriations at each successive session of the Legislature; and
WHEREAS, The Legislature, in the discharge of its duties and responsibilities to the State and the citizens and taxpayers thereof, senses the necessity and propriety of post audit findings from time to time as to revenues and expenditures of state government spending units; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That, upon the request and at the direction of the Joint Committee on Government and Finance of the Senate and House of Delegates, the Legislative Auditor shall make post audit findings on and concerning the revenues and expenditures of such state government spending units as may be designated by the joint committee. Such post audit findings shall be made at such times, for such periods of time, and in such manner, form and detail as may be prescribed by the Joint Committee, and upon completion of such audits the findings shall be made a matter of public record and copies of such findings shall be filed with the office of the Secretary of State.

The expenses of the Legislative Auditor incurred in making such post audit findings shall be paid out of the funds of the Joint Committee or out of such other appropriations as may be made by the Legislature therefor.

SENATE CONCURRENT RESOLUTION NO. 9
(By Mr. Taylor and Mr. Mitchell)
[Adopted February 7, 1957.]

Memorializing Congress to take action on flood control embracing the Valley of the Tug Fork of the Big Sandy River in West Virginia.

WHEREAS, The Valley of the Tug Fork of the Big Sandy River in the State of West Virginia has recently been visited by a flood disaster, which might have been averted to a marked degree by a proper system of flood control; and

WHEREAS, The recent flood has caused damage to the extent of at least ten million dollars in the Valley of the Tug Fork of the Big Sandy River; and
WHEREAS, Other floods have occurred at great frequency during the past few years in said valley, resulting in damages to the extent of many millions of dollars; and

WHEREAS, The distressing conditions due to floods tell a more powerful story than any that might be calculated in terms of the cost of a proper flood control system; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Congress of the United States is hereby requested to take such action as will provide a suitable and proper system of flood control in order to avert another such disaster in the Valley of the Tug Fork of the Big Sandy River; and, be it

Resolved further, That the Secretary of State is hereby directed to forward attested copies of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

SENATE CONCURRENT RESOLUTION NO. 10
(Originating in the Senate Committee on Finance)

[Adopted February 18, 1957.]

Requesting and directing the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to make a study of our mental and penal institutions.

WHEREAS, It is a recognized fact, based on highly reliable projected trends, that inmate population in our mental and penal institutions is now increasing and, with great probability, will continue to steadily increase; and

WHEREAS, The commodity and service costs according to present and past trends, are rising and will, in all probability, continue to rise; and

WHEREAS, Plant facility, personal service, administrative and operational standards and techniques are continually being raised to meet the demands of an advanced society; and
WHEREAS, This Legislature recognizes the urgent need for a thorough study and analysis of the present needs, particularly in relation to state expenditures; and

WHEREAS, It is also recognized by this Legislature that it is impractical, both as to time and thoroughness, for the members of the fifty-third Legislature to conduct this study while in session these sixty days; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be hereby requested and directed to make a thorough study of our mental and penal institutions for the purpose of gathering information which will reflect the following:

(a) The present needs and costs as compared to the national average and trend.

(b) Whether or not these needs are being met now; and if not,

(c) The way in which the probable future needs may be met and the cost of same;

(d) The possibility of reducing these determined costs by combining the responsibility, authority and activities of the state agencies now exercising control over the institutions; and, be it

Resolved Further, That the results of this study be summarized in a manual which will in particular reflect the needs and costs relative to a five-year program and a ten-year program and in addition will reflect the needs and costs for each year of the five-year program, beginning with the fiscal year one thousand nine hundred fifty-eight—fifty-nine, and that these established needs and costs be itemized under such general budgetary terms as personal services, current expenses, repairs and alterations, equipment and capital expenditures, and that these costs be correlated with program and performance objectives, said study to be completed by November first, one thousand nine hundred fifty-seven, and the report of the findings and recommendations be submitted to the Legislature, the public in general, and the Governor, with the request that such report and recommendations become an order of business
on the agenda of the Legislature at its next regular session, one thousand nine hundred fifty-eight; and, be it

Resolved Further, That the expenses necessary to conduct this study and to make the necessary report be paid from legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 11
(Originating in the Senate Committee on Finance)
[Adopted February 19, 1957.]
Requesting and directing the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to make a study of our institutions of higher education.

WHEREAS, It is a recognized fact, based on highly reliable projected trends, that student population is now increasing and, with great probability, will continue to steadily increase; and

WHEREAS, The commodity and service costs according to present and past trends, are rising and will, in all probability, continue to rise; and

WHEREAS, Educational, plant facility, personal service, administrative and operational standards and techniques are continually being raised to meet the demands of an advanced society; and

WHEREAS, This Legislature recognizes the urgent need for a thorough study and analysis of the present and future needs, particularly in relation to state expenditures and the training of students and adults in the many new areas of industrial employment now developing in West Virginia; and

WHEREAS, It is also recognized by this Legislature that it is impractical, both as to time and thoroughness, for the members of the fifty-third Legislature to conduct this study while in session these sixty days; and

WHEREAS, This Legislature is cognizant of the preliminary planning and action taken by the joint advisory and coordinating committee of the Board of Governors of West Virginia University and the West Virginia Board of Education, with respect to higher education in West Virginia; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be hereby requested and directed to make a thorough study of our institutions of higher education for the purpose of gathering information which will reflect the following:

(a) The present needs and cost as compared to the national average and trend.

(b) Whether or not these needs are being met now; and if not,

(c) The way in which the probable future needs may be met and the cost of same.

(d) The possibility of reducing these determined costs by combining the responsibility, authority and activities of the state agencies now exercising control over the institutions; and, be it

Resolved Further, That the results of this study be summarized in a manual which will, in particular, reflect the needs and costs relative to a five-year program and a ten-year program and in addition will reflect the needs and costs for each year of the five-year program, beginning with the fiscal year one thousand nine hundred fifty-eight—fifty-nine, and that these established needs and costs be itemized under such general budgetary terms as personal services, current expenses, repairs and alterations, equipment and capital expenditures, and that these costs be correlated with program and performance objectives, said study to be completed by November first, one thousand nine hundred fifty-seven, and the report of the findings and recommendations be submitted to the Legislature, the public in general, and the Governor, with the request that such report and recommendations become an order of business on the agenda of the Legislature at its next regular session, one thousand nine hundred fifty-eight; and, be it

Resolved Further, That the joint advisory and coordinating committee of the Board of Governors of West Virginia University and the West Virginia Board of Education, consisting of three members from each board, be designated as an advisory
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group to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation; and, be it

Resolved Further, That the expenses necessary to conduct this study and to make the necessary report be paid from legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 14

(By Mr. Mitchell)

[Adopted February 21, 1957.]

Declaration of policy for institutional farms, state-owned lands and natural resources at institutions and elsewhere pertaining to state needs.

WHEREAS, The state farm program as now constituted is in no sense coordinated but consists of many unorganized individual units; and

WHEREAS, The Senate and House Committees have made many recommendations from time to time in an effort to set up the program as a single unit to avoid overlapping of production of milk, pork and beef, livestock, poultry, coal, timber, etc., with no success; and

WHEREAS, It is believed that it will be practical and good business and represent distinct economy to coordinate this farm program with that of the agricultural colleges and other agricultural agencies; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the recommendations hereto attached be approved and that the Board of Control and the Legislative Auditor, as well as the Interim Committee on Government and Finance be informed of the contents hereof.

Recommendations

It is recommended:

1. That all farms be model farms carrying out the recommendations of the agricultural colleges and other agricultural agencies, and that the farm agencies should cooperate with the agricultural college, carrying on as many of their experiments
as possible but remaining on a profitable basis to the State of West Virginia;

2. That standard report forms for every institutional farm and farm products should be adopted and reports made monthly to the State Board of Control and the Legislative Auditor;

3. That a legislative audit of all lands, including coal, oil, gas, timber and other natural resources owned by the State be made and reported at the end of the fiscal year. Copy of reports should be made to the State Board of Control;

4. That all state-owned land shall be used to the best advantage of the State of West Virginia such as: farming and related activities, mining, timbering and water conservation;

5. That a complete audit of prison industries should be made, and reports made monthly to the State Board of Control and Legislative Auditor;

6. That the farm budget be prepared by the State Board of Control for each farming operation as to needs and future uses;

7. That all institutional farms should operate as an individual unit out of the moneys appropriated into a revolving fund created by the State Legislature;

8. That transfer of agricultural commodities from one institution to another should carry a fifteen per cent discount under market price;

9. That current monthly prices should be established by the Department of Purchases;

10. That the State Penitentiary at Moundsville lease and operate Lakin State Hospital farm for joint benefit of both institutions;

11. That the Industrial School for Boys at Pruntytown furnish milk and other farm products for the Industrial School for Girls at Salem and for Fairmont Emergency Hospital;

12. That transfer of beef cattle be made from Huttonsville Medium Security Prison to Weston State Hospital. By such transfer a large financial saving to the State will be effected;

13. That transfer of dairy herd be made from Weston State Hospital to Medium Security Prison at Huttonsville, they in
turn to furnish milk and other farm produce to Weston State Hospital;

14. That enough milk be produced at Huntington State Hospital for the needs at Barboursville State Hospital;

15. That a balanced diet for every institution, using as much home-produced foods as possible, be prepared by a competent dietitian under direction of the State Board of Control. The dietitian should have at least five years of institutional dietetic training;

16. That a complete audit be kept on file in the Legislative Auditor's office of all spending agencies related to agricultural work;

17. That the Legislative Auditor be instructed to secure from available sources the following information:

(a) Amount of usable timber;

(b) Information regarding reforestation of land with seedlings suitable for state needs; such as, locust for guard-rail posts on highways;

(c) Amount of coal and gas reserves at different institutions;

(d) Survey of water supply;

(e) Secure complete inventory of all equipment owned by the different departments used by the institutions, Conservation Department, Department of Agriculture, and State Board of Control and related activities;

18. That study be made of all contracts for sale; lease and purchase of all lands, timber and natural resources pertaining to state needs;

19. That the business manager of different spending agencies should be responsible for the filing of necessary reports and control of all moneys appropriated for the operation of farms, institutional mines, and related activities;

20. That the agricultural auditor, under the supervision of the Legislative Auditor, should be a man of good character, graduate of an accredited agricultural college, and should have at least ten years of practical or farm management experience or combination of both, or equivalent.
SENATE CONCURRENT RESOLUTION NO. 15
(By Mr. Martin and Mr. Carrigan)
[Adopted February 22, 1957.]

Requesting the Joint Committee on Government and Finance to make a study of existing laws relating to the privilege tax on certain carrier corporations and to report thereon to the Legislature.

WHEREAS, Section three, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, has been declared unconstitutional by the Supreme Court of Appeals of West Virginia insofar as said section applies to interstate commerce; and

WHEREAS, Some of the language of sections five, six, eight and eleven of said article is ambiguous and impractical and creates problems incident to the administration and enforcement thereof; and

WHEREAS, Section five of said article may be unconstitutional insofar as it applies to carriers engaged exclusively in interstate commerce; and

WHEREAS, Conditions relating to the taxpayers affected by said article have changed materially since the initial enactment thereof into law; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a comprehensive study of article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be made by the Joint Committee on Government and Finance; and that said committee present recommendations for the revision of said article at the regular session of the Legislature to be convened in January, one thousand nine hundred fifty-nine.

SENATE CONCURRENT RESOLUTION NO. 16
(By Mr. McCoy)
[Adopted February 27, 1957.]

Declaring the intent of the Legislature that the Commissioner of Weights and Measures shall have authority under ex-
isting laws to inspect and calibrate milk containers without requiring reimbursement therefor.

WHEREAS, The Commissioner of Weights and Measures interprets existing laws as requiring him to inspect and calibrate milk tanks and containers wherein farmers and other producers of milk in this State store milk for sale and delivery to quantity purchasers thereof and to be reimbursed for expenses incurred in such services; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature declares and intends that the general and inclusive powers and authority vested in the sealer of weights and measures, under and pursuant to article one, chapter forty-seven of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, includes the duty and power to inspect and calibrate milk tanks and containers wherein farmers and other producers of milk in this State store milk for sale and delivery to quantity purchasers thereof without requiring reimbursement for expenses incurred by him for such inspection and calibration services.

SENATE CONCURRENT RESOLUTION NO. 17

(By Mr. Hedrick)
[ Adopted February 25, 1957. ]

Memorializing the Congress of the United States to give favorable consideration to the problem of job opportunities for people in higher age groups up to the age of retirement.

WHEREAS, Because of our modern complex, competitive society, business and industry has found it economically desirable to employ people in lower age groups; and

WHEREAS, Business and industry seldom employ persons in the higher age groups except in technical, specialized, high-skilled trades and executive capacity; and

WHEREAS, People in the higher age groups now find a dearth of job opportunity and such unemployment has become a national problem; therefore be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Congress of the United States is hereby requested to give consideration to this national problem of limited job opportunities for persons in the higher age groups; and, be it

Resolved further, That the Secretary of State is hereby directed to forward attested copies of this concurrent resolution to the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

SENATE CONCURRENT RESOLUTION NO. 19
(By Mr. Mitchell and Mr. Taylor)
[Adopted February 26, 1957.]

Proclaiming the existence of emergencies in certain areas in the State of West Virginia caused by recent floods of major proportion.

WHEREAS, In view of the occurrence of a disaster of unprecedented size and destructiveness resulting from floods in certain areas in the State of West Virginia, and in order to insure that preparations of this State will be adequate to deal with such disaster in preventing, minimizing and repairing injury and damage resulting therefrom, and generally to protect the public peace, health and safety and preserve the lives of the people of this State and restore them to normal living; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there is hereby proclaimed emergencies in certain areas as a result of the recent floods of major proportion in the State of West Virginia, and that the safety and welfare of the inhabitants of this State require an invocation of the provisions of sections six, twelve and thirteen, article five, chapter fifteen of the Code of West Virginia, providing for civil defense functions in emergencies in order to prevent, minimize and repair injury and damage resulting from such flood disaster.
SENATE CONCURRENT RESOLUTION NO. 21

(By Mr. Bean, Mr. President)

[Adopted March 8, 1957.]

Requesting and urging the Bureau of Public Roads of the United States Department of Commerce to include a northward extension of the West Virginia Turnpike in the national system of interstate highways.

WHEREAS, The geographical position of the State of West Virginia in the east-central portion of the United States creates within the area of this State an essential and strategic location for a north-south highway for interstate transportation and travel; and

WHEREAS, The State of West Virginia, by and through its Turnpike Commission, has in recent years constructed and now has in use eighty-six miles of turnpike over a difficult terrain from the southern part of the State northward to a point on the Great Kanawha River near the City of Charleston, the capital of the State, thereby providing and affording an excellent grade and course for transportation and travel; and

WHEREAS, The inclusion of a northward extension of said turnpike in the national system of interstate highways, as contemplated by the Congress of the United States in the federal-aid highway program, will provide an essential inland artery of transportation and commerce of vital importance in the national interest; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia requests and urges the Bureau of Public Roads of the United States Department of Commerce to include the northward extension of the West Virginia Turnpike in the national system of interstate highways, in accordance with the federal-aid highway program provided and established by the Congress of the United States, thereby promoting the national interest and providing essential north-south transportation and travel facilities by using the West Virginia Turnpike already constructed on an excellent course and grade over a difficult terrain.
The State Road Commissioner of West Virginia and other officials of the State are hereby requested to cooperate in every proper manner in having such turnpike extension included in the national system of interstate highways and to take all steps necessary to expedite and accomplish construction of such extension.

SENATE CONCURRENT RESOLUTION NO. 22

(By Mr. Martin)

[Adopted March 8, 1957.]

Expressing the gratitude of the citizens of West Virginia for publication of the article “History Awakens at Harpers Ferry” by the National Geographic Society.

WHEREAS, The citizens of West Virginia have long been proud of the many areas of scenic and historic interest, which annually attract tens of thousands of tourists to the State; and

WHEREAS, The National Congress has in recent years designated one of these areas of interest, Harpers Ferry, as a national monument, and

WHEREAS, The National Geographic Society has called worldwide attention to the State of West Virginia and the Harpers Ferry national monument in a leading article written by Mr. Volkmar Wentzel and published in the March, one thousand nine hundred fifty-seven, issue of the National Geographic magazine; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia, on behalf of the citizens of the State, hereby extends to the National Geographic Society an expression of gratitude for publication of the article “History Awakens at Harpers Ferry”; and be it

Resolved further, That an official copy of this resolution be mailed by the Clerk of the Senate to Mr. Volkmar Wentzel and to the National Geographic Society.
Proposing an amendment to the Constitution of the State of West Virginia, amending sections one, two and seventeen, article seven, section two, article twelve, all relating to the State Superintendent of Free Schools.

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 be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred fifty-eight, which proposed amendment is as follows:

That sections one, two and seventeen, article seven, and section two, article twelve of the Constitution of this State be amended to read as follows:

Article VII.

Section 1. Executive Department.—The executive department shall consist of a Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Attorney General, who shall be, ex officio, reporter of the court of appeals. Their terms of office shall be four years, and shall commence on the first Monday after the second Wednesday of January next after their election. They shall reside at the seat of government during their terms of office, keep there the public records, books and papers pertaining to their respective offices, and shall perform such duties as may be prescribed by law.

Sec. 2. Election.—An election for Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Attorney General shall be held at such times and places as may be prescribed by law.

Sec. 17. Vacancies in Other Executive Departments.—If the office of Secretary of State, Auditor, Treasurer, Commissioner of Agriculture or Attorney General shall become vacant by
death, resignation, or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be prescribed by law. The subordinate officers of the executive department and the officers of all public institutions of the State shall keep an account of all moneys received or disbursed by them, respectively, from all sources, and for every service performed, and make a semi-annual report thereof to the Governor under oath or affirmation; and any officer who shall wilfully make a false report shall be deemed guilty of perjury.

Article XII.

Section 2. Supervision of Free Schools.—The general supervision of the free schools of the State shall be vested in the West Virginia Board of Education, which shall perform such duties as may be prescribed by law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight and nine years, respectively. No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He shall be the chief school officer of the State, and shall have powers and shall perform such duties as may be prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article six of this Constitution.
SENATE JOINT RESOLUTION NO. 4
(By Mr. Carrigan and Mr. Martin)
[Adopted March 5, 1957.]
Proposing an amendment to the Constitution of the State of West Virginia, by adding a new section to article ten there-of, designated section one-a, relating to the exemption of money and bank deposits from taxation.

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-eight, which proposed amendment is as follows:

That article ten of the Constitution be amended by adding thereto a new section, designated section one-a, to read as follows:

Section 1-a. Bank Deposits and Money Exempt from Ad Valorem Property Taxes.—Notwithstanding the provisions of the preceding section, bank deposits and money shall not be subject to ad valorem property taxation.

SENATE JOINT RESOLUTION NO. 5
(By Mr. Martin)
[Adopted February 25, 1957.]
Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article eleven there-of, relating to corporate stock and the rights of stockholders of corporations to vote for directors or managers.

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
SENATE JOINT RESOLUTIONS

held in the year one thousand nine hundred fifty-eight, which proposed amendment is as follows:

That section four, article eleven of the Constitution be amended to read as follows:

Section 4. Rights of Stockholders.—The Legislature shall provide by law that every corporation, other than a banking institution, shall have power to issue one or more classes and series within classes of stock, with or without par value, with full, limited or no voting powers, and with preferences and special rights and qualifications, and that in all elections for directors or managers of incorporated companies, every stockholder holding stock having the right to vote for directors, shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SENATE JOINT RESOLUTION NO. 8
(By Mr. Bean, Mr. President, and Mr. Carrigan)

[Adopted March 6, 1957.]

Proposing an amendment to the Constitution of the State of West Virginia, by adding a new section to article ten thereof, to be designated section ten, relating to tax levies on property.

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-eight, which proposed amendment is as follows:
That article ten of the Constitution be amended by adding thereto a new section, to be designated section ten, to read as follows:

Section 10. Better Schools Amendment.—Notwithstanding any other provision of the Constitution to the contrary, the maximum rates authorized and allocated by law for tax levies on the several classes of property for the support of public schools may be increased in any school district for a period not to exceed five years, and in an amount not to exceed one hundred per cent of such maximum rates, if such increase is approved, in the manner provided by law, by at least sixty per cent of the qualified voters of the school district.

Notwithstanding any other provision of the Constitution to the contrary, the maximum rates provided for tax levies by school districts on the several classes of property may be used entirely for current expense purposes; and all levies required for principal and interest payments on any bonded indebtedness, now or hereafter contracted, not to exceed five per centum on the value of the taxable property therein, the value to be ascertained in accordance with section eight of this article, shall be laid separate and apart and in addition to such maximum rates, but in the same proportions as such maximum rates are levied on the several classes of property.
AN ACT to amend and reenact sections one, eight and nine, chapter one hundred sixty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, authorizing the issuance and sale of bonds of the state of West Virginia to raise money for the purpose of paying a bonus to veterans under and by virtue of the "Korean Veterans Bonus Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred fifty-six, providing for the disposition and expenditure of the proceeds of the sale thereof, and providing for the payment of such bonds and for the rights and security of the holders thereof.

[Passed August 5, 1957: In effect from passage. Approved by the Governor.]

Korean Veterans Bonus Bonds.

Section
1. Korean veterans bonus bonds; authority to issue.
2. Sale by governor; minimum price offer of bonds to state.
3. Proceeds paid into Korean veterans bonus fund; expenditure.

Be it enacted by the Legislature of West Virginia:
That sections one, eight and nine, chapter one hundred sixty-seven, acts of the Legislature, regular session, one thousand
nine hundred fifty-seven, be amended and reenacted to read as follows:

Section 1. Korean Veterans Bonus Bonds; Authority to Issue.—Bonds of the state of West Virginia are hereby authorized to be issued and sold for the purpose of raising funds for the payment of a cash bonus to veterans, including the costs of administration necessarily incident thereto, under and by virtue of the "Korean Veterans Bonus Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred fifty-six. Such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such times and bearing such date or dates as the governor may determine, and shall become due and payable serially beginning one year and ending not more than twenty years from the date thereof. The amount of such bonds maturing in each year shall be so arranged by the governor that the aggregate amount of principal of and interest on such bonds maturing and becoming due in each year shall be approximately equal. A variation of not more than three per cent in such aggregate amounts of principal and interest maturing and becoming due in each year shall be considered a proper compliance with such requirement. All of such bonds maturing in the year one thousand nine hundred sixty or in any year thereafter may be redeemable prior to maturity, at the option of the state of West Virginia, on January one, one thousand nine hundred sixty, or any interest date thereafter, at such premium or premiums, and upon such other conditions as the governor shall determine and prescribe in the notice of sale thereof.

The principal amount of bonds so issued shall not exceed the maximum amount fixed in the Korean bonus bond amendment.

These bonds shall constitute a legal investment for the workmen’s compensation fund, the teachers’ retirement fund, the interest and sinking fund of the veterans bonus bonds of one thousand nine hundred fifty, or any other
fund subject to investment, or the investment of which is not otherwise designated or restricted by law.

Sec. 8. Sale by Governor; Minimum Price Offer of Bonds to State.—The governor shall sell the bonds herein mentioned at such time or times as he may determine necessary to provide funds for the payment of the bonus as herein provided. All sales shall be at not less than par and accrued interest and an interest rate not to exceed three and nine-tenths per cent. All interest coupons becoming payable prior to the sale date shall be cancelled by the treasurer and rendered ineffective, before the delivery of the bonds so sold: Provided, however, That before offering said bonds to the public, the governor or the governing body authorized to sell the same shall offer these bonds in writing to the board of public works on behalf of any governmental agencies of the state or the sinking fund commission, the funds of which they are required to invest.

Sec. 9. Proceeds Paid into Korean Veterans Bonus Fund; Expenditure.—The proceeds of all sales of bonds herein authorized shall be paid into the Korean veterans bonus fund, which is hereby created, and shall be expended solely for the payment of the Korean veterans bonus and the costs of administration necessarily incident thereto.

If deemed advisable, the governor may direct the state treasurer to invest a part of the moneys in the Korean veterans bonus fund, in direct obligations of the United States of America, having a maturity of not exceeding one hundred eighty-five days from date of purchase. Any interest or profit accruing from such purchases shall be credited to the Korean veterans bonus fund.
AN ACT making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

[Passed February 6, 1958; in effect from passage.]

Title I. General Provisions.

Section 1. General policy.

2. Definitions.

3. Classification of appropriations.


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-nine.

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

2. "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-nine” shall mean the period from July first, one thousand nine hundred fifty-eight through June thirtieth, one thousand nine hundred fifty-nine.

“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 unit.

“Current expenses” shall be expended only for operating costs other than personal services or capital outlay;

“Repairs and alterations” shall include all expenditures for materials, supplies and labor used in repairing and altering buildings, grounds and equipment;

“Equipment” shall be expended only for things which have an appreciable and calculable period of usefulness in excess of one year;

“Buildings” shall include construction and alteration of structures and the improvements of lands, sewer and water improvements, and shall include shelter, support, storage, protection, or the improvement of a natural condition;
“Lands” shall be expended only for the purchase of lands or interest in lands.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit freedom to spend an appropriation for more than one of the above purposes.

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

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Auditor’s office (land department operating fund)—Acct. No. 812 ........... 890
Conservation commission—Acct. No. 830 ........................................... 894
3. Supplemental and deficiency appropriations.
4. Appropriations from surplus revenues.
4-a. Appropriation for medium security prison.
5. Reappropriations.
6. Special revenue appropriations.
7. Specific funds and collection accounts.
8. Appropriations for refunding erroneous payments.
10. Appropriations from taxes and license fees.
11. Appropriations to pay costs of publication of delinquent corporations.
12. Appropriations for local governments.
13. Total appropriation.
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-nine.

LEGISLATIVE

1—Senate

Acct. No. 101

Fiscal Year 1958-1959

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Salaries of Members</td>
<td>$48,000.00</td>
</tr>
<tr>
<td>2. Compensation and per diem of officers and attaches</td>
<td>$67,000.00</td>
</tr>
<tr>
<td>3. Mileage of Members</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4. Current Expenses and Contingent Fund</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>5. To pay Clerk of the Senate for compiling and publishing the West Virginia Blue Book, the distribution of which shall be made by the Office of the Clerk of the Senate and shall include seventy-five copies for each member of the Legislature and two copies to each classified and approved High and Junior High School and one to each Elementary School within the state</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>6. To pay the cost of printing the 1958 edition of Blue Book</td>
<td>$46,000.00</td>
</tr>
<tr>
<td>7. To establish bill drafting service and expenses connected therewith</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

The appropriations for the Senate for the fiscal year 1957-58 are to remain in full force and effect, and are hereby reappropriated to June 30, 1959.

Upon the written request of the Clerk of the Senate the State Auditor shall transfer
amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate is authorized to draw his requisitions upon the Auditor, payable out of the contingent fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, and for bills for supplies and services incurred after adjournment, and for the necessary operation of the Senate offices, the requisition for same to be accompanied by the bills to be filed with the Auditor.

2—House of Delegates

Acct. No. 102

1 Salaries of Members .................. $150,000.00
2 Compensation and per diem of officers and attaches .................. 95,000.00
4 Mileage of Members .................. 3,000.00
5 Current Expenses and Contingent Fund .................. 82,000.00
6 Drafting Service .................. 5,000.00

7 An amount, not to exceed $3,600.00 per year, is hereby authorized to be expended from the contingent fund of the House of Delegates for janitor services, etc.

11 The appropriations for the House of Delegates for the fiscal year 1957-58 are to remain in full force and effect, and are hereby reappropriated to June 30, 1959.

15 Upon the written request of the Clerk of the House of Delegates the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.
The Clerk of the House of Delegates, with approval of the Speaker, is authorized to draw his requisitions upon the Auditor, payable out of the contingent fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates, and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the offices of the House of Delegates, the requisition for same to be accompanied by bills to be filed with the Auditor.

For duties imposed by law and by the House of Delegates, including the salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a salary of $775.00 per month, payable from the contingent fund of the House of Delegates, and the Clerk may employ a secretary at a salary not to exceed $325.00 per month, payable monthly from the same fund.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative printing and stationery .................................................. $ 100,000.00

2 Commission on Interstate Cooperation ................................................................. 13,000.00

4 Joint Committee on Government and Finance ......................................................... 225,000.00

6 Other Authorized Legislative Committees ............................................................. 25,000.00

7 The appropriations for Joint Expenses for the fiscal year 1957-58 are to remain in full force and effect, and are hereby reappropriated to June 30, 1959.

11 Upon the written request of the Clerk of the Senate and the Clerk of the House of
Delegates the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

**JUDICIAL**

4—*Supreme Court of Appeals*

Acct. No. 110

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges</td>
<td>$87,500.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$101,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$210,500.00</strong></td>
</tr>
</tbody>
</table>

5—*Circuit Courts*

Acct. No. 111

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges</td>
<td>$324,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$90,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$414,600.00</strong></td>
</tr>
</tbody>
</table>

6—*Judges’ Retirement System*

Acct. No. 112

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To be transferred to the Judges' Retirement Fund, in accordance with the law relating thereto, upon requisition of the State Auditor</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

7—*State Law Library*

Acct. No. 114

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$16,580.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$14,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$32,080.00</strong></td>
</tr>
</tbody>
</table>
Ch. I] APPROPRIATIONS

8—Judicial Council

Acct. No. 118

1 To pay expenses of Members of the Council $ 500.00

9—Auditor's Office—Criminal Charges

Acct. No. 119

1 Criminal Charges ........................................ $ 200,000.00

EXECUTIVE

10—Governor's Office

Acct. No. 120

1 Salary of Governor ...................................... $ 17,500.00

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 educable persons who have multiple handi-
10 caps and for whom the state provides no
11 facilities.

12 Of this appropriation there may be expend-
13 ed, at the discretion of the Governor, an
14 amount not to exceed $1,000.00 as West
15 Virginia’s contribution to the Interstate
16 Oil Compact Commission.

17 Custodial Fund ......................................... 41,400.00

18 To be used for current general expenses,
19 including compensation of servants and
20 employees, household maintenance, cost of
21 official functions, and any additional
22 household expenses occasioned by such off-
23 ficial functions.

24 Total .................................................... $ 202,130.00
### 11—Board of Probation and Parole  
**Acct. No. 123**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$150,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$45,700.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$198,500.00</strong></td>
</tr>
</tbody>
</table>

### FISCAL  
12—Auditor’s Office—General Administration  
**Acct. No. 150**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Auditor</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$151,700.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$10,800.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$178,500.00</strong></td>
</tr>
</tbody>
</table>

### 13—Treasurer’s Office  
**Acct. No. 160**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Treasurer</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$81,900.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$13,800.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$7,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$113,700.00</strong></td>
</tr>
</tbody>
</table>

### 14—Sinking Fund Commission  
**Acct. No. 170**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$15,640.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$750.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,390.00</strong></td>
</tr>
</tbody>
</table>

### 15—State Tax Commissioner  
**Acct. No. 180**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$638,760.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$163,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$802,260.00</strong></td>
</tr>
</tbody>
</table>
3 Equipment ........................................ $21,700.00
4 Property Evaluation ............................. 140,000.00

5 Total ............................................. $963,960.00

16—State Tax Commissioner
Acct. No. 185

1 For Property Appraisal, Tax Maps, etc., in accordance with the provisions of Senate Bill No. 34 ........................................................ $1,500,000.00

17—State Commissioner of Public Institutions
Acct. No. 190

1 Salary of Commissioner ....................... $10,000.00
2 Other Personal Services ....................... 37,820.00
3 Current Expenses ............................. 7,825.00
4 Equipment ...................................... 450.00

5 Total ............................................. $56,095.00

18—Department of Finance and Administration
Acct. No. 210

1 Personal Services .............................. $422,000.00
2 Current Expenses .............................. 149,920.00
3 Repairs and Alterations ..................... 40,000.00
4 Equipment ..................................... 8,200.00
5 Postage ......................................... 50,000.00

6 Total ............................................. $670,120.00

7 The Workmen's Compensation Commission, Department of Public Assistance, Public Service Commission, Conservation Commission, Department of Motor Vehicles, State Road Commission and State Health Department shall reimburse the postage appropriation of the Department of Finance and Administration monthly for all
Any spending unit receiving reimbursement for postage costs from the Federal Government shall refund to the postage account of the Department of Finance and Administration such amounts. Should this appropriation for postage be insufficient to meet the mailing requirements of the state spending units as set out above, any excess postage meter service requirements shall be a proper charge against the units, and each spending unit shall refund to the postage appropriation of the Department of Finance and Administration any amounts required for that department for postage in excess of this appropriation.

19—The Board of Public Works

Acct. No. 220

1 Contingent Fund ........................................ $ 25,000.00

LEGAL

20—Attorney General

Acct. No. 240

1 Salary of Attorney General .................. $ 12,000.00
2 Other Personal Services ......................... 116,320.00
3 Current Expenses .................................. 18,000.00
4 Equipment ............................................. 7,500.00
5 To protect the resources or tax structure of the State in controversies or legal proceedings affecting same ........................................ 4,000.00

8 Total .................................................. $ 157,820.00

21—Commission on Uniform State Laws

Acct. No. 245

1 Total .................................................. $ 3,150.00
### APPROPRIATIONS

#### 22—State Board of Insurance

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$2,200.00</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$7,200.00</td>
</tr>
</tbody>
</table>

#### INCORPORATING AND RECORDING

#### 23—Secretary of State

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Secretary of State</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$35,890.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$55,890.00</td>
</tr>
</tbody>
</table>

#### EDUCATIONAL

#### 24—Department of Education—State Aid to Schools

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State aid to supplement the general school fund</td>
<td>$52,005,220.00</td>
</tr>
<tr>
<td>2</td>
<td>To be transferred to the general school fund upon the requisition of the Governor. To be distributed according to law except an amount not to exceed $175,000.00, which sum shall be available to the Department of Education to aid counties in providing instruction for exceptional children. Provided, however, That from the amount appropriated herein to the Department of Education to aid counties in providing instruction for the exceptional children, an amount not to exceed $14,000.00 may be used to pay the salary of a director and other administrative expenses for the exceptional children's program.</td>
<td></td>
</tr>
</tbody>
</table>
18 In making distribution of state aid to counties as provided by law, the State Board of School Finance shall allocate to each county, state aid of not less than fifty dollars 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-one, acts of the Legislature, regular session, 1939.

26—Teachers' Retirement Board

Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers ........ $ 2,220,000.00

3 Employers' Accumulation Fund—To match contributions of members .................. 3,000,000.00

5 Expense Fund ........................................ $ 24,600.00

6 Total .................................................. $ 5,244,600.00

27—West Virginia University

Acct. No. 300

1 Personal Services ....................................... $ 5,235,639.00

2 Current Expenses ...................................... 743,295.00

3 Repairs and Alterations ............................. 243,000.00

4 Equipment ............................................. 255,500.00

5 Oak Wilt Control Research ........................... 10,000.00

6 State aid to students of Veterinary Medicine 28,000.00

7 Fire Insurance Premium (3 years) ..................... 60,000.00

8 Pharmacy School—Moving and Equipment 34,000.00

9 State aid to Medical Students ...................... 62,500.00

10 Total ................................................ $ 6,671,934.00

11 Out of the above appropriation for Personal Services the sum of $7,500.00 shall be used
only for the employment of a Spray Specialist who shall be stationed only at West Virginia University Farm at Kearneysville, and the sum of $6,000.00 shall be used only for the employment of an instructor at the School of Pharmacy at the West Virginia University Medical School.

28—West Virginia University—Medical School
Acct. No. 310

1 To supplement Funds for Construction of Medical School Hospital $ 1,400,000.00

29—Potomac State College of West Virginia University
Acct. No. 315

1 Personal Services................................. $ 280,045.00
2 Current Expenses................................. 40,600.00
3 Repairs and Alterations........................ 21,200.00
4 Equipment......................................... 10,700.00
5 Total.................................................. $ 352,545.00

30—Marshall College
Acct. No. 320

1 Personal Services................................. $ 1,650,190.00
2 Current Expenses................................. 135,250.00
3 Repairs and Alterations........................ 56,500.00
4 Equipment......................................... 57,500.00
5 Flood Wall Assessment........................... 3,200.00
6 Total.................................................. $ 1,902,640.00

31—Fairmont State College
Acct. No. 321

1 Personal Services................................. $ 536,355.00
2 Current Expenses................................. 49,580.00
3 Repairs and Alterations........................ 28,000.00
### Appropriations

<table>
<thead>
<tr>
<th>Account Number</th>
<th>College Name</th>
<th>Personal Services</th>
<th>Current Expenses</th>
<th>Repairs and Alterations</th>
<th>Equipment</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>Glenville State College</td>
<td>$349,275.00</td>
<td>$41,175.00</td>
<td>$24,200.00</td>
<td>$18,200.00</td>
<td>$432,850.00</td>
</tr>
<tr>
<td>33</td>
<td>West Liberty State College</td>
<td>$367,100.00</td>
<td>$38,650.00</td>
<td>$21,450.00</td>
<td>$58,200.00</td>
<td>$485,400.00</td>
</tr>
<tr>
<td>34</td>
<td>Shepherd College</td>
<td>$338,885.00</td>
<td>$38,100.00</td>
<td>$21,600.00</td>
<td>$13,350.00</td>
<td>$411,935.00</td>
</tr>
<tr>
<td>35</td>
<td>Concord College</td>
<td>$566,400.00</td>
<td>$46,570.00</td>
<td>$25,950.00</td>
<td>$22,850.00</td>
<td>$661,770.00</td>
</tr>
</tbody>
</table>
### 36—West Virginia Institute of Technology

**Acct. No. 327**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$438,820.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>49,480.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>24,700.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>45,400.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$558,400.00</td>
</tr>
</tbody>
</table>

### 37—West Virginia State College

**Acct. No. 328**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$804,327.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>100,730.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>45,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>33,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$983,557.00</td>
</tr>
</tbody>
</table>

### 38—Bluefield State College

**Acct. No. 329**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$324,255.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>43,850.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>19,200.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>15,200.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$402,505.00</td>
</tr>
</tbody>
</table>

### 39—West Virginia State College—4-H Camp

**Acct. No. 330**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>5,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>3,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>2,300.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$23,760.00</td>
</tr>
</tbody>
</table>
### Appropriations

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

Acct. No. 333

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$379,606.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$132,200.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$23,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$19,850.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$555,156.00</strong></td>
</tr>
</tbody>
</table>

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

Acct. No. 336

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,620.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$5,600.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,900.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$31,120.00</strong></td>
</tr>
</tbody>
</table>

**42—Department of Archives and History**

Acct. No. 340

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$21,760.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$4,150.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$30,910.00</strong></td>
</tr>
</tbody>
</table>

**43—West Virginia Library Commission**

Acct. No. 350

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$41,940.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,060.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>4 Books and Periodicals</td>
<td>$34,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$99,000.00</strong></td>
</tr>
</tbody>
</table>
## CHARITIES AND CORRECTION

### 44—West Virginia Industrial School for Boys

**Acct. No. 370**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$175,722.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$82,600.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$17,150.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$18,250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$293,722.00</strong></td>
</tr>
</tbody>
</table>

### 45—Forestry Camp for Boys

**Acct. No. 371**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$48,840.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$44,450.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$3,100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$98,890.00</strong></td>
</tr>
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</table>

### 46—West Virginia Industrial Home for Girls

**Acct. No. 372**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$96,903.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$61,900.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$10,150.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$179,453.00</strong></td>
</tr>
</tbody>
</table>

### 47—West Virginia State Prison for Women

**Acct. No. 374**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$32,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$31,600.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$72,500.00</strong></td>
</tr>
</tbody>
</table>
48—West Virginia Penitentiary

Acct. No. 375

1 Personal Services .............................................. $ 547,040.00
2 Current Expenses .................................................. 477,700.00
3 Repairs and Alterations ........................................ 29,500.00
4 Equipment ........................................................... 17,700.00

5 Total ..................................................................... $ 1,071,940.00

6 Any unexpended balances remaining in the
7 “Rebuild Sewerage System” and the
8 “Complete New Cell Block” accounts at
9 the close of the fiscal year 1957-58 is here-
10 by reappropriated for expenditures dur-
11 ing the fiscal year 1958-59.

49—Medium Security Prison

Acct. No. 376

1 Personal Services .............................................. $ 178,980.00
2 Current Expenses .................................................. 139,300.00
3 Repairs and Alterations ........................................ 20,000.00
4 Equipment ........................................................... 11,300.00

5 Total ..................................................................... $ 349,580.00

50—West Virginia Children's Home

Acct. No. 380

1 Personal Services .............................................. $ 42,195.00
2 Current Expenses .................................................. 30,425.00
3 Repairs and Alterations ........................................ 10,900.00
4 Equipment ........................................................... 5,950.00

5 Total ..................................................................... $ 89,470.00

51—West Virginia Home for Aged and Infirm Colored
     Men and Women

Acct. No. 382

1 Personal Services .............................................. $ 35,000.00
## Appropriations

### 52—Andrew S. Rowan Memorial Home

**Acct. No. 384**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$187,680.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$156,100.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$12,550.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$8,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$364,630.00</strong></td>
</tr>
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</table>

## Health and Welfare

### 53—State Health Department

**Acct. No. 400**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$592,100.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$50,060.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>4 Cancer Control and Treatment</td>
<td>$93,000.00</td>
</tr>
<tr>
<td>5 Tuberculosis Field Clinic &amp; Nursing Service</td>
<td>$8,480.00</td>
</tr>
<tr>
<td>6 Out-Patient Pneumothorax Treatment, Drugs and Diagnostic Laboratory Services</td>
<td>$20,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$768,140.00</strong></td>
</tr>
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</table>

### 54—State Water Commission

**Acct. No. 401**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$37,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$975.00</td>
</tr>
<tr>
<td>4 For cooperation with the U. S. Geological</td>
<td></td>
</tr>
</tbody>
</table>
5 survey for a program of stream gauging $17,500.00
6 Total .............................................. $66,435.00

55—Department of Veterans Affairs

<table>
<thead>
<tr>
<th>Account No. 404</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services ........................................ $155,000.00</td>
</tr>
<tr>
<td>2 Current Expenses ........................................... 43,000.00</td>
</tr>
<tr>
<td>3 Equipment ...................................................... 1,500.00</td>
</tr>
<tr>
<td>4 To provide Educational Opportunities for Children of War Veterans as provided by Chapter thirty-nine, Acts of the Legislature, 1943 ........................................ 12,500.00</td>
</tr>
<tr>
<td>5 Total ............................................................ $212,000.00</td>
</tr>
<tr>
<td>6 Any unexpended balance remaining in the appropriation “To Provide Educational Opportunities for Children of War Veterans” at the close of the fiscal year 1957-58 is hereby reappropriated for expenditure during the fiscal year 1958-59.</td>
</tr>
</tbody>
</table>

56—Department of Public Assistance

<table>
<thead>
<tr>
<th>Account No. 405</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services ................................................. $1,020,880.00</td>
</tr>
<tr>
<td>2 Current Expenses ................................................. 224,000.00</td>
</tr>
<tr>
<td>3 Equipment .......................................................... 8,000.00</td>
</tr>
<tr>
<td>4 Public Assistance Grants (Classified Aid) ................................... 7,500,000.00</td>
</tr>
<tr>
<td>5 Aid to Crippled Children ........................................... 300,000.00</td>
</tr>
<tr>
<td>6 Medical Services ................................................... 800,000.00</td>
</tr>
<tr>
<td>7 Conservation of Vision and Prevention of Blindness .................. 40,000.00</td>
</tr>
<tr>
<td>8 Child Welfare Services ............................................. 83,000.00</td>
</tr>
<tr>
<td>9 General Relief ...................................................... 125,000.00</td>
</tr>
<tr>
<td>10 Boarding Care ..................................................... 340,000.00</td>
</tr>
<tr>
<td>11 Social Security Matching Funds .................................... 25,600.00</td>
</tr>
<tr>
<td>12 Total ............................................................ $10,466,480.00</td>
</tr>
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</table>
### Appropriations

#### 57—Department of Public Assistance—Commodity Distribution

Acct. No. 406

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$38,400.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$15,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$143,400.00</strong></td>
</tr>
</tbody>
</table>

#### 58—Department of Mental Health

Acct. No. 410

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$161,640.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$8,300.00</td>
</tr>
<tr>
<td>4 Research and Training</td>
<td>$25,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$219,940.00</strong></td>
</tr>
</tbody>
</table>

#### 59—West Virginia Training School

Acct. No. 419

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$273,086.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$143,450.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$13,750.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$12,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$442,586.00</strong></td>
</tr>
</tbody>
</table>

#### 60—Weston State Hospital

Acct. No. 420

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,203,840.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$729,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$54,600.00</td>
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<tr>
<td>4 Equipment</td>
<td>$30,580.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,018,020.00</strong></td>
</tr>
</tbody>
</table>

6 Any unexpended balance remaining in the water supply account at the close of the
fiscal year 1957-58 is hereby reappropriated
for expenditure during the fiscal year 1958-
59.

61—Spencer State Hospital

Acct. No. 421

1 Personal Services ......................................................... $ 555,511.00
2 Current Expenses ......................................................... 350,620.00
3 Repairs and Alterations ................................................. 33,000.00
4 Equipment ........................................................................ 37,550.00

5 Total .............................................................................. $ 976,681.00

6 All revenue collected by the above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund-General Revenue.

62—Huntington State Hospital

Acct. No. 422

1 Personal Services ......................................................... $ 775,940.00
2 Current Expenses ......................................................... 522,390.00
3 Repairs and Alterations ................................................. 34,000.00
4 Equipment ........................................................................ 34,300.00

5 Total .............................................................................. $ 1,366,630.00

6 All revenue collected by the above spending unit in excess of the amount required to pay the principal and interest on outstanding Clinic Bonds shall be deposited to the State Fund—General Revenue.

63—Lakin State Hospital

Acct. No. 423

1 Personal Services ......................................................... $ 310,233.00
2 Current Expenses ......................................................... 169,970.00
Ch. I] APPROPRIATIONS 873

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>36,975.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>14,350.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>531,528.00</td>
</tr>
</tbody>
</table>

64—Barboursville State Hospital
Acct. No. 424

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>211,288.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>128,435.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>17,900.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>6,150.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>363,773.00</td>
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</table>

65—Fairmont Emergency Hospital
Acct. No. 425

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>106,880.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>70,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>6,800.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>5,500.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>189,180.00</td>
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</tbody>
</table>

66—Welch Emergency Hospital
Acct. No. 426

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>120,320.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>121,100.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>13,500.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>6,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>260,920.00</td>
</tr>
</tbody>
</table>

67—Hopemont Sanitarium
Acct. No. 430

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>420,320.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>292,850.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>15,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>10,900.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>739,070.00</td>
</tr>
</tbody>
</table>
68—Pinecrest Sanitarium
Acct. No. 431

1 Personal Services .............................................. $537,360.00
2 Current Expenses .................................................. $462,940.00
3 Repairs and Alterations ....................................... $26,500.00
4 Equipment ................................................................ $11,500.00

5 Total .................................................................. $1,038,300.00

69—Denmar State Hospital
Acct. No. 432

1 Personal Services .................................................. $183,440.00
2 Current Expenses .................................................. $134,375.00
3 Repairs and Alterations ....................................... $10,000.00
4 Equipment ................................................................ $6,400.00

5 Total .................................................................. $334,215.00

70—Berkeley Springs Sanitarium
Acct. No. 436

1 Personal Services .................................................. $27,800.00
2 Current Expenses .................................................. $6,800.00
3 Repairs and Alterations ....................................... $1,000.00
4 Equipment ................................................................ $1,600.00

5 Total .................................................................. $37,200.00

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 Public Assistance to meet actual per capita costs for hospitalization of needy West Virginia patients at these institutions.
# Appropriations

## Ch. I] Appropriations

### 72—State Board of Education—Rehabilitation Division

**Acct. No. 440**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$153,730.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$34,010.00</td>
</tr>
<tr>
<td>3 Rehabilitation Center</td>
<td>$85,090.00</td>
</tr>
<tr>
<td>4 Case Services</td>
<td>$234,947.00</td>
</tr>
<tr>
<td>5 Supervisory Service for Vending Stand Program for the Blind</td>
<td>$11,920.00</td>
</tr>
<tr>
<td>6 Training and Special Projects</td>
<td>$11,040.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$530,737.00</strong></td>
</tr>
</tbody>
</table>

### BUSINESS AND INDUSTRIAL RELATIONS

#### 73—Bureau of Labor and Department of Weights and Measures

**Acct. No. 450**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$195,126.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$59,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$259,126.00</strong></td>
</tr>
</tbody>
</table>

### 74—Department of Mines

**Acct. No. 460**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$637,300.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$141,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$35,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$813,800.00</strong></td>
</tr>
</tbody>
</table>

### 75—Commission on Interstate Cooperation

**Acct. No. 472**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>2 Out of the above appropriation the sum of $7,500.00 may be made</td>
<td></td>
</tr>
<tr>
<td>3 available for West Virginia's membership in The Council of State</td>
<td></td>
</tr>
<tr>
<td>4 Governments.</td>
<td></td>
</tr>
</tbody>
</table>
76—Interstate Commission on Potomac River Basin

Acct. No. 473

1 West Virginia’s contribution to Potomac 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 River Valley Water Sanitation Commission........ $ 15,860.00

78—Southern Regional Education Board

Acct. No. 475

1 West Virginia’s Contribution to Southern Regional Education Board............. $ 28,000.00
3 To be expended upon requisition of the Governor.

79—Department of Banking

Acct. No. 480

1 Personal Services........................................ $ 71,660.00
2 Current Expenses......................................... 27,980.00
3 Equipment .................................................. 1,000.00

4 Total ....................................................... $ 100,640.00

80—West Virginia State Aeronautics Commission

Acct. No. 485

1 Personal Services........................................ $ 8,820.00
2 Current Expenses......................................... 3,550.00
3 Aerial Markers............................................ 2,500.00

4 Total ....................................................... $ 14,870.00
### Ch. 1] Appropriations

#### 81—West Virginia Industrial and Publicity Commission

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$71,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$63,350.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$136,310.00</strong></td>
</tr>
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</table>

#### 82—West Virginia Centennial Commission

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenses for planning 1963 Centennial celebration</td>
<td>$18,340.00</td>
</tr>
</tbody>
</table>

#### 83—West Virginia Non-intoxicating Beer Commissioner

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$81,650.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$41,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$800.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$123,950.00</strong></td>
</tr>
</tbody>
</table>

#### 84—West Virginia Racing Commission

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$49,860.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$60,160.00</strong></td>
</tr>
</tbody>
</table>

#### AGRICULTURE

##### 85—Department of Agriculture

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Commissioner</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$134,100.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$63,600.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>5 Eradication and Control of White Pine Blister</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>
### Appropriations

#### 6 Eradication and Prevention of Livestock Diseases
- 7 Eradication and Control of Japanese beetle and other plant pests
- 8 Aid to Dairy Development Program
- 9 Eradication and Control of Oak Wilt

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>$145,000.00</td>
</tr>
<tr>
<td>7</td>
<td>$14,880.00</td>
</tr>
<tr>
<td>8</td>
<td>$51,820.00</td>
</tr>
<tr>
<td>9</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$483,400.00</td>
</tr>
</tbody>
</table>

#### 86—Department of Agriculture—Soil Conservation Committee

**Acct. No. 512**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$48,100.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$22,250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$70,350.00</strong></td>
</tr>
</tbody>
</table>

#### 87—Department of Agriculture—Marketing and Research

**Acct. No. 513**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 For cooperation with the Federal Government in a program of marketing and research</td>
<td>$59,000.00</td>
</tr>
<tr>
<td>Any part or all of this appropriation may be transferred to Special Revenue Fund for the purpose of matching federal funds for the above-named program.</td>
<td></td>
</tr>
<tr>
<td>Any unexpended balance remaining in the Farm Market Facilities Account at the close of the fiscal year 1957-58 is hereby reappropriated for expenditure during the fiscal year 1958-59.</td>
<td></td>
</tr>
</tbody>
</table>

#### 88—Department of Agriculture—Agricultural Awards

**Acct. No. 515**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Agricultural Awards</td>
<td>$39,500.00</td>
</tr>
<tr>
<td>2 West Virginia State Fair</td>
<td>$22,500.00</td>
</tr>
<tr>
<td>3 Mountain State Forest Festival</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$72,000.00</strong></td>
</tr>
</tbody>
</table>
To be expended at the discretion of the Commissioner of Agriculture in accordance with law.

CONSERVATION AND DEVELOPMENT

89—Geological and Economic Survey Commission

Acct. No. 520

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$72,570.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$27,080.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$3,650.00</td>
</tr>
<tr>
<td>Cooperative Mapping Program</td>
<td>$60,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$163,300.00</strong></td>
</tr>
</tbody>
</table>

Of the above appropriation for Current Expenses, the sum of $15,000.00 may be used to cooperate with the United States Geological Survey in Ground Waters Resources Study.

Of the above appropriation for Cooperative Mapping Program the sum of $10,000.00 may be used for preparation of accurate geographic and political maps of West Virginia.

90—Conservation Commission

Acct. No. 521

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$227,920.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>Oak Wilt Control</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Advertising and Publicity</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$257,920.00</strong></td>
</tr>
</tbody>
</table>

Out of the above appropriation the sum of $80,000.00 under Personal Services and $16,000.00 Current Expenses shall be used to match federal funds under the Pittman-Robertson and Dingell-Johnson programs.
91—Conservation Commission—Division of State Parks

Acct. No. 522

1 Personal Services ........................................... $ 212,980.00
2 Current Expenses ........................................... 127,300.00
3 Repairs and Alterations ................................. 38,155.00
4 Equipment .................................................. 5,100.00
5 Forestry Camp Expense .............................. 26,928.00

6 Total ........................................................... $ 410,463.00

92—Conservation Commission—Clarke-McNary

Acct. No. 523

1 For cooperation with the United States Department of Agriculture in Fire Prevention and Control ........................................ $ 75,000.00
4 Any unexpended balance remaining in this account at the close of the fiscal year 1957-58 is hereby reappropriated for expenditure during the fiscal year 1958-59.

93—Conservation Commission—Historical Monuments and Parks

Acct. No. 561

1 Care and maintenance of:
2 Point Pleasant Battle Monument and Park $ 4,000.00
3 Rumsey Monument and Park ......................... 1,500.00
4 Morgan Morgan Memorial .......................... 400.00
5 Fairfax Stone ............................................ 400.00
6 Booker T. Washington Park ....................... 500.00
7 Cathedral Park ........................................ 2,000.00
8 Pinnacle Rock Park ................................ 1,500.00

9 Total ........................................................... $ 10,300.00

94—Department of Veterans Affairs

Acct. No. 564

1 In aid of Memorial Day Patriotic Exercises $ 2,000.00
2 To be expended subject to the approval of the
3 Department of Veterans Affairs upon presentation of satisfactory plans by the Graf-тон G.A.R. Post, American Legion, Veterans of Foreign Wars and Sons of Veterans.

### PROTECTION

#### 95—Department of Public Safety

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$1,064,020.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$614,543.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$21,960.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$112,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,813,023.00</strong></td>
</tr>
</tbody>
</table>

#### 96—Adjutant General—State Militia

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$48,068.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$153,015.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$7,200.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$6,300.00</td>
</tr>
<tr>
<td>Compensation of Commanding Officers, Clerical Allowances and Uniform Allowances</td>
<td>$71,960.00</td>
</tr>
<tr>
<td>Property Maintenance</td>
<td>$47,240.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$333,783.00</strong></td>
</tr>
</tbody>
</table>

#### 97—Division of Civilian Defense

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$19,770.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$5,450.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$2,350.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$27,570.00</strong></td>
</tr>
</tbody>
</table>
98—State Armory Board
Acct. No. 582
1 For insurance, maintenance, repair and
2 equipment for state-owned Armories $30,000.00

99—Department of Mental Health—Insurance
Acct. No. 583
1 Fire Insurance Premiums $57,413.00
2 To pay insurance premiums on buildings at
3 state institutions under the supervision of
4 the Department of Mental Health.
5 The above appropriation is for premiums for
6 a three-year period.

100—State Board of Education—Insurance
Acct. No. 584
1 Fire Insurance Premiums $55,000.00
2 To pay fire insurance premiums on buildings
3 at 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.
8 To insure contents of buildings $6,974.00
9 To insure contents of non-revenue produc-
10 ing buildings.
11 Second annual installment due on a policy
12 covering a five-year period ending June
14 Total $61,974.00

101—Commissioner of Public Institutions—Insurance
Acct. No. 585
1 Fire Insurance Premiums $50,000.00
2 To pay insurance premiums on buildings at
3 state institutions under the supervision of
4 Commissioner of Public Institutions.
5 The above appropriation is for premiums for
6 a three-year period.

102—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

103—West Virginia Board of Examiners
For Practical Nurses
Acct. No. 587
1 To pay the per diem of members and other
2 general expenses $10,000.00
3 From Collections $10,000.00

104—State Board of Examiners for Registered Nurses
Acct. No. 588
1 To pay the per diem of members and other
2 general expenses $27,750.00
3 From Collections $27,750.00

105—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

106—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
107—State Board of Osteopathy
Acct. No. 591
1 To pay the per diem of members and other
general expenses $1,500.00
3 From Collections $1,500.00

108—State Board of Optometry
Acct. No. 592
1 To pay the per diem of members and other
general expenses $2,400.00
3 From Collections $2,400.00

109—State Board of Embalmers and Funeral Directors
Acct. No. 593
1 To pay the per diem of members and other
general expenses $10,000.00
3 From Collections $10,000.00

110—State Board of Registration for Professional Engineers
Acct. No. 594
1 To pay the per diem of members and other
general expenses $15,000.00
3 From Collections $15,000.00

111—State Board of Architects
Acct. No. 595
1 To pay the per diem of members and other
general expenses $3,000.00
3 From Collections $3,000.00

112—State Veterinary Board
Acct. No. 596
1 To pay the per diem of members and other
general expenses $500.00
3 From Collections $500.00
113—State Board of Law Examiners
Acct. No. 597
1 To pay the per diem of members and other general expenses $ 2,400.00

114—W. Va. Board of Sanitarians
Acct. No. 599
1 To pay the per diem of members and other general expenses $ 900.00
3 From Collections $ 900.00

115—Auditor’s Office—Social Security
Acct. No. 630
1 To match contributions of state employees for social security $ 450,000.00
3 The above appropriation is intended to cover the state’s share of social security costs for those spending units operating from General Revenue Fund and General School Fund appropriations. The State Road Commission, Department of Motor Vehicles, Workmen’s Compensation Commission, Public Service Commission, and other departments operating from Special Revenue Funds and/or Federal Funds shall pay their proportionate share of the social security cost for their respective divisions.

Any unexpended balance remaining in the appropriation “To match contributions of state employees for social security” at the close of the fiscal year 1957-58 is hereby reappropriated for expenditure during the fiscal year 1958-59.

Sec. 2. Appropriations from Other Funds.—From the funds designated there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chap-
ter 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-nine.

116—State Road Commission—General Administration
and Engineering
Acct. No. 670

<table>
<thead>
<tr>
<th>TO BE PAID FROM STATE ROAD FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services             $425,000.00</td>
</tr>
<tr>
<td>2 Current Expenses              90,000.00</td>
</tr>
<tr>
<td>3 Equipment                     8,000.00</td>
</tr>
</tbody>
</table>

Total $523,000.00

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 re-
cipts of the state road fund is hereby ap-
propriated first for the payment of interest
on and principal of outstanding road bonds
and thereafter for maintenance, construc-
tion and reconstruction of state roads, in
accordance with the provisions of chapter
seventeen of the code of West Virginia,
one thousand nine hundred thirty-one, as
amended.

117—Department of Motor Vehicles
Acct. No. 671

<table>
<thead>
<tr>
<th>TO BE PAID FROM STATE ROAD FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services             $550,000.00</td>
</tr>
<tr>
<td>2 Current Expenses              184,405.00</td>
</tr>
<tr>
<td>3 Equipment                     9,000.00</td>
</tr>
<tr>
<td>4 Purchase of License Plates    120,000.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund $12,500.00</td>
</tr>
</tbody>
</table>

Total $875,905.00
### 118—State Tax Commissioner—Gasoline Tax Division

**Acct. No. 672**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$75,670.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$20,350.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$1,600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$98,620.00</strong></td>
</tr>
</tbody>
</table>

### 119—State Board of Education

**Acct. No. 700**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$25,700.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$34,100.00</strong></td>
</tr>
</tbody>
</table>

### 120—State Board of Education—Vocational Division

**Acct. No. 701**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$23,310.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$6,500.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Vocational Aid</td>
<td>$300,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$330,810.00</strong></td>
</tr>
</tbody>
</table>

### 121—Department of Education—Veterans Education

**Acct. No. 702**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$55,320.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$14,415.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$69,735.00</strong></td>
</tr>
</tbody>
</table>
4 Expenditures from this appropriation shall not exceed the amount to be reimbursed by the Federal Government.

7 Federal funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the State Superintendent of Schools and approval of The Board of Public Works for any emergency which might arise in the operation of this division during the fiscal year.

122—Department of Education
Acct. No. 703
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Superintendent</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$195,980.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$71,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$280,480.00</strong></td>
</tr>
</tbody>
</table>

123—State Board of School Finance
Acct. No. 704
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,480.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,440.00</strong></td>
</tr>
</tbody>
</table>

124—Department of Education—School Lunch Program
Acct. No. 705
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$46,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,150.00</td>
</tr>
<tr>
<td>3 Aid to Counties—Includes hot lunches and canning for hot lunches</td>
<td>$125,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$181,150.00</strong></td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>125</td>
<td>Department of Education</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 706</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Salaries of County Superintendents</td>
<td>$62,000.00</td>
</tr>
<tr>
<td>126</td>
<td>Department of Education</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 707</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>State Aid to Children’s Homes</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>127</td>
<td>Auditor’s Office—Land Department</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 709</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$87,980.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$11,940.00</td>
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<tr>
<td>3</td>
<td>Equipment</td>
<td>$7,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>$106,920.00</td>
</tr>
<tr>
<td>128</td>
<td>Department of Education</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 715</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Scholarships for Teacher Training</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>129</td>
<td>Real Estate Commission</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Acct. No. 801</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TO BE PAID FROM SPECIAL REVENUE FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Social Security Matching Fund</td>
<td>$300.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>$27,300.00</td>
</tr>
</tbody>
</table>
6 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of license fees as provided by law.

130—Public Land Corporation
Acct. No. 802

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$9,750.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$4,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,750.00</strong></td>
</tr>
</tbody>
</table>

4 The total amount of this appropriation shall be paid from Special Revenue Fund out of income received by the corporation as provided by law.

131—West Virginia Racing Commission
Acct. No. 808

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Expenses</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

6 No expenditures shall be made from this account except for hospitalization, medical care, and/or funeral expenses for persons contributing to this fund.

132—Auditor's Office—Land Department
Operating Fund
Acct. No. 812

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$16,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$31,500.00</strong></td>
</tr>
</tbody>
</table>
4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund out of
6 fees and collections as provided by law.

133—Department of Finance and Administration
Division of Purchases—Revolving Fund
Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$73,860.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,331.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,500.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$1,600.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$97,291.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund as pro-
8 vided by Chapter 25-A, Article 2, Code of
9 West Virginia.

10 The above appropriation includes salaries
11 and operating expenses.

12 There is hereby appropriated from this fund,
13 in addition to the above appropriation, the
14 necessary amount for the purchase of sup-
15 plies for resale.

134—Department of Agriculture
Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$135,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$40,700.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$8,300.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$2,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$187,300.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund out of
8 collections made by the Department of
9 Agriculture as provided by law. It is the
10 intention that special funds in excess of the
amounts hereby appropriated shall be
made available by budget amendments up-
on request of the Commissioner of Agri-
culture.

135—State Committee of Barbers and Beauticians

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$17,300.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,250.00</td>
</tr>
<tr>
<td>3 Social Security</td>
<td>$350.00</td>
</tr>
<tr>
<td>Total</td>
<td>$25,900.00</td>
</tr>
</tbody>
</table>

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

136—Insurance Commissioner

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$98,360.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$12,930.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Social Security</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$114,290.00</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for license and report fees as provided by law.

137—Insurance Commissioner—Fire Marshal

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$79,820.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$22,940.00</td>
</tr>
</tbody>
</table>
3 Equipment .............................................. 5,800.00
4 Building Repair and Maintenance ............. 2,600.00
5 Social Security Matching Fund ................. 1,650.00

6 Total ............................................... $112,810.00

7 The total amount of this appropriation shall
8 be paid from Special Revenue Fund out
9 of collections of the special tax of one-
10 half of one per cent of premium receipts
11 of fire insurance companies as provided
12 by law.

138—Public Service Commission

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salaries of Commissioners ......................... 24,000.00
2 Other Personal Services ............................. 262,120.00
3 Current Expenses ..................................... 33,430.00
4 Equipment ............................................ 4,600.00
5 Social Security Matching Fund .................... 5,000.00

6 Total ............................................... $329,150.00

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

139—Public Service Commission—Motor Carrier
Division

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services ................................... $138,500.00
2 Current Expenses ................................... 40,300.00
The total amount of this appropriation shall be paid from Special Revenue Fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as authorized by law.

140—Conservation Commission

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$674,920.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$370,930.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$95,510.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$82,000.00</td>
</tr>
<tr>
<td>5 Buildings, Land and Improvements</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>6 Land Purchase</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>7 National Forests</td>
<td>$56,220.00</td>
</tr>
<tr>
<td>8 White Pine Blister Rust Control</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>9 Oak Wilt Control</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>10 For payment of bounties</td>
<td>$500.00</td>
</tr>
<tr>
<td>11 For construction of ponds and small lakes</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>12 For restocking of game</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>13 Social Security Matching Fund</td>
<td>$12,700.00</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected by the Conservation Commission. Expenditures shall be limited to the amounts appropriated except for Federal Funds received and Special Funds collected at state parks. Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Conservation Commission and approval of The Board of...
26 Public Works for any emergency which
27 might arise in the operation of this Divis-
28 ion during the fiscal year.

141—Department of Public Safety—Inspection Fees

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services $79,800.00
2 Current Expenses 72,470.00
3 Repairs and Alterations 6,000.00
4 Equipment 12,000.00
5 Social Security Matching Fund 325.00

6 Total $170,595.00

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

142—Department of Public Safety—Instruction Permit Fees

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services $41,820.00
2 Current Expenses 26,830.00

3 Total $68,650.00

4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund out of
6 fees collected for instruction permits as
7 provided by law.

143—West Virginia Liquor Control Commission

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salary of Commissioner $10,000.00
2 Other Personal Services 2,571,680.00
3 Current Expenses 698,650.00
4 Repairs and Alterations .......................... $17,200.00
5 Equipment .......................................... $27,500.00
6 Social Security Matching Fund .................. $58,000.00

7 Total ................................................ $3,383,030.00

8 The total amount of this appropriation shall
9 be paid from Special Revenue Fund out
10 of liquor revenues.
11 The above appropriation includes the sala-
12 ries of store personnel, store inspectors,
13 store operating expenses and equipment;
14 and salaries, expenses and equipment for
15 administration offices.
16 There is hereby appropriated from liquor
17 revenues, in addition to the above appro-
18 priation, the necessary amount for the
19 purchase of liquor, as provided by law.

144—West Virginia Merit System Council
Acct. No. 840
TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .................................. $36,440.00
2 Current Expenses .................................. $9,880.00
3 Social Security Matching Fund .................. $550.00

4 Total ................................................. $46,870.00

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

145—Department of Labor—Bedding Division
Acct. No. 843
TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .................................. $7,980.00
2 Current Expenses .................................. $4,550.00

3 Total ................................................. $12,530.00
4 The total amount of this appropriation shall
5 be paid from Special Revenue Fund out of
6 fees, fines and penalties as provided by
7 law.

146—Workmen’s Compensation Commission

Acct. No. 900

TO BE PAID FROM WORKMEN’S COMPENSATION FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$585,300.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$230,104.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$10,600.00</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$13,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$839,004.00</strong></td>
</tr>
</tbody>
</table>

6 There is hereby authorized to be paid out of
7 the above appropriation for Current Ex-
8 penses the amount necessary for the pre-
9 miums on bonds given by the State Treas-
10 urer and bond custodian for the protec-
11 tion of the Workmen’s Compensation
12 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 following
4 amounts, as itemized, for expenditure during the fiscal year
5 one thousand nine hundred fifty-eight, to supplement the
6 1957-58 appropriations, and to be available for expenditure
7 upon date of passage.

147—Circuit Courts

Acct. No. 111

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>$8,000.00</td>
</tr>
</tbody>
</table>

148—Board of Probation and Parole

Acct. No. 123

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>
149—Auditor’s Office
Acct. No. 150

1 Current Expenses .................................... $ 1,000.00

150—Teachers’ Retirement Board
Acct. No. 298

1 Expense Fund ....................................... $ 2,500.00

151—West Virginia Racing Commission
Acct. No. 495

1 Personal Services .................................. $ 4,230.00
2 Current Expenses .................................... $ 2,500.00

3 Total ................................................. $ 6,730.00

152—W. Va. Board of Sanitarians
Acct. No. 599

1 To pay the per diem of members and other
2 general expenses .................................... $ 600.00
3 From Collections ....................................... $ 600.00

Sec. 4. Appropriations from Surplus Revenues.—The following items are appropriated from the General Revenue Fund, subject to the following terms and conditions:

(a) The following items are hereby appropriated and are to be available for expenditure only out of the surplus in the Treasury on the first day of July, 1958, or at the time release or encumbrance of any such items is made, subject to the conditions and limitations hereinafter expressed.

(b) The Board of Public Works, at its discretion, may release a part or all of any of the items hereinafter set forth in this section at any time after date of passage of this act, provided, that the total of such releases made prior to July 1, 1958, shall not exceed $55,000.00.

(c) Expenditures authorized, which are for construction purposes, shall be for a complete and usable unit or project
including necessary equipment, and in any case where additional funds are available, by aid from a Federal Agency or other source, such fact may be considered by the board in determining what items should at any time be encumbered or released for expenditure: *Provided,* That in making such release the board shall first determine that all funds available will be provided for completion of a complete and usable unit or project, including necessary equipment.

(d) Any of the items under this section may be released or encumbered made therefor at any time after the first day of July, 1958, as the board may deem proper, subject to the limitations herein.

Subject to the foregoing conditions, the following appropriations are made for the purposes named in this section:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State Armory Board, for purchase of lands, construction or repair of armories or acquisition of armories and/or matching federal funds for purchase, construction or repair to armories</td>
<td>$55,000.00</td>
</tr>
</tbody>
</table>

In the event that the amount of surplus shall exceed the estimated $1,804,618.00 as shown in the budget document, the Board of Public Works shall from any excess over such estimated amount release in the order as set out herein the following amounts, or so much thereof as available funds will permit, for:

| First: | To the Department of Agriculture, for construction of a poultry laboratory at Moorefield, West Virginia, the sum of | $25,000.00 |
| Second: | To the Department of Agriculture, for construction of additional farm market facilities at Beckley, West Virginia, the sum of | $15,000.00 |
| Third: | To the FFA-FHA Camp and Conference Center, for blacktopping road and parking areas, the sum of | $18,000.00 |
Fourth: To the Conservation Commission
- Division of State Parks, for construction of an amphitheater at Grandview State Park, the sum of ................................................... $ 50,000.00

Fifth: To the Conservation Commission, for improvements at Panther State Forest, as follows: (a) Blacktopping road, $16,000.00; (b) Bathhouse, $25,000.00; (c) Trail Improvements, $3,500.00; (d) Game Courts, $2,500.00; (e) Tent Camp development, $3,000.00; (f) Picnic Shelters, $9,000.00; (g) Wading Pool for small Children, $15,000.00 $ 74,000.00

Sixth: To Shepherd College, for completion of athletic field ........................................ $ 30,000.00

Seventh: To Concord College, for completion of athletic field ........................................ $ 40,000.00

Eighth: To the Conservation Commission — Division of State Parks, for improvements at North Bend State Park .................................. $ 25,000.00

Ninth: To the Conservation Commission — Division of State Parks, for purchase of land and construction of dam at Cathedral State Park .................................. $ 5,000.00

Tenth: To the Conservation Commission, for improvements at Kanawha State Forest $ 50,000.00

Eleventh: To the Conservation Commission — Division of State Parks, for improvement at Cedar Creek State Park .................................. $ 25,000.00

Twelfth: To the Conservation Commission — Division of State Parks, for improvement of Camp Creek State Forest ........................................ $ 17,000.00

Thirteenth: To the Conservation Commission, for planning Sutton Reservoir Recreation Area .................................................. $ 2,000.00

Fourteenth: To the Conservation Commission — Division of State Parks, for improvement at Tomlinson Run State Park ....... $ 3,000.00
89  Fifteenth: To the Conservation Commission, for improvement at Marland Lake Recreation Area $2,000.00

92  Sixteenth: To the Andrew S. Rowan Memorial Home, for installation of a sprinkler system $93,000.00

95  Seventeenth: To the Conservation Commission-Division of State Parks, for land acquisition and its improvement at Droop Mountain Battlefield State Park $4,000.00

99  Eighteenth: To the Conservation Commission-Division of State Parks, for improvements at Holly River State Park as follows: To surface roads and parking area, $4,000.00; water supply system, $7,000.00 $11,000.00

104  Nineteenth: To the Conservation Commission-Division of State Parks, for paving and improvement of roads at Watoga State Park $40,000.00

108  Twentieth: To the Conservation Commission-Division of State Parks, for construction of a swimming pool at Blackwater Falls State Park $50,000.00

112  Twenty-first: To the Conservation Commission, for construction of a fishing lake in the counties of Tyler and/or Doddridge $25,000.00

115  Twenty-second: To the Conservation Commission, for a lake for recreational purposes to be administered by the conservation commission at or near Wardensville in Hardy County $35,000.00

120  Twenty-third: To the Conservation Commission, for a lake at Sleepy Creek State Forest $25,000.00

Sec. 4-a. Appropriation for Medium Security Prison.—The following item is appropriated from the Special Revenue Fund.
Item 1: Medium Security Prison, to construct two (2) farm buildings to house and repair farm machinery and equipment. To be paid from the Farm Sales Account $40,000.00

Sec. 5. Reappropriations.—The date for expiring the unexpended balances, if any, in items 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and appropriations, in subsequent paragraph made to Marshall College, State Tax Commissioner and the Department of Public Safety, in the appropriations made by and under authority of Sec. 5 of the 1957 Budget Act is extended to June 30, 1959, and is hereby reappropriated to June 30, 1959.

Item 12, Forestry Camp For Boys, as herein reappropriated may be used to purchase, construct and equip buildings at the present site of the Forestry Camp for Boys and such authority shall become effective from date of passage of this act.

Item 13, Industrial Home for Girls, as herein reappropriated, may be used for construction of one large cottage, in lieu of two cottages as previously appropriated.

Item 16, Weston State Hospital, subsection (c) as herein reappropriated shall be used to purchase Laundry Equipment.

Item 23, Conservation Commission—Division of State Parks, out of the amounts hereby reappropriated in each and every subsection, a sum not to exceed $5,000.00 may be used for the purchase of land.

The date for expiring the unexpended balance, if any, in item 1 in the appropriations made by and under authority of Sec. 4-a of the 1956 Budget Act and reappropriated under Sec. 6 of the 1957 Budget Act is extended to June 30, 1959, and is hereby reappropriated to June 30, 1959. Subsection (f), of Item 1, as herein reappropriated under this section, may be expended for the construction of a swimming pool at Cedar Creek State Park.
Sec. 6. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred fifty-nine 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. 7. 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. 8. 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. 9. 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. 10. Appropriations from Taxes and License Fees.—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. 11. Appropriations to Pay Costs of Publication of Delinquent Corporations.—There is hereby appropriated out of the state fund, general revenue, out of funds not otherwise appropriated to be paid upon requisition of the auditor and/or the governor, as the case may be, a sum sufficient to pay the cost of publication of delinquent corporations as provided by sections seventy-five and seventy-seven of article twelve, chapter eleven, code of West Virginia.

Sec. 12 Appropriations for Local Governments.—There is hereby appropriated for payment to counties, districts, and municipal corporations such amounts as will be neces-
4 sary to pay taxes due county, district, and municipal cor-
5 porations and which have been paid into the treasury:
6  (a) For the redemption of lands;
7  (b) By public service corporations;
8  (c) For tax forfeitures.

Sec. 13. Total Appropriations.—Where only a total sum
2 is appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital 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 nine,
5 chapter eighteen of the code of West Virginia, one thousand
6 nine hundred thirty-one, as amended.

Title 3. Administration.

Section 1. Appropriations Conditional.

Section 2. Constitutionality.

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

Sec. 2. Constitutionality.—If any part of this act is de-
2 clared unconstitutional by a court of competent jurisdiction,
3 its decision shall not affect any portion of this act which
4 remains, but the remaining portions shall be in full force
5 and effect as if the portion declared unconstitutional had
6 never been a part of the act.
CHAPTER 2
(House Bill No. 26—By Mr. Kessel and Mr. Myles)

AN ACT to amend and reenact sections six-(ten) and six-(twenty-nine), article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assistant prosecuting attorneys and stenographer to the prosecuting attorney in the counties of Fayette and Mineral.

[Passed February 5, 1958, in effect from passage. Approved by the Governor.]

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

Section 6-(10). Fayette county.
Section 6-(29). Mineral county.

Be it enacted by the Legislature of West Virginia:
That sections six-(ten) and six-(twenty-nine), 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 6-(10). Fayette County.—For the county of
2 Fayette, first assistant attorney, five thousand dollars;
3 second assistant attorney, four thousand four hundred
4 dollars; one stenographer at a salary to be fixed by the
5 county court.

Sec. 6-(29). Mineral County.—For the county of
2 Mineral, one assistant attorney, not more than one thou-
3 sand two hundred dollars; one stenographer, not more
4 than three thousand dollars.

CHAPTER 3
(House Bill No. 9—By Mr. McCoy)

AN ACT to amend and reenact section one-v, 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 twenty-second judicial circuit.

[Passed January 28, 1958; in effect ninety days from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate Judges.

Section 1-v. Twenty-second circuit.

Be it enacted by the Legislature of West Virginia:
That section one-v, 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-v. Twenty-second Circuit.—For the county of Hampshire, on the first Tuesday in January, March and July, and the third Tuesday in September.

For the county of Hardy, on the third Tuesday in February, June and October.

For the county of Pendleton, on the third Tuesday in March, the fourth Tuesday in July, and the first Tuesday in November.

CHAPTER 4

(Senate Bill No. 3—By Mr. Carrigan and Mr. Martin)

AN ACT to amend and reenact section two, article eight, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to librarian, bond, assistants and compensation.

[Passed February 5, 1958; in effect July 1, 1958. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That section two, article eight, 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 2. Librarian; Bond; Assistants; Compensation.—
The supreme court of appeals, or the judges thereof in vacation, shall appoint a competent librarian to have immediate custody of the West Virginia law library under the direction of the court. Such librarian shall give bond in a penalty fixed by the court of not less than two nor more than five thousand dollars, with surety thereon, to be approved by the court, and conditioned as provided for official bonds. Such bond shall be deposited for safekeeping with the clerk of the court. The librarian shall be an officer of the court and shall hold his office and be removable at its pleasure. Vacancies in the office of librarian occurring during vacation of the court may be filled by appointment in writing made by the judges of the court, or any three of them. When, in the opinion of the court, other employees are needed for the proper protection and use of the library, it may employ such assistants as may be necessary for that purpose. The salary of the librarian shall be fixed by the court, and shall be not more than seven thousand dollars per annum payable in monthly installments, and the expense of such assistants shall be fixed by the court and shall be paid upon order of the court.

CHAPTER 5

(Senate Bill No. 34—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section three, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the provision of incentives encouraging the several counties of the state to raise additional funds for the support of free schools by designating a method of computing the local share of the counties in state school funds based on the true and actual value of property within each county, and providing for an
appraisal of such property by the state tax commissioner in order to determine said value.

[Passed February 3, 1958; in effect from passage. Approved by the Governor.]

Article 9-a. Allocation of State Aid for Schools.

Section 3. Computation of local share; appraisal by tax commissioner.

Be it enacted by the Legislature of West Virginia:

That section three, 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 3. Computation of Local Share; Appraisal by Tax Commissioner.—On the basis of the most recent survey of property valuations in the state, completed as to all classes of property in all counties determined by the tax commissioner under present or former provisions of this article, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in the preceding section, the amount of revenue which such levies would produce if levied upon one hundred per cent of the true and actual value of each of the several classes of property contained in the report or revised report of such value, made to it by the tax commissioner as follows: (1) The state board shall first take ninety-seven and one-half per cent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county. (2) The state board shall then apply these rates to the appraised value of other property in each classification in the county, as determined by the tax commissioner, and shall deduct therefrom five per cent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. Fifty per cent of the amount so determined shall be added to the ninety-seven
and one-half per cent of public utility taxes computed as provided above and this total shall be the local share of the particular county.

The tax commissioner shall make or cause to be made an appraisal of all non-utility property, both real and personal, in the several counties of the state. Such appraisal shall be based on the true and actual value of said property. In making or causing to be made such appraisal, the tax commissioner after consultation with the county court shall employ a competent property appraisal firm or firms to appraise industrial and commercial properties, which appraisal shall be under his supervision and direction. In making or causing to be made such appraisal, the tax commissioner may use such methods of checking property values and determining the amount of property in the several classes of property provided by law, and may use such accepted procedures as are customarily employed for appraisal purposes. He may employ such assistants as available appropriations will permit. Such appraisal of all said property in the several counties shall be completed prior to the first day of January, one thousand nine hundred sixty-one. Each year thereafter the tax commissioner shall maintain the appraisal by making or causing to be made such surveys, examinations, audits, maps and investigations of the value of the several classes of property in each county which should be listed and taxed under the several classifications, and shall determine the appraised value thereof based upon the true and actual values thereof. On the basis of information so ascertained, the tax commissioner shall annually revise his reports to the Legislature and to the state board concerning such appraisals, such reports to be made not later than the first day of January of each year.

As the appraisal of property in a county is completed under this section, the county assessor shall use such appraised valuation as a basis for determining the assessed valuation of the several classes of property. The ratio of assessed valuation to the new appraised valuation as determined under the provisions of this section shall not be
In conjunction with and as a result of the appraisal herein set forth the tax commissioner shall have the power, and it shall be his duty, to establish a permanent records system for each county in the state, consisting of:

(1) Tax maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property and lot lines, set forth dimensions or areas, indicate whether the land is improved, and identify the respective parcels or lots by a system of numbers, or symbols and numbers, whereby the ownership of such parcels and lots can be ascertained by reference to the property record cards and property owner's index;

(2) Property record cards arranged geographically according to the location of property on the tax maps, which cards shall set forth the location and description thereof, the acreage or dimensions, description of improvements, if any, the owner's name, address and date of acquisition, the purchase price, if any, set forth in the deed of acquisition, the amount of tax stamps, if any, on the deed, the assessed valuation, and the identifying number, or symbol and number, shown on the tax map;

(3) Property owner's index consisting of an alphabetical listing of all property owners, setting forth brief descriptions of each parcel or lot owned, and cross-indexed with the property record cards and the tax map.

The tax commissioner is hereby authorized and empowered to enter into such contracts as may be necessary, and for which funds may be available, to establish the permanent records system herein provided for, or may through his staff and employees, prepare and complete such system.

The cost of conducting the appraisal herein provided for shall be borne jointly by the state and the several counties in the following manner and terms: There shall be appropriated from the general revenue fund not less than one million five hundred thousand dollars for each of the three following fiscal years: One thousand nine hundred fifty-
Each county shall furnish, through its county court, not more than ten per cent of the cost of such appraisal or reappraisal and permanent records system for such county. Such county costs may be paid over a period of three years with the approval of the tax commissioner. If a county has employed a professional appraisal firm to conduct an appraisal or reappraisal of all or a part of non-utility property within the past five years, and such appraisal, or any other appraisal or reappraisal has been or shall have been accepted by the tax commissioner, credit shall be allowed to such county for its portion of the statewide appraisal costs and any contract with appraisal firm or firms shall not be made for appraisal or reappraisal of such property except and unless requested by such county, or shown to be necessary by the tax commissioner: Provided, however, That until the completion of the appraisal herein provided for in all of the fifty-five counties of the state, the local share for each county shall be determined on the basis of the annual survey of property valuations by the tax commissioner, in this state, as hereinbefore provided.

A detailed report of appraisal for each year similar to reports now being made showing the results of the survey for the previous year shall be made by the tax commissioner as of January first for the Legislature and the board of school finance.

Except as otherwise provided in this bill, the coordinated effort provided by House Concurrent Resolution No. 8 adopted by the Legislature, regular session, one thousand nine hundred fifty-seven, shall not be disturbed.

CHAPTER 6

(Senate Bill No. 18—By Mr. Bean, Mr. President, and Mr. Carrigan)

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-b, relating to the authority of the board of governors to collect fees and other charges from patients at the West Virginia university medical center and to the use and disposition thereof.

[Passed February 3, 1958; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.

Section 4-b. Authority to fix and collect fees and other charges at West Virginia university medical center; disposition thereof.

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-b, to read as follows:

Section 4-b. Authority to Fix and Collect Fees and Other Charges at West Virginia University Medical Center; Disposition Thereof.—The board of governors of West Virginia university shall have authority to collect from patients at the West Virginia university medical center such hospital, clinic, laboratory and other fees and charges as may be fixed by the board from time to time. All such fees and charges collected at the medical center shall be paid into the special medical school fund heretofore created in the state treasury under the provisions of section two, article nineteen, chapter eleven of this code, and shall be used solely for the construction; maintenance and operation of the medical center.

CHAPTER 7

(Senate Bill No. 19—By Mr. Bean, Mr. President, and Mr. Carrigan)

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 ten-a, relating to the authority of the board of governors of West Virginia university to establish, maintain and operate graduate centers of science and engineering.

[Passed January 31, 1958; in effect from passage. Approved by the Governor.]

Article 11. West Virginia University.
Section 10-a. Establishment and operation of graduate centers.

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 ten-a, to read as follows:

Section 10-a. Establishment and Operation of Graduate Centers.—The board of governors is hereby authorized and empowered to establish, maintain and operate one or more graduate centers of science and engineering at such place or places within the state as may be deemed advisable. For these purposes it is hereby authorized and empowered to enter into written contracts and/or agreements with any person for support of such graduate centers, and to accept gifts, donations, other contributions, facilities and aid in establishing and operating the same. The board shall provide for the charging and collection at each graduate center of such enrollment, tuition, registration and other fees or charges as the board may deem necessary to provide for the maintenance and operation of the center on a self-supporting basis. All such fees, charges, contributions, gifts and donations paid or collected at any graduate center shall be paid into a special fund and shall be used solely for the maintenance and operation of the graduate center at which they were collected.

No such graduate center shall be established unless and until the board of governors shall determine that all facilities, fees, contributions, charges, gifts and donations
paid, collected or available shall be sufficient to meet and
discharge all costs of the establishment, operation and
maintenance of such center. In the event the fees, charges,
gifts, donations, contributions, facilities and other aid will
not be sufficient to provide for the continued operation and
maintenance of such center on a self-supporting basis, as
hereinbefore set forth, the said board of governors shall
close the same at the end of the semester in which such
determination shall be made.

CHAPTER 8

(House Bill No. 46—By Mr. Christian, of Cabell, and Mr. Rife)

AN ACT to amend and reenact sections one, two and three,
article twelve-a, chapter eighteen of the code of West Vir­
ginia, one thousand nine hundred thirty-one, as amended,
relating to authorization to issue revenue bonds for certain
capital improvements at Marshall college.

[Passed February 5, 1958; in effect from passage. Approved by the Governor.]

Article 12-a. Revenue Bonds for Marshall College Capital Im­
provements.

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

3. Issuance of revenue bonds.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article twelve-a, chapter
eighteen of the code of West Virginia, one thousand nine hun­
dred thirty-one, as amended, be amended and reenacted 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 one million three 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 improvements fund as may be needed to meet the requirements of the sinking fund established in connection with any revenue bond issue authorized by this article, including a reserve fund for the payment of the principal of and interest on such revenue bond issue when other moneys in the sinking fund are insufficient.
therefor; and may provide in the resolution authorizing any issue of such bonds, and in any trust agreement made in connection therewith, for such priorities on the revenues paid into the special fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article.

If any balance shall remain in the special Marshall college capital improvements fund after the board has issued the maximum of one million three hundred fifty thousand dollars worth of bonds authorized by this article, and after the requirements of all sinking funds and reserve funds established in connection with the issue of such bonds have been satisfied, such balance may and shall be used solely for the redemption of any of the outstanding bonds issued hereunder which by their terms are then redeemable, or for the purchase of bonds at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. Whenever all outstanding bonds issued hereunder shall have been paid, the special Marshall college capital improvements fund shall cease to exist and any balance then remaining in such fund shall be transferred to the general revenue fund of the state. Thereafter all fees formerly paid into such special fund shall be paid into the general revenue fund of the state.

Sec. 3. Issuance of Revenue Bonds.—The issuance of bonds under the provisions of this article shall be authorized by a resolution of the board of education, which shall recite an estimate by the board of the cost of the proposed building or buildings; and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to provide moneys sufficient to pay such cost, less the amount of any other funds available for the construction of the building or buildings from any appropriation, grant or gift therefor. Such resolution shall prescribe the rights and duties of the bondholders and the board, and for such purpose may prescribe the form of the
trust agreement hereinafter referred to. The bonds shall be of such series, bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rate or rates not exceeding five per cent per annum, payable semi-annually; be in such denominations; be in such form, either coupon or fully registered without coupons, carrying such registration exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption at such prices not exceeding one hundred five per cent of the principal amount thereof, and be entitled to such priorities on the revenues paid into the special state colleges capital improvements fund as may be provided in the resolution authorizing the issuance of the bonds or in any trust agreement made in connection therewith. The bonds shall be signed by the governor, and by the president of the board of education, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the president of the board. In case any of the officers whose signatures appear on the bonds or coupons cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until such delivery.

Such bonds shall be sold in such manner as the board may determine to be for the best interests of the state, taking into consideration the financial responsibility of the purchaser, the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds when required for payment of the cost of such building or buildings, such sale to be made at a price not lower than a price which, when computed upon standard tables of bond values, will show a net return of not more than six per cent per annum to the purchaser upon the amount paid therefor. The proceeds of such bonds shall be used solely for the payment of the cost of such building or buildings, and shall be deposited in the state treasury in a special fund and checked out as provided
by law for the disbursement of other state funds. If the
proceeds of such bonds, by error in calculation or other-
wise, shall be less than the cost of such building or build-
ings, additional bonds may in like manner be issued to
provide the amount of the deficiency, but in no case to
exceed one million three hundred fifty thousand dollars
as provided in section one of this article; and unless other-
wise provided for in the resolution or trust agreement
hereinafter mentioned, shall be deemed to be of the same
issue, and shall be entitled to payment from the same
fund, without preference or priority, as the bonds before
issued for such building or buildings. If the proceeds of
bonds issued for such building or buildings shall exceed
the cost thereof, the surplus shall be paid into the sinking
fund to be established for payment of the principal and
interest of such bonds as hereinafter provided. Prior to
the preparation of definitive bonds, the board may, under
like restrictions, issue temporary bonds with or without
coupons, exchangeable for definitive bonds upon their
issuance.

The bonds issued under the provisions of this article
shall be and have all the qualities of negotiable instru-
ments under the law merchant and under the negotiable
instruments law of this state.

CHAPTER 9

(House Bill No. 31—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact section thirty-one, article one,
chapter twenty-five of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
the construction, etc., of dormitories, etc., at state educa-
tional institutions; fixing certain powers and duties in
connection therewith.

[Passed January 31, 1958; in effect from passage. Approved by the Governor.]
Article 1. Organization; General Powers and Duties; Supervision of State Institutions.

Section 31. State debt not permitted; acceptance of loans or temporary advances from, and contracts and agreements with, federal agencies or private parties.

Be it enacted by the Legislature of West Virginia:

That section thirty-one, article one, 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 31. State Debt not Permitted; Acceptance of Loans or Temporary Advances from, and Contracts and Agreements with, Federal Agencies or Private Parties.—Nothing in these sections dealing with dormitories, homes or refectories shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the constitution of this state in relation to the state debt. The dormitories, homes or refectories herein are of the character described as self-liquidating projects under the laws of the United States.

Any state agency authorized to issue bonds under the provisions of this article is authorized and empowered to accept loans or grants or temporary advances for the purpose of paying part or all of the cost of construction of the dormitories, homes or refectories and the other purposes herein authorized, from the United States of America or such federal or public agency or department of the United States or any private agency, corporation or individual, which temporary advances may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article and to enter into the necessary contracts and agreements to carry out the purposes hereof with the United States of America or such federal or public agency or department of the United States, or with any private agency, corporation or individual: Provided, however, That if such bonds are not sold to and purchased by the United States of America or any such
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29 federal or public agency or department, then the state
30 agency shall advertise such bonds for sale, on sealed bids,
31 which advertisement shall be published at least once a
32 week for three weeks, the first publication to be made at
33 least twenty-one days preceding the date fixed for the
34 reception of bids, in two newspapers published and of
35 general circulation in the state and of opposite political
36 affiliation, and such advertisement shall also be published
37 in a financial paper published either in the city of New
38 York, in the state of New York, or the city of Chicago, in
39 the state of Illinois. The state agency may reject any
40 and all bids. If the bonds be not sold pursuant to such
41 advertisement, they may, within sixty days after the date
42 advertised for the reception of bids, be sold by the state
43 agency at private sale, but no private sale shall be made
44 at a price less than the highest bid which shall have been
45 received pursuant to such advertisement. If not sold,
46 such bonds shall be readvertised in the manner herein
47 provided.

48 The provisions and parts of this act are separable and
49 are not matters of mutual essential inducement, and it is
50 the intention to confer the whole or any part of the
51 powers herein provided for, and if any of the sections or
52 provisions, or parts thereof, are for any reason illegal or
53 invalid, it is the intention that the remaining sections
54 and provisions or parts thereof shall remain in full force
55 and effect.

CHAPTER 10

(House Bill No. 16—By Mr. Speaker, Mr. Flannery, and Mr. Seibert)

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 February 1, 1958; in effect 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; (3) student activities, recreational, athletic and extracurricular fees; and (4) graduate center fees, if the establishment of graduate centers of science and engineering are otherwise authorized by law. All fees collected under (1), (2) and (3) shall be paid into special funds and shall be used only for the purposes for which the fees are collected, and all fees collected at any graduate center shall be paid into a special fund and shall be used solely for the maintenance and operation of the graduate center at which they were collected: Provided, however, That except in the case of graduate center fees, the maximum fees to be collected under this section for resident students shall not exceed two hundred dollars per semester; and for nonresident students, five hundred dollars per semester. The schedule of fees, and any changes therein, shall be entered in the minutes of the meetings of the governing board, and the governing board shall file with the state auditor and the director of the budget division a certified copy of such schedule and changes.

In addition to the fees mentioned in the preceding paragraph, but subject to all requirements and within the limits fixed thereby, the governing board of any state educational institution may impose and collect a
student union building fee. All such building fees collected at the institution shall be paid into a special fund and shall be used only for the eventual construction and operation of a student union building or for the renovation of an existing structure for use as a student union building, or for the payment of the principal of and interest on any bonds issued to finance part or all of the construction of a student union building or the renovation of an existing structure for use as a student union building. Until such time as the special fund, together with any other moneys available for the purpose, may be large enough to defray the cost of providing a student union building, all moneys in the fund may be invested in any such bonds or other securities as are now or may hereafter be authorized as proper investments for state funds.

Refund, as an erroneous payment, may be made of any such fees, upon the voluntary or involuntary withdrawal from classes of any student, until eight weeks of the school semester or term have expired, but no refund may be made thereafter.

CHAPTER 11

(Senate Bill No. 21—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend article one-a, chapter twenty-five 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-a, relating to the awarding of scholarships by the governing boards of state educational institutions.

[Passed January 30, 1958; in effect from passage. Approved by the Governor.]

Article 1-a. Fees and Other Money Collected at State Institutions.

Section
1-a. Scholarships at educational institutions; conditions and limitations.
Be it enacted by the Legislature of West Virginia:

That article one-a, 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, to be designated section one-a, to read as follows:

Section 1-a. Scholarships at Educational Institutions; Conditions and Limitations.—Scholarships entitling recipients to waiver of enrollment, tuition, registration, and other fees, heretofore established by the governing boards of state educational institutions, may be continued and other such scholarships may be established from time to time by the governing boards, subject to the following conditions and limitations:

(1) No state educational institution shall have in effect at any time such scholarships in a number which exceeds five per cent of the maximum number of full-time students registered at any time during the immediately preceding academic year.

(2) Each such scholarship shall entitle the recipient thereof to attend a designated state educational institution without payment of such enrollment, tuition, registration, and other fees as may be prescribed by the governing board of that institution and for a period of time not to exceed eight semesters of undergraduate study.

(3) The governing boards shall make rules governing the award of such scholarships, the issuance and cancellation of certificates entitling the recipients to the benefits thereof, the use of such scholarships by the recipients, and the rights and duties of the recipients in respect to such scholarships. Such rules shall not be inconsistent with the provisions of this section.

(4) The awarding of such scholarships shall be entered in the minutes of the meetings of the governing board, and the governing board shall file with the state auditor and the director of the budget division a certified copy of the rules governing the award of such scholarships and of a list of the names of the recipients thereof.
CHAPTER 12

(House Bill No. 36—By Mr. Myles)

AN ACT to amend article three, 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-a, relating to the additional premium tax on insurance.

[Passed February 6, 1958; in effect July 1, 1958. Became a law without the approval of the Governor.]

Article 3. Life Insurance.

Section 14-a. Additional premium tax.

Be it enacted by the Legislature of West Virginia:

That article three, 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, to be designated section fourteen-a, to read as follows:

Section 14-a. Additional Premium Tax.—For the purpose of providing additional revenue for the state general revenue fund, there is hereby levied and imposed, on and after midnight on the last day of June, one thousand nine hundred fifty-eight, in addition to the taxes imposed by section fourteen of this article, an additional premium tax equal to one percent of such gross direct premiums, including dividends (by whatever name called) on participating policies applied in reduction of premiums, less premiums returned to policyholders because of cancellation of policy. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular premium tax shall be applicable to the levy, imposition and collection of such additional tax.

All monies received from the additional tax imposed by this section, less deductions allowed by this article
for refunds and for costs of administration, shall be re-
ceived by the commissioner and shall be paid by him
into the state treasury for the benefit of the state fund.
The provisions of this act shall expire June thirty, one
thousand nine hundred sixty.

CHAPTER 13
(House Bill No. 2—By Mr. Myles and Mr. Seibert)

AN ACT to amend chapter twenty-two of the code of West
Virginia, one thousand nine hundred thirty-one, as
amended, by amending and reenacting article one and
article two thereof, and by adding to said chapter a new
article, designated article two-b, all relating to coal mining,
the safety and health of persons employed within or at
mines within this state and the protection and preservation
of mining property and property used in connection therewith; and providing penalties for violation of certain pro-
visions thereof.

[Passed February 4, 1958; in effect July 1, 1958. Approved by the Governor.]

Article
1. Administration; Enforcement.
2. Coal Mines.
2-b. Auger Mining.

Be it enacted by the Legislature of West Virginia:
That chapter twenty-two of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended
by amending and reenacting article one and article two thereof
and by adding to said chapter a new article, designated article
two-b, all to read as follows:

Article 1. Administration; Enforcement.
Section
1. Definitions.
2. Department of mines.
3. Director of the department of mines; appointment; term of office.
4. Same; powers and duties.
5. Same; eligibility; salary.
6. Same; oath; bond.
7. Mine inspectors; districts and divisions; employment; tenure; oath; bond.
8. Same; eligibility for appointment; qualifications; salary and expenses; removal.
10. Director and inspectors authorized to enter mines; duties of inspectors to examine mines; reports after fatal accidents.
11. Findings and orders of mine inspectors; special inspections; notice of findings and orders.
12. Review of findings and orders by director; special inspections; annulment, revision, etc., of order; notice.
13. Requirements for findings, orders and notices; offices and bulletin boards at mines; posting of findings or orders.
14. Coal mine safety board of review; creation; composition; appointment, term, oath and compensation of members; secretary; powers and duties generally.
15. Same; application for annulment or revision of finding or order; hearings; effect of filing application; temporary relief; evidence and burden of proof; findings and orders of board.
16. Same; review of other administrative action.
18. Penalties.
19. Mine rescue stations; equipment.
20. Mine rescue crews.
21. Supervision of mine rescue work.

Section 1. Definitions.—Mine: In this chapter the term “mine” shall include the shafts, slopes, drifts or inclines connected with excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected therewith which contribute directly or indirectly to the mining, preparation or handling of coal.

Operator: The term “operator” shall mean any firm, corporation, partnership or individual operating any coal mine or part thereof.

Department: The term “department” shall mean the state department of mines provided for in section two of this article.

Director of the Department of Mines: The term “director of the department of mines” shall mean the director
of the department of mines provided for in section three
of this article, and is synonymous with the term, "chief
of the department of mines."

Mine Inspector: The term "mine inspector" shall mean
a state mine inspector provided for in section seven of
this article.

Mine Inspectors' Examining Board: The term "mine
inspectors' examining board" shall mean the mine inspec-
tors' examining board provided for in section nine of this
article.

Coal Mine Safety Board of Review: The term "coal
mine safety board of review" shall mean the coal mine
safety board of review provided for in section fourteen
of this article.

Certified Person: The term "certified person", when
used to designate the kind of person to whom the per-
formance of a duty in connection with the operation of a
mine shall be assigned, shall mean a person who is quali-
fied under the provisions of this chapter to perform such
duty.

Sec. 2. Department of Mines.—There shall be a state
department of mines, which shall have for its purpose the
supervision of the execution and enforcement of the pro-
visions of this chapter, enacted for the protection of the
safety and health of persons employed within or at the
mines within this state, and for the protection and preser-
vation of mining property and property used in connection
therewith.

Sec. 3. Director of the Department of Mines; Appoint-
ment; Term of Office.—There shall be a director of the
department of mines, who shall be appointed by the gov-
ernor with the advice and consent of the senate and who
shall serve for a term of four years, subject to the pro-
visions of chapter six, article six, section four of this
code, as amended. The original term of the director of
the department of mines appointed under this section
shall commence as of the effective date of this article as
amended and all appointments to such office made there-
after shall be made for a full term of four years, except
that in case of a vacancy the appointment shall be made
for the unexpired term only.

Sec. 4. Same; Powers and Duties.—The director of the
department of mines shall have full charge of the depart-
ment. He shall have the power and duty to:

(1) Supervise and direct the execution and enforce-
ment of the provisions of this chapter;

(2) Appoint a deputy director of the department of
mines, fix his compensation and prescribe his powers and
duties;

(3) Employ such assistants, clerks, stenographers and
other employees as may be necessary and fix their com-
ensation, except as otherwise provided in this article;

(4) Employ mine inspectors and assign them to divi-
sions or districts in accordance with the provisions of sec-
tion seven of this article, and to supervise and direct such
mine inspectors in the performance of their duties;

(5) For good cause, to suspend any mine inspector
without compensation for a period not exceeding thirty
days in any calendar year;

(6) Prepare report forms to be used by mine in-
spectors in making their findings, orders and notices, upon
inspections made in accordance with this chapter;

(7) Hear and determine applications made by mine
operators for the annulment or revision of orders made
by mine inspectors, and to make inspections of mines, in
accordance with the provisions of this article;

(8) Cause a properly indexed permanent and public
record to be kept of all inspections made by himself or by
mine inspectors;

(9) Make annually a full and complete written report
of the administration of his department to the governor
of the state for the year ending the thirty-first day of
December. Such report shall include the number of visits
and inspections of mines in the state by mine inspectors,
the quantity of coal, coke and other minerals (including
oil and gas) produced in the state, the number of men
employed, number of mines in operation, statistics with
regard to health and safety of persons working in the
mines, improvements made, prosecutions, such other in-
formation in relation to the subject of mines, mine in-
spections and needed legislation as he may deem of public
interest and beneficial to the mining interest of the state.
Such reports shall be filed with the governor on or before
the thirtieth day of June next succeeding the year for
which it was made, and shall upon proper authority be
printed and distributed to interested persons;

(10) Conduct such research and studies as he shall
dee necessary to aid in protecting the health and safety
of persons employed within or at mines in this state, to
improve mining methods and to provide for the more
efficient protection and preservation of mines and prop-
erty used in connection therewith;

(11) Perform all other duties which are expressly im-
posed upon him by the provisions of this chapter.

All records of the department shall be open to the
public.

Sec. 5. Same; Eligibility; Salary.—The director of the
department of mines shall be a male citizen of West Vir-
ingia, shall be a competent person of good repute and tem-
perate habits and shall have had at least fifteen years' ex-
perience underground in coal mines, at least ten of which
shall have been underground in mines in this state. He
shall possess a practical knowledge of the different sys-
tems of working, ventilating and draining coal mines, and
a practical and scientific knowledge of all noxious and
dangerous gases found in such mines. A diploma in min-
ing engineering from the West Virginia university school
of mines, or any similarly accredited engineering school
shall be counted as two years' working experience. The
director shall devote all of his time to the duties of his
office, and shall not be directly or indirectly interested
financially in any mine in this state. The salary of the
director of the department of mines shall be twelve
thousand dollars per year, and traveling expenses, which
shall be paid out of the state treasury upon a requisition
upon the state auditor, properly certified by the director
of the department of mines.

Sec. 6. Same; Oath; Bond.—The director of the depart-
ment of mines shall, before entering upon the discharge of
his duties, take the oath of office prescribed by section five,
article four of the constitution, and shall execute a bond
in the penalty of two thousand dollars, with security to
be approved by the governor, conditioned upon the
faithful discharge of his duties, a certificate of which
oath and which bond shall be filed in the office of the
secretary of state.

Sec. 7. Mine Inspectors; Districts and Divisions; Em-
ployment; Tenure; Oath; Bond.—Notwithstanding any
other provisions of law, mine inspectors shall be selected,
serve and be removed as in this article provided.

The director of the department of mines shall divide
the state into not more than forty-five mining districts,
and not more than five mining divisions, so as to equalize,
as far as practical, the work of each inspector. He shall
assign inspectors to districts, designate and assign an
inspector at large for each such division and shall desig-
nate their places of abode, at points convenient to the
mines of their district or division.

Mine inspectors serving on the effective date of this
section, may continue to serve for a probationary period
not exceeding one year and shall be eligible to qualify
for appointment during such probationary period in
accordance with the provisions of section eight of this
article.

Except as in the next preceding paragraph provided, all
mine inspectors appointed after the mine inspectors' ex-
aming board has certified to the director of the de-
partment of mines an adequate register of qualified eli-
gible candidates in accordance with section eight of this
article, so long as such register contains the names of at
least three qualified eligible candidates, shall be appointed
from the names on such register. Each original appointment shall be made by the director of the department of mines for a probationary period of not more than one year.

The director of the department of mines shall make each appointment from among the three qualified eligible candidates on the register having the highest grades: *Provided, however, That the director of the department of mines may, for good cause, at least thirty days prior to making an appointment, strike any name from the register. Upon striking any name from the register the director of the department of mines shall immediately notify in writing each member of the mine inspectors' examining board of his action, together with a detailed statement of the reasons therefor. Thereafter, the mine inspectors' examining board, after hearing, if it finds that the action of the director of the department of mines was arbitrary or unreasonable, may order the name of any candidate so stricken from the register to be reinstated thereon. Such reinstatement shall be effective from the date of removal from the register.

Any candidate passed over for appointment for three years shall be automatically stricken from the register.

After having served for a probationary period of one year to the satisfaction of the director of the department of mines, a mine inspector shall have permanent tenure until he becomes sixty-five years of age, subject only to dismissal for cause in accordance with the provisions of section eight of this article. No mine inspector while in office shall be directly or indirectly interested as owner, lessor, operator, stockholder, superintendent or engineer of any coal mine. Before entering upon the discharge of his duties as a mine inspector, he shall take the oath of office prescribed by the constitution, and shall execute a bond in the penalty of two thousand dollars, with security to be approved by the director of the department of mines, conditioned upon the faithful discharge of his duties, a certificate of which oath and bond shall be filed in the office of the secretary of state.
Sec. 8. Same; Eligibility for Appointment; Qualifications; Salary and Expenses; Removal.—(a) No person shall be eligible for appointment as a mine inspector after the effective date of this article unless, at the time of his probationary appointment he: (1) Is a citizen of West Virginia, in good health, not less than thirty nor more than fifty-five years of age, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in coal mining, at least five years of which, immediately preceding his original appointment, shall have been in mines in this state: Provided, however, That graduation from the school of mines of West Virginia university or any other accredited college of mining engineering shall be considered the equivalent of two years' practical experience; (3) has had practical experience with dangerous gases found in coal mines; and (4) has a good theoretical and practical knowledge of mines, mining methods, mine ventilation, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as a mine inspector an eligible applicant shall submit to a written and oral examination by the mine inspectors' examining board and furnish such evidence of good health, character and other facts establishing eligibility as the board may require. If the board finds after investigation and examination that an applicant: (1) Is eligible for appointment and (2) has passed all written and oral examinations, with a grade of at least ninety percent, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the director of the department of mines. No candidate's name shall remain in the register for more than three years without requalifying.

(c) Salaries of mine inspectors shall not be less than seven thousand two hundred dollars per annum, nor more than eight thousand four hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector shall be fixed by the director of the department of mines, subject to the approval of the mine inspectors' examining board. In
fixing salaries of mine inspectors, the director of the department of mines shall consider ability, performance of duty, responsibility and experience. No reimbursement for traveling expenses shall be made except upon an itemized account of such expenses submitted by the inspector, who shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) A mine inspector, after having received a permanent appointment shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause.

Proceedings for the removal of a mine inspector may be initiated by the director of the department of mines whenever he has reasonable cause to believe and does believe that adequate cause exists, warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the board by the director of the department of mines, setting forth with particularity the facts alleged. Not less than twenty reputable citizens, who are operators or employees in mines in the state, may petition the director of the department of mines for the removal of a mine inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts which, if true, warrant the removal of the inspector, the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the director finds that there is substantial evidence which, if true, warrants removal of the inspector, he shall file a petition with the board requesting removal of the inspector.

On receipt of a petition by the director of the department of mines seeking removal of a mine inspector the board shall promptly notify the inspector to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days thereafter. There shall be attached to the copy of the notice served upon the inspector a copy of the petition filed with the board.

At the time and place designated in said notice, the
board shall hear all evidence offered in support of the petition and on behalf of the inspector. Each witness shall be sworn and a transcript shall be made of all evidence taken and proceedings had at any such hearing. No continuance shall be granted except for good cause shown.

The chairman of the board and the director of the department of mines shall have power to administer oaths and subpoena witnesses.

Any mine inspector who shall wilfully refuse or fail to appear before the board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to waive immunity from prosecution on account of any relevant matter about which he may be asked to testify at any such hearing before the board, shall forfeit his position.

If, after hearing, the board finds that the inspector should be removed, it shall enter an order to that effect. The decision of the board shall be final and shall not be subject to judicial review.

Sec. 9. Mine Inspectors' Examining Board.—There shall be a mine inspectors' examining board consisting of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the senate. Members so appointed may be removed only for the same causes and in like manner as elective state officers. One of the members of the board shall be a representative of the public who shall be the director of the school of mines at West Virginia university. Two members of the board shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine operators and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers.

The director of the department of mines shall be an ex officio member of the board, and shall serve as secre-
tary of the board without additional compensation, but he
shall have no right to vote with respect to any matter
before the board.

The members of the board, except the public representa-
tive, shall be appointed for overlapping terms of eight
years, except that the original appointments shall be for
terms of two, four, six and eight years, respectively. Any
member whose term expires may be reappointed by the
governor.

Each member of the board shall receive forty dollars
per diem while actually engaged in the performance of
the work of the board; and shall receive mileage at the
rate of ten cents for each mile actually traveled going
from the home of the member to the place of the meeting
of the board and returning therefrom, which shall be paid
out of the state treasury upon a requisition upon the state
auditor, properly certified by such members of the board.

The public member shall serve as chairman of the
board. Members of the board, before performing any duty
shall take and subscribe to the oath required by article
four, section five of the constitution of West Virginia.

The mine inspectors' examining board shall meet at
such times and places as shall be designated by the chair-
man. It shall be the duty of the chairman to call a meet-
ing of the board on the written request of three members
or the director of the department of mines. Notice of each
meeting shall be given in writing to each member by the
secretary at least five days in advance of the meeting.
Three members shall constitute a quorum for the trans-
action of business.

In addition to other duties expressly set forth elsewhere
in this article, the board shall:

(1) Establish, and from time to time revise, forms of
application for employment as mine inspector and forms
for written examinations to test the qualification of candi-
dates for that position;

(2) Adopt and promulgate reasonable rules and regu-
lations relating to the examination, qualification and cer-
tification of candidates for appointment as mine inspectors, and hearings for removal of inspectors, required to be held by this article. All of such rules and regulations shall be printed and a copy thereof furnished by the secretary of the board to any person upon request;

(3) Conduct, after public notice of the time and place thereof, examinations of candidates for appointment as mine inspector. By unanimous agreement of all members of the board, one or more members of the board or an employee of the department of mines may be designated to give to a candidate the written portion of the examination;

(4) Prepare and certify to the director of the department of mines a register of qualified eligible candidates for appointment as mine inspectors. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates, and at least annually, the board shall prepare and submit to the director of the department of mines a revised and corrected register of qualified eligible candidates for appointment as mine inspector, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such person was qualified and eligible for appointment as mine inspector, or (e) who, in the judgment of at least four members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscripts, grading sheets and other papers of all applicants for appointment as mine inspector, together with the correct solution of each question prepared by the examining board and the stenographer's transcript of the oral examinations of such applicants;
97 (6) Issue a certificate of qualification to each successful, eligible candidate;

99 (7) Hear and determine proceedings for the removal of mine inspectors in accordance with the provisions of this article;

102 (8) Hear and determine appeals of mine inspectors from suspension orders made by the director pursuant to the provisions of section four (5) of this article: Provided, however, That an aggrieved inspector in order to appeal from any order of suspension, shall file such appeal in writing with the mine inspectors' examining board not later than ten days after receipt of notice of suspension. On such appeal the board shall affirm the action of the director unless it be satisfied from a clear preponderance of the evidence that the director has acted arbitrarily;

109 (9) Make an annual report to the governor and the director of the department of mines concerning the administration of mine inspection personnel in the state service, making such recommendations as the board considers to be in the public interest.

Sec. 10. Director and Inspectors Authorized to Enter Mines; Duties of Inspectors to Examine Mines; Reports After Fatal Accidents.—The director of the department of mines shall have authority to visit, enter and examine any mine, whether underground or on the surface, and may call for the assistance of any district mine inspector or inspectors wherever such assistance is necessary in the examination of any mine. The operator of every coal mine shall furnish the director of the department of mines or mine inspector proper facilities for entering such mine and making examination or obtaining information.

Mine inspectors shall devote their full time and undivided attention to the performance of their duties, and they shall examine all of the mines in their respective districts at least once in every four months, and as often, in addition thereto, as the director of the department of mines may direct or the necessities of the case or the condition of the mine or mines may require, and shall make a personal examination of each working face, and also
entrances to abandoned parts of the mine where gas is known to liberate, for the purpose of determining whether a danger described in section eleven of this article exists in any such mine, or whether any provision of article two of this chapter is being violated in any such mine, or whether any such mine is a gassy mine.

The mine inspector shall visit the scene of each fatal accident occurring in any mine within his district, and shall make an examination into the particular facts of such accident and make a report to the director of the department of mines, setting forth the results of such examination including the condition of the mine and the cause or causes of such fatal accident, if known, and all such reports shall be made available to the interested parties, upon written requests.

Sec. 11. Findings and Orders of Mine Inspectors; Special Inspectors; Notice of Findings and Orders.—(a) If a mine inspector, upon making an inspection of a mine as authorized by this article, finds danger that a mine explosion, mine fire, mine inundation, man-trip or man-hoist accident will occur immediately or before the imminence of such danger can be eliminated, he shall also find the extent of the area of such mine throughout which such danger exists. Thereupon he shall immediately make an order requiring the operator of such mine to cause all persons, excepting persons referred to in subsection (e) of this section, to be withdrawn from, and to be debarred from entering such area. Such findings and order shall contain a detailed description of the conditions which the mine inspector finds cause and constitute such danger, and a description of the area of such mine throughout which persons must be withdrawn and debarred. Upon the written statement of the operator that such danger has been removed, such inspector shall make another inspection and shall make an order withdrawing or continuing the requirements of such previous order.

(b) If a mine inspector, upon making an inspection of a mine as authorized by this article, finds that any provision of article two of this chapter is being violated, but that the conditions created by such violation do not cause
danger that a mine explosion, mine fire, mine inundation, man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reason-
able period of time within which such violation should be totally abated. Such findings shall contain reference to the provisions of article two of this chapter which he finds are being violated, and a detailed description of the conditions which cause and constitute such violation.

(c) The period of time so found by such mine inspector to be a reasonable period of time may be extended by such inspector, or by any other mine inspector duly authorized by the director of the department of mines, from time to time, but on not more than three occasions, upon the making of a special inspection to ascertain whether or not such violation has been totally abated. The director of the department of mines shall cause a special inspection to be made: (A) Upon expiration of such period of time as originally fixed or as extended, unless the director is satisfied that the violation has been abated; and (B) whenever an operator of a mine, prior to the expiration of any such period of time, requests him to cause a special inspection to be made at such mine. Upon making such a special inspection, such mine inspector shall find whether or not such violation has been totally abated. If he finds that such violation has not been totally abated, he shall find whether or not such period of time as originally fixed, or as so fixed and extended, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension would be. If he finds that such violation has not been totally abated, and if such period of time as originally fixed, or as so fixed and extended, has then expired, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area of such mine which is affected by such violation. Thereupon, he shall make an order requiring the operator of such mine to cause all persons in such area, excepting persons referred to in subsection (e) of this section, to be withdrawn from, and to be debarred from entering such area. Such findings and order shall contain reference to the specific provisions of
article two of this chapter which are being violated and a detailed description of the area of such mine throughout which persons must be withdrawn and debarred.

(d) If a mine inspector, upon making an inspection of a mine as authorized by this article, finds that methane has been ignited in said mine, or has been detected with a permissible flame safety lamp, or by laboratory analysis of a sample of air collected in active workings, in an air current perceptible by smoke tube or other visible means, taken not less than twelve inches from the roof, face and rib, in an amount of twenty-five hundredths percent or more, he shall enter an order classifying the mine as a gassy mine.

(e) No order issued under this section shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to eliminate the danger described in an order or to abate the violation described in an order; (B) the director of the department of mines or any mine inspector whose official duties require him to enter such area; or (C) any technical consultant, or any authorized representative of the employees of the mine, who is himself an employee of the mine or, if not an employee of the mine, who assumes all risks to which he may be subject while in or around the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in the area is necessary for the proper investigation of the conditions described in the order.

(f) Notice of each finding and order made under this section shall promptly be given to the operator of the mine to which it pertains, by the person making such finding or order.

(g) No order shall be issued under the authority of this section which is not expressly authorized herein.

Sec. 12. Review of Findings and Orders by Director; Special Inspections; Annulment, Revision, etc., of Order;
Notice.—Any operator notified of findings or an order made by a mine inspector pursuant to section eleven of this article, may apply to the director of the department of mines for annulment or revision of such order. Upon receipt of such application the director of the department of mines shall make a special inspection of the mine affected by such order, or cause two duly authorized mine inspectors, other than the mine inspector who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such mine inspectors, the director of the department of mines shall make an order which shall include his findings and shall annul, revise or affirm the order of the inspector.

The director of the department of mines shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

At any time while an order made pursuant to section eleven, or this section, of this article, is in effect, the operator of the mine affected by such order may apply to the director of the department of mines for annulment or revision of such order. The director of the department of mines shall thereupon proceed to act upon such application in the manner provided in this section.

In the view of the urgent need for prompt decision of matters submitted to the director of the department of mines under this section, all actions which he, or mine inspectors designated by him, are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

Sec. 13. Requirements for Findings, Orders and Notices; Offices and Bulletin Boards at Mines; Posting of Findings or Orders.—(a) All findings and orders made pursuant to sections eleven or twelve of this article and all notices required to be given of the making of such findings and orders, shall be in writing. All such findings and orders shall be signed by the person making them, and all such
notices shall be signed by the person charged with the duty of giving the notice. All such notices shall contain a copy of the findings and orders referred to therein.

(b) Each operator of a mine shall maintain an office on or near the premises of such mine and shall maintain thereon a conspicuous sign designating it as the office of such mine. Each operator of a mine shall maintain a bulletin board at such office or at some conspicuous place near the entrance of such mine, in such manner that notices required by law to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. The operator shall maintain on such bulletin board a conspicuous sign designating it as the bulletin board of such mine. Notice of any finding or order required by sections eleven or twelve of this article to be given to an operator shall be given by causing such notice, addressed to the operator of the mine to which it pertains, to be delivered to the office of such mine provided for in this subsection; and by causing a copy of such notice to be posted on the bulletin board of such mine provided for in this subsection. The requirement of the preceding sections that a notice shall be “addressed to the operator of the mine to which it pertains,” shall not require that the name of the operator for whom it is intended shall be specifically set out in such address. Addressing such notice to “Operator of.......................... Mine,” specifying the mine sufficiently to identify it, shall satisfy such requirement.

(c) The director of the department of mines shall cause a copy of such notice to be mailed immediately to a designated representative of the employees of the mine to which it pertains.

Sec. 14. Coal Mine Safety Board of Review; Creation; Composition; Appointment, Term, Oath and Compensation of Members; Secretary; Powers and Duties Generally.—(a) There is hereby created a board to be known as the coal mine safety board of review, which shall be composed of five members who, except for the public
representative, shall be appointed by the governor, by
and with the advice and consent of the senate. Members
so appointed may be removed only for the same causes
and in like manner as elective state officials. One of the
members of the board shall be the public representative
who shall be the director of the school of mines at West
Virginia university. Two members of the board shall be
persons who by reason of previous training and experi-
ence may reasonably be said to represent the viewpoint
of coal mine operators and two members shall be persons
who by reason of previous training and experience may
reasonably be said to represent the viewpoint of coal mine
workers.

(b) The members of the board, except the public
representative, shall be appointed for terms of four years,
and any member whose term expires may be reappointed
by the governor.

(c) Each member of the board shall receive forty
dollars per diem while actually engaged in the perform-
ance of the work of the board; and shall receive mileage
at the rate of ten cents for each mile actually traveled
going from the home of the member to the place of
meeting of the board and returning therefrom.

(d) The board after being duly organized shall take
and subscribe to, before any official authorized to admin-
ister the same, the oath prescribed by section five of
article four of the constitution of West Virginia.

(e) The board shall employ and prescribe the duties
of a secretary of the board and such other office or clerical
assistance as it deems necessary. Every official act of the
board shall be entered of record, and its hearings and
records shall be open to the public.

(f) The mine safety board of review shall hear and
determine applications filed pursuant to section fifteen of
this article, for annulment or revision of findings or orders
made pursuant to sections eleven or twelve of this article,
and shall hear and determine applications filed pursuant
to section sixteen of this article. The board shall not
make or cause to be made any inspection of a mine for
the purpose of determining any pending application.
(g) The board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall include requirement for adequate notice of hearing to all parties.

(h) Any member of the board may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and administer oaths. Witnesses summoned before the board shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the state.

(i) The board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the board, as provided in subsection (h) of this section. Witnesses whose depositions are taken under this subsection shall be entitled to the same fees as are paid for like services in the circuit courts of the state.

(j) In case of contumacy by, or refusal to obey a subpoena served upon, any person under this section, the circuit court of any county in which such person is found or resides or transacts business, upon proper application thereto, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the board or to appear and produce documents before the board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Sec. 15. Same; Application for Annulment or Revision of Finding or Order; Hearings; Effect of Filing Application; Temporary Relief; Evidence and Burden of Proof; Findings and Orders of Board.—(a) Any operator notified of an order or finding made pursuant to section eleven
of this article, may apply to the coal mine safety board
of review for annulment or revision of such finding or
order without seeking its annulment or revision under
section twelve of this article; and any operator notified
of an order made pursuant to section twelve of this article
may apply to the board for annulment or revision of such
order: Provided, however, That any such application shall
be filed with the board not later than thirty days after
the receipt of notice of such order or finding.

(b) The operator shall be designated as the applicant
in such proceedings and the application filed by him shall
recite the order complained of and other facts sufficient
to advise the board of the nature of the proceeding. He
may allege in such application: That danger as set out
in such order does not exist at the time of the filing of such
application; that violation of the provisions of article
two of this chapter as set out in such finding or order,
has not occurred; that such violation has been totally or
partially abated; that the period of time within which
such violation should be totally abated, as fixed in the
findings upon which such order was based, was not rea-
sonable; that the area of the mine described in such order
as the area affected by the violation referred to in such
order is not so affected at the time of the filing of such
application; or that the mine described in such order is
not a gassy mine. The director of the department of mines
shall be the respondent in such proceeding, and the ap-
plicant shall send a copy of such application by registered
mail to the director of the department of mines.

(c) Immediately upon the filing of such an application
the board shall fix the time for a prompt hearing thereof.

(d) An application for annulment or revision of a
finding or order filed in accordance with the provisions
of this section shall act as a supersedeas of such finding
or order, unless such finding or order is entered pursuant
to the provisions of section eleven (a).

Pending final hearing on an application to annul or
revise a finding or order entered pursuant to the pro-
nouncements of section eleven (a), the applicant may file
with the board a written request for temporary relief
from such finding or order, and upon a showing of good
cause temporary relief may be granted.

(e) The board shall not be bound by any previous
findings of fact by the respondent or by any mine inspec-
tor, or by any other representative of the department of
mines. Evidence relating to the making of the order
complained of and relating to the questions raised by the
allegations of the pleadings or other questions pertinent
in the proceeding may be offered by both parties to the
proceeding. If the respondent claims that danger or a
violation of article two of this chapter, as set out in such
order, existed at the time of the filing of the application,
or that gas has been ignited or found in such mine as set
out in the order under review, the burden of proving the
then existence of such danger or violation, or that gas
has been ignited or found in such mine as set out in the
order under review, shall be upon the respondent, and
the respondent shall present his evidence first to prove
the then existence of such danger or violation. Following
presentation of respondent's evidence the applicant may
present his evidence, and thereupon respondent may pre-
sent evidence to rebut the applicant's evidence.

(f) After the conclusion of such hearing the board
shall make its findings and shall enter an order annulling,
revising or affirming the finding or order under review.

(g) Each finding and order made by the board shall
be in writing. It shall show the date on which it is made,
and shall bear the signatures of the members of the board
who concur therein. Upon making a finding and order
the board shall cause a true copy thereof to be sent by
registered mail to all parties or their attorneys of record.
The board shall cause each such finding and order to be
entered on its official record, together with any written
opinion prepared by any member in support of, or dis-
senting from, any such finding or order.

(h) In view of the urgent need for prompt decision
of matters submitted to the board under this section, all
actions which the board is required to take under this
section shall be taken as rapidly as practicable, consistent
with adequate consideration of the issues involved.
Sec. 16. Same; Review of Other Administrative Action. — (a) Any operator aggrieved by any action or ruling of the director of the department of mines or any mine inspector, or other authorized representative of the department of mines, pursuant to any provision of article two of this chapter, which action or ruling is not reviewable under section fifteen of this article, may apply to the coal mine safety board of review for annulment, correction or revision of such action or ruling: Provided, however, That an operator applying to the board for annulment, correction or revision of such action or ruling, not reviewable under section fifteen of this article, shall file such application with the board not later than thirty days after receiving notice of such action or ruling.

(b) Upon the filing of such an application the board shall proceed to hear and determine the matter in accordance with the procedure set forth in section fifteen of this article, insofar as the same may be applicable, and shall thereupon make such findings as may be appropriate, and enter an order, consistent with such findings, affirming, annulling, correcting or revising the action or ruling under review.

Sec. 17. Judicial Review of Final Orders of Board. — (a) Any final order issued by the board under sections fifteen or sixteen of this article shall be subject to judicial review by the circuit court of the county in which the mine affected is located or the circuit court of Kanawha county upon the filing in such court or with the judge thereof in vacation, of a petition for appeal by the director of the department of mines or the operator aggrieved by such final order, within thirty days from the date of the making of such final order.

(b) The party making such appeal shall forthwith send a copy of such petition for appeal, by registered mail, to the other party and to the board. Upon receipt of such copy of such petition for appeal the board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcripts shall be paid by the party making the appeal.
19 (c) The court, or judge thereof in vacation, shall hear such appeal on the record made before the board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in addition to the pleadings before the board, as it deems to be required.

25 (d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, any circuit court to which an appeal has been made as provided in subsection (c) of this section, may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the board or to grant such other relief as may be appropriate pending final determination.

34 (e) A circuit court to which an appeal has been made as provided in subsection (c) of this section, may affirm, annul, or revise the final order of the board, or it may remand the proceeding to the board for such further action as it directs.

39 (f) The decision of a circuit court on an appeal from the board shall be final, subject only to review by the supreme court of appeals of West Virginia upon a petition for certiorari filed in such court within sixty days from the entry of the order and decision of the circuit court upon such appeal from the board.

Sec. 18. Penalties.—Any person who has notice of a valid order made pursuant to sections eleven or twelve of this article, who wilfully disobeys or fails to comply with such order, or who interferes with the director of the department of mines or a mine inspector in the discharge of duties hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than five hundred dollars.

Sec. 19. Mine Rescue Stations; Equipment.—The director of the state department of mines is hereby authorized to purchase, equip and operate for the use of said department such mine rescue stations and equipment as he may deem necessary.
Sec. 20. Mine Rescue Crews.—The director 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 seven dollars per month and captains shall receive eight dollars per month, payable on requisition approved by the director 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 director of the department of mines may remove any member of a rescue crew at any time.

Sec. 21. Supervision of Mine Rescue Work.—The director of the department of mines is hereby authorized to assign mine rescue teams and such mine rescue and recovery work to inspectors or other qualified employees of the department of mines as he may deem necessary.

Sec. 22. Provisions of Article Severable.—The various provisions of this article shall be construed as separable and severable, and should any of the provisions, sentences, clauses, or parts thereof be construed or held unconstitutional or for any reason be invalid, the remaining provisions of this article shall not be thereby affected.

Article 2. Coal Mines.

Section
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3. Plan of ventilation; approval by director of department of mines. 4. Fans. 5. Ventilation of mines in general. 6. Unused and abandoned parts of mine.

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8. Mine foreman; when to be employed; qualifications; assistants.
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11. Same; signals on haulways; lights at mouth and bottom of shaft; operation of cages.
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21. Fire boss; when to be employed; qualifications.
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26. Control of coal dust; rock dusting.

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30. Surface magazines for explosives.
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33. Preparation of shots; blasting practices.
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Section 1. Definitions.—Mine: In this article the term "mine" shall include the shafts, slopes, drifts or inclines connected with excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected therewith which contribute directly or indirectly to the mining, preparation or handling of coal.
Excavations and Workings: The term “excavations and workings” shall mean any or all parts of a mine excavated or being excavated, including shafts, slopes, drifts, tunnels, entries, rooms, and working places, whether abandoned or in use.

Shaft: The term “shaft” shall mean a vertical opening through the strata that is or may be used for purposes of ventilation, drainage, and the hoisting and transportation of men and material, in connection with the mining of coal.

Slope: The term “slope” shall mean a plane or incline roadway, usually driven to a coal seam from the surface and used for the same purposes as a shaft.

Drift: The term “drift” shall mean a horizontal or approximately horizontal opening through strata or in a coal seam and used for the same purpose as a shaft.

Operator: The term “operator” shall mean any firm, corporation, partnership or individual operating any coal mine or part thereof.

Superintendent: The term “superintendent” shall mean the person who shall have, on behalf of the operator, immediate supervision of one or more mines.

Mine Foreman: The term “mine foreman” shall mean the person charged with the responsibility of the general supervision of the underground workings of a mine and the persons employed therein. He shall hold a certificate of competency for such position issued to him by the department of mines after taking an examination held by the department of mines.

Assistant Mine Foreman: The term “assistant mine foreman” shall mean a person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein.

Supervisor: The term “supervisor” shall mean a superintendent, mine foreman, assistant mine foreman, or any person specifically designated by the superintendent or mine foreman to supervise work or employees and who
Fire Boss: The term “fire boss” shall mean any person designated to examine a mine for gas and other dangers. Such person shall have the qualifications required by this article.

Shot Firer: The term “shot firer” shall mean any competent person having had at least three years' practical experience in coal mines; who has a knowledge of ventilation, mine roof and timbering; and who has demonstrated knowledge of mine gases and the use of a flame safety lamp, by examination given him by the mine foreman.

Approved: The term “approved” shall mean any equipment, device, or explosive, approved by the director of the department of mines.

Permissible: The term “permissible” shall mean any equipment, device, or explosive, that has been approved as permissible by the United States bureau of mines, and meets all requirements, restrictions, exceptions, limitations and conditions attached to such classification by said bureau.

Nongassy Mine: The term “nongassy mine” shall mean any coal mine which is not classified as gassy.

Gassy Mine: The term “gassy mine” shall mean any mine in which methane has been ignited, or has been detected with a permissible flame safety lamp, or by laboratory analysis of an air sample collected in active workings, in a perceptible air current, taken not less than twelve inches from the roof, face and rib, in an amount of twenty-five hundredths per cent or more.

Interested Persons: The term “interested persons” shall include the operator, members of any mine safety committee at the mine affected and other duly authorized representatives of the mine workers, and state mine inspectors.

Abandoned Workings: The term “abandoned workings” shall mean excavations, either caved or sealed, that
are deserted and in which further mining is not intended, and open workings which are ventilated and not inspected regularly.

**MINE MAPS**

Sec. 2. *Mine Maps; Certificate of Engineer.*—The operator of every coal mine shall make, or cause to be made, an accurate map or plan of such mine, on a scale of not less than one hundred, and not more than one thousand feet to the inch. Such map or plan shall show the openings or excavations, the shafts, slopes, entries and airways, with darts or arrows showing directions of air currents, headings, rooms, pillars, and such portions of such mine or mines as may have been abandoned, the general inclination of the coal strata, and so much of the property lines and the outcrop of the coal seam of the tract of land on which the mine is located as may be within one thousand feet of any part of the workings of such mine. A true copy of such map or plan shall be forwarded annually by such operator, to the inspector of his district, to be preserved among the records of his office and turned over to his successor in office; but in no case shall any copy of the same be made without the consent of the operator, nor shall the map be used by any person for any purpose other than as intended by this article. The original map, or a true copy thereof, shall be kept by such operator at the office of the mine, and open at all reasonable times for the examination and use of the inspector, and such operator shall, twice within every twelve months, while the mine is in operation, cause such survey and the map thereof to be extended so as to accurately show the progress of the workings, the property lines and outcrops as above provided.

The map or maps required by this section shall have the certificate and seal of the engineer, in the following form:

"I, the undersigned, hereby certify that this map is correct and shows all the information, to the best of my knowledge and belief, required by the mining laws of this
VENTILATION

Sec. 3. Plan of Ventilation; Approval by Director of Department of Mines.—Every operator of a coal mine, before making any new or additional openings, shall submit to the director of the department of mines, for his information and approval, a general plan showing the proposed system of ventilation and ventilating equipment of the openings with their location and relative positions to adjacent developments; and no such new or additional openings shall be made until approved by the director of the department of mines. The director of the department of mines shall promptly approve any such plans submitted if the proposed system of ventilation and ventilating equipment meet the requirements of this article.

Sec. 4. Fans.—The ventilation of mines which extend more than two hundred feet underground, and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director of the department of mines. In case of accident to a ventilating fan or its machinery whereby the ventilation of the mine is seriously interrupted, immediate action shall be taken by mine management, in a gassy mine, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If the ventilation is restored in a reasonable time, the face regions and other places, in the affected areas, where gas (methane) is likely to accumulate, shall be reexamined by a certified or competent person and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in a reasonable time all underground employees shall be removed from the mine or the affected areas. In mines classified as nongassy, when the ventilation is
seriously interrupted by fan stoppage or failure, immediate action shall be taken by the mine management to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If the ventilation is restored within a reasonable time, the face regions and other places in the affected areas shall be re-examined by a certified or competent person, and if found in safe condition, work may be resumed. If ventilation is not restored within a reasonable time all underground employees shall be removed from the mine or affected areas. If the ventilation is not restored within thirty minutes in any mine the men shall be removed from the mine or affected areas: Provided, however, That in mines liberating gas in large quantities the men shall be removed from the affected area unless the ventilation has been restored in fifteen minutes.

All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than fifteen feet from the nearest side of the mine opening, equipped with fireproof air ducts provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over, a mine opening: Provided, however, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: And provided further, That there is another opening having a weak-wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges, or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a competent person and a record kept of the same in a book prescribed for this purpose, or by adequate facilities provided to permanently record the performance of the main fan and to give warning of an interruption to a fan.

Auxiliary blower or exhaust fans may be used to ventilate shaft-and-slope-sinking operations and their underground connections, rock tunnels being driven between
coal beds or through faults and wants, or in the driving
of single entries or rooms by mining equipment in use
at the time of the acquisition of the mine by the operator
or prior to the effective date of this article, or equipment
which may hereafter be developed through technological
progress, provided they are powered by permissible driv-
ing units when installed underground, operated continu-
ously while any work is being performed in the area be-
ing ventilated, and so placed that recirculation of the air is
not possible. The inby end of the tubing, line curtain or
other device shall be kept sufficiently close to the face to
dilute, render harmless and carry away all dangerous
gasses.

Sec. 5. Ventilation of Mines in General.—The operator
or mine foreman of every coal mine, whether worked by
shaft, slope or drift, shall provide and hereafter maintain
for every such mine adequate ventilation. In mines classi-
fied as gassy the quantity of air passing through the last
open crosscut in any pair or set of entries shall be not
less than six thousand cubic feet of air per minute, and
as much more as is necessary to dilute and render harm-
less and carry away flammable and harmful gases: Pro-
vided, however, That the quantity of air reaching the
last crosscut in pillar sections may be less than six thou-
sand cubic feet per minute if at least six thousand cubic
feet of air per minute is being delivered to the intake of
the pillar line. In nongassy mines the quantity of air
being circulated shall not be less than one hundred fifty
cubic feet per man per minute. If animals are used in a
mine, five hundred cubic feet per animal per minute must
be provided in addition to the minimum volume specified
for men. The air current shall under any conditions have
a sufficient volume and velocity to reduce and carry away
smoke from blasting and any flammable or harmful gases.
All active underground working places in a mine shall
be ventilated by a current of air containing not less
than nineteen and five-tenths per centum of oxygen, and
not more than one per centum of carbon dioxide, and no
harmful quantities of other noxious or poisonous gases.

As working places advance, crosscuts for air shall be
made not to exceed eighty feet apart in pillars, or line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. With the approval of the state department of mines, greater distances than those so specified may be made between crosscuts. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible material, so as to keep working places well ventilated.

In gassy mines a system of bleeder openings or air courses designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas and to minimize the effect of variations in atmospheric pressure, shall be made a part of pillar recovery plans projected after the effective date of this article.

Not more than sixty persons shall be permitted to work in the same air current: Provided, That a larger number, not exceeding eighty persons, may be allowed by the director of the department of mines where it is impracticable to comply with the foregoing requirements.

No operator or mine foreman shall permit any persons to work where they are unable to maintain the quantity and quality of the air current as heretofore required: Provided, however, That such provision shall not prohibit the employment of men to make places of employment safe.

The ventilation of any mine shall be so arranged by means of airlocks, overcasts, or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a gassy mine they shall be erected in pairs so as to provide a ventilated airlock, unless the doors are operated mechanically: Provided, however, That such provision shall not apply to doors in or between panel or room entries.

In mines not classified as gassy, single doors may be used, provided such doors are closed promptly after men or equipment have passed through them.
Overcasts or undercasts shall be constructed of incom- 
bustible material and maintained in good condition.

Where practicable, a crosscut shall be provided at or 
near the face of each entry or room before such places 
are abandoned.

Rooms, entries, airways, or other working places shall 
not be driven in advance of air currents. Such provision 
shall not prohibit, as the room, entry or aircourse ad-
vances, the "necking" of any place for a distance which 
shall not exceed that actually required for the installation 
of mining equipment in use at this location: Provided, 
however, That such room necks or entries are kept free 
of accumulations of methane by use of line brattice or 
other adequate means.

Sec. 6. Unused and Abandoned Parts of Mine.—In 
a gassy mine, all workings which are abandoned after 
the effective date of this article, or the date such mine 
became a gassy mine, whichever is later, shall be sealed 
or ventilated. If such workings are sealed, the sealing 
shall be done with incombustible material in a manner 
prescribed by the director of the department of mines; 
and one or more of the seals of every sealed area shall 
be fitted with a pipe and cap or valve to permit the 
sampling of gases and measuring of hydrostatic pressure 
behind such seals. For the purpose of this section, work-
ings within a panel shall not be deemed to be abandoned 
until such panel is abandoned.

In a gassy mine, air that has passed through an aban-
donated panel which is inaccessible for inspection, or air 
that has been used to ventilate an area from which the 
pillars have been removed, shall not be used to ventilate 
any active face area in such mine: Provided, however, 
That such provision shall not apply to air which is being 
used to ventilate an active pillar line and rooms which are 
necessary to establish and maintain such pillar line.

CLASSIFICATION OF MINES AND EXAMINATIONS

Sec. 7. Gassy Mines; Nongassy Mines; Examination.— 
In a gassy mine, within four hours immediately preceding
the beginning of a coal-producing shift, and before any
workman in such shift, other than those who may be
designated to make the examinations, enter the under-
ground areas of such mine, a certified foreman or fire boss,
designated by the operator of such mine to do so, shall
make an examination of such areas.

Idle or abandoned sections shall be examined for gas
and other dangerous conditions by a certified foreman
or fire boss before other employees are permitted to enter
to work in such places. No persons other than certified
persons shall enter any underground area in a gassy mine,
except during a coal-producing shift, unless an examina-
tion of such area has been made within twelve hours im-
mediately preceding their entrance into such area.

In a nongassy mine an examination shall be made at
least once in each calendar day during which coal is pro-
duced. This examination shall be made within four hours
immediately preceding the beginning of the first coal-
producing shift on such day.

MINE FOREMAN

Sec. 8. Mine Foreman; When to Be Employed; Quali-
fications; Assistants.—In every coal mine where five or
more persons are employed in a period of twenty-four
hours, the operator shall employ a mine foreman who
shall be a competent and practical person, holding a
certificate of competency for such position issued to him
by the department of mines after an examination by such
department. In order to receive a certificate of com-
petency to qualify as mine foreman, he shall at the time
he takes the examination, be a citizen and resident of
this state, be at least twenty-five years of age, of good
moral character and temperate habits, having had at least
card experience in the underground working, venti-
lation and drainage of coal mines, or be a graduate of
the school of mines of West Virginia university or of
another accredited mining engineering school and have
had three years’ practical experience in coal mines: Pro-
vided, however, That in order for any person to be em-
ployed as a mine foreman in a gassy mine, three years of
his practical experience shall have been in a mine liber-
ating methane.

In mines in which the operations are so extensive that
all the duties devolving upon the mine foreman cannot
be discharged by one man, competent persons having had
at least three years’ experience in coal mines may be
designated as assistants, who shall act under the mine
foreman’s instructions and the mine foreman shall be
responsible for their conduct in the discharge of their
duties under such designation.

Sec. 9. Same; Duties; Ventilation; Loose Coal, Slate
or Rock; Props; Drainage of Water.—The duties of the
mine foreman shall be to keep a careful watch over the
ventilating apparatus, the airways, traveling ways, pumps
and drainage. He shall see that as the miners advance
their excavations proper break-throughs are made so as
to properly ventilate the mine; that all loose coal, slate
and rock overhead in the working places and along the
haulways are removed or carefully secured so as to pre-
vent danger to persons employed in such mines, and that
sufficient suitable props, caps, timbers, roof bolts, or other
approved methods of roof supports are furnished for the
places where they are to be used, and delivered at suitable
points. The mine foreman shall have all water drained
or hauled out of the working places where practicable,
before the miners enter, and such working places shall
be kept dry as far as practicable while the miners are at
work. It shall be the duty of the mine foreman to see
that proper crosscuts are made, and that the ventilation
is conducted by means of such crosscuts through the rooms
by means of checks or doors placed on the entries or other
suitable places, and he shall not permit any room to be
opened in advance of the ventilating current. The mine
foreman, or other certified persons designated by him,
shall measure the air current with an anemometer at
least twice each month at the inlet and outlet at or near
the faces of the advanced headings, and shall keep a
record of such measurements in a book or upon a form
prescribed by the director of the department of mines.
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30 Signs directing the way to outlets or escapeways shall be
conspicuously placed throughout the mine.

Sec. 10. Same; Haulage Roads.—The mine foreman
shall require that all slopes, incline planes and haulage
roads used by any person in the mine shall conform to
the provisions of this article.

Sec. 11. Same; Signals on Haulways; Lights at Mouth
and Bottom of Shaft; Operation of Cages.—On all haul-
ways, where hauling is done by machinery of any kind,
the mine foreman shall provide for a proper system
of signals, and a conspicuous light on the front and rear
of every trip or train of cars when in motion in a mine.
When hoisting or lowering of men occurs in the morning
before daylight, or in the evening after darkness, at any
mine operated by shaft, the mine foreman shall provide
and maintain at the shaft mouth a light of stationary
character sufficient to show the landing and all surround-
ing objects distinctly and sufficient light of a stationary
character shall be located at the bottom of the shaft so
that persons coming to the bottom may clearly discern
the cages and other objects contiguous thereto. The mine
foreman shall require that no cages on which men are
riding shall be lifted or lowered at a rate of speed greater
than one thousand feet per minute, and that no mine cars,
either empty or loaded, shall be hoisted while men are
being lowered or hoisted, and no cage having an unstable
self dump platform shall be used for the carrying of
workmen unless the same is provided with some device
by which it may be securely locked when men are being
hoisted or lowered into the mine.

Sec. 12. Same; Boreholes.—It shall further be the
duty of the mine foreman to have boreholes kept not
less than twenty feet in advance of the face, and where
necessary, one each cut on sides of the working places
that are being driven toward, and in dangerous prox-
imity to, an abandoned mine or part of mine which
may contain inflammable gases or which is filled with
water. These holes shall be drilled whenever any work-
ing place in an underground mine approaches within fifty
feet of abandoned workings in such mine as shown by surveys made and certified by a competent engineer or surveyor, or within two hundred feet of any other abandoned workings of such mine, which cannot be inspected.

Sec. 13. Same; Instruction of Employees.—It shall be the duty of the mine foreman, or the assistant mine foreman, of every coal mine in this state, to see that every person employed to work in such mine shall, before beginning work therein, be instructed in the particular danger incident to his work in such mine, and furnished a copy of the mining laws and rules of such mine. Every inexperienced person so employed shall work under the direction of the mine foreman, his assistant, or such other experienced worker as may be designated by the mine foreman or assistant, until he is familiar with the danger incident to his work.

Sec. 14. Same; Daily Inspection of Working Places.—The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least once each shift while the miners of such places are at work, and shall direct that each working place shall be secured by props, timbers, roof bolts, and/or other approved methods of roof supports where necessary, to the end that the working places shall be made safe. Should the mine foreman or his assistants find a place to be in a dangerous condition, they shall not leave the place until it is made safe, or shall remove the persons working therein until the place is made safe by some competent persons designated for that purpose.

Sec. 15. Same; Safety Inspection; Gas.—It shall be the duty of the mine foreman, or other certified person designated by him, to examine all working places under his supervision for hazards at least once during each coal-producing shift, or oftener if necessary for safety. In a gassy mine such examinations shall include tests with a permissible flame safety lamp for methane and oxygen deficiency. It shall also be his duty to remove as soon as possible after its discovery any accumulations of explosive or noxious gases in active workings and, where practicable, any accumulations of explosive or
noxious gases in the worked out and abandoned portions of the mine.

Sec. 16. Same; Dangerous Places.—The mine foreman shall direct and see that all dangerous places and the entrance or entrances to worked out and abandoned places in all mines are properly dangered off across the openings.

Sec. 17. Same; Examination and Reports of Fire Boss.—The mine foreman shall also, each day, read carefully and countersign with ink or indelible pencil all reports entered in the record book of the fire bosses, and he shall supervise the fire boss, or fire bosses, except as hereinafter provided in section twenty-three of this article.

Sec. 18. Same; Ascertainment, Record and Removal of All Dangers.—The mine foreman shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss, or any other person working in the mine, and in case it is impracticable to remove the danger at once, he shall notify all persons whose safety is menaced thereby to remain away from the area where the dangerous condition exists. He, or his assistants, or certified persons designated by him, shall, at least once each week, travel and examine the air courses, roads and openings that give access to old workings or falls, and make a record of the condition of all places where danger has been found, with ink or indelible pencil in a book provided for that purpose.

Sec. 19. Same; Duty to Notify Operator When Unable to Comply With Law; Duty of Operator.—The mine foreman shall notify, in writing, the operator or superintendent of the mine of his inability to comply with any of the requirements of sections eight to eighteen of this article, and it shall then become the duty of such operator or superintendent promptly to attend to the matter complained of by the mine foreman so as to enable him to comply with the provisions hereof if such compliance be practicable. Every operator of a mine shall furnish all supplies necessary for the mine foreman to
12 comply with the requirements of this article, after being
13 requested to do so in writing by the mine foreman.

Sec. 20. Same; Death or Resignation; Successor.—In
2 case of the death or resignation of a mine foreman, the
3 superintendent or manager shall appoint a certified man
4 to act as mine foreman, if one be available; and if not,
5 he may temporarily appoint any other competent man
6 who may serve with the approval of the director of the
7 department of mines until the next examination.

FIRE BOSS

Sec. 21. Fire Boss; When to Be Employed; Qualifications.—Every operator whose mines are classified as
gassy, shall employ a fire boss, who shall hold a certificate
of competency for such position issued to him by the
department of mines after taking an examination held
by the department of mines. In order to receive a cer-
tificate of competency to qualify as a fire boss, he shall
at the time he takes the examination, be a citizen of this
state, having had at least five years’ experience in the
underground working, ventilation and drainage of coal
mines, and shall have had at least three years’ experience
in mines liberating explosive gas; he shall have such
knowledge of methane and other dangerous gas or gases
as to be able to detect the same with a permissible flame
safety lamp; he shall have a practical knowledge of the
subject of ventilation of mines and the machinery and
appliances used for that purpose; and he shall also be a
person of good moral character and temperate habits.

Sec. 22. Fire Boss or Certified Person Acting as Such;
Duties Generally; Records Open for Inspection.—It shall
be the duty of the fire boss, or a certified person acting as
such, to prepare a danger signal (a separate signal for
each shift) with red color at the mine entrance at the
beginning of his shift or prior to his entering the mine to
make his examination and, except for those persons
already on assigned duty, no person except the mine
owner, operator, or agent, and only then in the case of
necessity, shall pass beyond this danger signal until the
mine has been examined by the fire boss or other certified
person and the mine or certain parts thereof reported by
him to be safe. When reported by him to be safe, the
danger sign or color thereof shall be changed to indicate
that the mine is safe in order that employees going on
shift may begin work. Each person designated to make
such fire boss examinations shall be assigned a definite
underground area of such mine, and, in making his ex-
amination shall examine all active working places in the
assigned area and make tests with a permissible flame
safety lamp for accumulations of methane and oxygen
deficiency; examine seals and doors; examine and test the
roof, face, and ribs in the working places and on active
roadways and travelways, approaches to abandoned
workings and accessible falls in active sections. He shall
place his initials and the date at or near the face of each
place he examines. Should he find a condition which he
considers dangerous to persons entering such areas, he
shall place a conspicuous danger sign at all entrances to
such place or places. Only persons authorized by the
mine management to enter such places for the purpose of
eliminating the dangerous condition shall enter such place
or places while the sign is posted. Upon completing his
examination he shall report by suitable communication
system or in person the results of this examination to a
certified person designated by mine management to re-
ceive and record such report, at a designated station on
the surface of the premises of the mine or underground,
before other persons enter the mine to work in such coal-
producing shifts. He shall also record the results of his
examination with ink or indelible pencil in a book pre-
scribed by the director of the department of mines kept
for such purpose at a place on the surface of the mine
designated by mine management. All records of daily
and weekly reports, as prescribed herein, shall be open
for inspection by interested persons.

Sec. 23. Same; No Superior Officers.—In the perform-
ance of the duties devolving upon fire bosses, or certified
persons acting as such, they shall have no superior officers,
but all the employees working inside of such mine or
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Sec. 24. Unlawful to Enter Mine Until Fire Boss Reports It Safe; Exceptions.—No person shall enter such mine or mines for any purpose at the beginning of work upon each shift therein until such signal or warning has been given by the fire boss or bosses as to the safety thereof, as by statute provided, except under the direction of the fire boss or bosses, and then for the purpose of assisting in making the mine safe: Provided, however, That men regularly employed on a shift during which the mine is being preshift examined by a fire boss or certified person shall be permitted to leave or enter the mine in the performance of their duties.

Sec. 25. Authority of Fire Boss to Perform Other Duties.—Notwithstanding any other provision in this article contained, any person who holds a certificate issued by the state department of mines certifying his competency to act as fire boss may perform the duties of a fire boss and any other duties, statutory or otherwise, for which he is qualified, in the same mine or section and on the same day or shift.

COAL DUST AND ROCK DUST

Sec. 26. Control of Coal Dust; Rock Dusting.—In all mines, dangerous accumulations of fine, dry coal dust shall be removed from the mine, and all dry and dusty operating sections and haulageways and the back entries for at least one thousand feet out by the first active working place in each operating section shall be kept watered down or rock dusted, or dust allayed by such other methods as may be approved by the director of the department of mines.

All mines or locations in mines that are too wet or too high in incombustible content for a coal dust explosion to initiate or propagate are not required to be rock dusted during the time any of these conditions prevail. Coal dust and other dust in suspension in unusual quantities shall be allayed by sprinkling or other dust allaying devices.
In all dry and dusty mines, or sections thereof, rock dust shall be applied and maintained upon the roof, floor and sides of all operating sections, haulageways and parallel entries connected thereto by open crosscuts. Back entries shall be rock dusted for at least one thousand feet out by the junction with the first active working place. Rock dust shall be so applied to include the last open crosscut of rooms and entries, and to within forty feet of the faces. Rock dust shall be maintained in such quantity that the incombustible content of the mine dust that could initiate or propagate an explosion shall not be less than sixty-five per cent.

Rock dust shall not contain more than five per cent by volume of quartz or free silica particles and shall be pulverized so that one hundred per cent will pass through a twenty mesh screen and seventy per cent or more will pass through a two hundred mesh screen.

**ROOF — FACE — RIBS**

Sec. 27. Instruction of Workmen as to Testing; Examination of Working Area; Correcting Dangerous Conditions.—It shall be the duty of the mine foreman and his subordinate supervisors to ascertain that all workmen are trained in the proper methods of testing roof, face and ribs. The mine foreman shall designate the tool or tools to be used for testing. Face workers and other employees whose work exposes them to hazards or falls of roof and coal shall thoroughly test the roof, face and ribs, before starting to work or before starting a machine, and frequently thereafter. The required tests may be made by any competent person for a crew. If roof, face or rib conditions are found to be unsafe, they shall be corrected by taking down loose material, or shall be securely supported, before work is started. If roof, face or rib conditions are found to be unsafe, and the unsafe condition cannot be corrected by normal taking down or supporting practices, the place shall be guarded or a danger sign erected to prevent unauthorized entrance, and the supervisor promptly notified. Only men capable of correcting the dangerous condition may be delegated to do such work. Supervisors shall examine for unsafe conditions
the roof, faces, ribs and timbers or supports of all working
places each time they visit a place. Unsafe conditions
found by them shall be corrected promptly.

Sec. 28. Roof Support.—Minimum timbering or other
roof support methods suitable to the roof conditions and
mining system of each mine or part of a mine shall be
adopted and complied with. Additional timbering or sup-
porting shall be used when and where necessary. It shall
be the duty of the mine foreman or his subordinate super-
visors to instruct all workmen in proper methods of set-
ting timbers or placing roof supports; and, it shall be the
duty of the workmen to comply with the instructions in
setting timbers and roof supports. The roof in all under-
ground working places, unless self-supporting, shall be
secured to protect employees from falls. Safety posts,
jacks or temporary crossbars shall be set close to the face
when necessary for safety before other operations are
begun and as needed thereafter. Where roof supports
are required at the working faces, persons shall not ad-
vance beyond supported roof, except those who are as-
signed to install supports. Timbering or roof support
materials to be used as required in supporting the roof in
underground workings shall be delivered at or near the
working faces. In hand loading mines the miner shall
order timbers and roof support materials at least one day
in advance in order to have in his working place a suf-
ficient supply for his needs. He shall place his order with
his supervisor stating his requirements. Roof bolts shall
not be used in lieu of conventional timbering unless a
permit has been issued by the state department of mines.
Roof bolts shall not be recovered where complete extrac-
tion of pillars is attempted; nor shall bolts be removed
adjacent to clay veins; nor at the location of other
irregularities that introduce abnormal hazards. Where
roof bolt recovery is practiced, it shall be done only by
reasonable methods approved by the director of the de-
partment of mines. Recovery of roof supports shall not
be done except by experienced persons and only where
adequate temporary support is provided.
Sec. 29. Authorized Explosives.—Permissible explosives or permissible blasting devices only shall be used in blasting coal or other material in underground coal mines.

Sec. 30. Surface Magazines for Explosives.—Separate surface magazines shall be provided for storage of explosives, detonators and blasting heater elements. Surface magazines shall be constructed of incombustible materials, be reasonably bullet proof and with no metal or sparking material exposed inside the magazine. Surface magazines shall be provided with doors constructed of at least one-fourth inch steel plate lined with a two-inch thickness of wood or the equivalent, properly screened ventilators, and with no openings except for entrances and ventilation, and shall be kept locked securely when unattended. The area for a distance of at least twenty-five feet in all directions shall be kept free of materials of a combustible nature; suitable warning signs shall be erected, so located that a bullet passing directly through the face of the sign will not strike the magazine. The location of magazines shall be not less than two hundred feet from any mine openings, occupied buildings or public roads unless barricaded. If magazines are illuminated electrically, the lamps shall be of vapor-proof type properly installed and wired, and smoking and open lights shall be prohibited in or near any magazine.

Sec. 31. Transportation of Explosives.—Individual containers used to carry permissible explosives or detonators shall be constructed of substantial, nonconductive materials, kept closed and maintained in good condition. When explosives or detonators are transported underground in cars moved by means of locomotives, ropes, or other motive power, they shall be in substantially covered cars or in special substantially-built covered containers used specifically for transporting detonators or explosives. Explosives or detonators shall not be hauled into or out of a mine within five minutes preceding or following a man trip. Where explosives and detonators are transported underground by belts they shall be handled in the following manner: In the original and unopened cases,
in special closed cases constructed of nonconductive material, or in suitable individual containers. Clearance requirements shall be a minimum of eighteen inches; stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading. Neither explosives nor detonators shall be transported on flight or shaking conveyors, mechanical loading machines, locomotives, scrapers, cutting machines, drill trucks, or any self-propelled mobile equipment. If explosives and detonators are transported in the same explosives car or in the same special container, they shall be separated by at least four inches of hardwood partition or the equivalent; the bodies of such cars or containers shall be constructed or lined with nonconductive material. No hand loader shall take into any mine any larger quantity of explosives or detonators than he may reasonably expect to use in any one shift.

Sec. 32. Underground Storage of Explosives.—Explosives and detonators stored underground shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, and be located at least fifteen feet from roadways and power wires in a well rock-dusted location protected from falls of roof. If not kept in separate boxes or magazines not less than five feet apart they may be kept in the same box or magazine if separated by at least a four-inch hardwood partition or the equivalent. Not more than a forty-eight hour supply of explosives or detonators shall be stored underground in section boxes or magazines. These boxes or magazines shall be kept at least one hundred feet from the faces and out of the direct line of blasting.

Sec. 33. Preparation of Shots; Blasting Practices.—Only competent and experienced persons designated by mine management shall be permitted to handle explosives and to do blasting. Only electric detonators of proper strength fired with permissible shot firing units shall be used and drillholes shall be stemmed with at least twenty-four inches of incombustible material, or at least one-half of the length of the hole shall be stemmed if the hole is less than four feet in depth unless other permissible stemming
10 devices or methods are used. Drillholes shall not be drilled
11 beyond the limits of the cut, and as far as practicable
12 cuttings and dust shall be cleaned from the holes before
13 the charge is inserted. Charges of explosives exceeding
14 one and one-half pounds, but not exceeding three pounds,
15 shall be used only if drillholes are six feet or more in
16 depth. Ample warning shall be given before shots are
17 fired, and care shall be taken to determine that all persons
18 are in the clear before firing. Men shall be removed from
19 adjoining places and other places when there is danger of
20 shots blowing through. No shots shall be fired in any
21 place known to liberate explosive gas until such place
22 has been properly examined by a competent person who
23 is designated by mine management for that purpose, and
24 no shots shall be fired in any place where gas is detected
25 with a permissible flame safety lamp until such gas has
26 been removed by means of ventilation. After firing any
27 shot, or shots, the person firing the same shall not return
28 to the working face until the smoke has been cleared
29 away and then he shall make a careful examination of
30 the working face before leaving the place, or before per-
31 forming any other work in the place. Multiple shooting
32 may be practiced but only as prescribed by the depart-
33 ment of mines. A maximum of ten holes may be fired in
34 bottom or roof rock during grading operations provided
35 this work is being performed in intake air only. Electrical
36 equipment shall not be operated in the face areas and only
37 work in connection with timbering and general safety
38 shall be performed while boreholes are being charged.
39 Shots shall be fired promptly after charging. Mudcap
40 (adobes) or any other unconfined shots shall not be per-
41 mitted in any coal mine. No solid shooting shall be per-
42 mitted without written permission of the department of
43 mines.
44 Blasting cables shall be well insulated and shall be as
45 long as may be necessary to permit persons authorized to
46 fire shots to get in a safe place out of the line of fire. The
47 cable when new shall be at least one hundred twenty-five
48 feet in length and never less than one hundred feet.
49 Shooting cables shall be kept away from power wires and
50 all other sources of electric current, connected to the leg
wires by the person who fires the shot, staggered as to length or well separated at the detonator leg wires, and shunted at the battery end until ready to connect to the blasting unit.

Sec. 34. Misfires of Explosives.—Where misfires occur with electric detonators, a waiting period of at least five minutes shall elapse before anyone returns to the shot. After such failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

Explosives shall be removed by firing a separate charge at least two feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

A careful search of the working place, and, if necessary, of the coal after it reaches the tipple shall be made after blasting a misfired hole, to recover any undetonated explosive.

The handling of a misfired shot shall be under the direct supervision of the mine foreman or a competent person designated by him.

Sec. 35. Other Blasting Devices.—The provisions governing the handling, storage, transportation and use of permissible explosives shall apply to all other blasting devices employing a heater element when used underground.

Where compressed air is used for blasting, the air-lines shall be grounded at the compressor and, if practical, at other low-resistant ground connections along the lines. They shall not be connected in any way to rails, water lines, or other electric return conductors and shall be adequately insulated and protected where they cross electric wires, underneath track, or at places where equipment passes over or under. Steel, copper, or other air lines connected therewith shall not be handled or repaired when air pressure is in the line. Shutoff valves shall be installed every thousand feet in all compressed-
air blasting lines and at all points where branch lines
leave the main line and blowdown valves shall not be less
than fifty feet from the face and shall be around a corner.

When misfires occur with any other blasting devices
they shall be handled in a safe manner and under the
supervision of the mine foreman or a competent person
designated by him.

HOISTING

Sec. 36. Hoisting Machinery; Telephones and Safety Devices; Hoisting Engineers and Drum Runners.—The
operator of every coal mine worked by shaft shall provide
and maintain a metal tube, telephone or other approved
means of communication from the top to the bottom and
intermediate landings of such shaft, suitably adapted to
the free passage of sound, through which conversation
may be held between persons at the top and at the bottom
of the shaft; a standard means of signaling; an approved
safety catch, bridle chains, automatic stopping device, or
automatic overwind; a sufficient cover overhead on every
cage used for lowering or hoisting persons; an approved
safety gate at the top of the shaft; and an adequate brake
on the drum of every machine used to lower or hoist per-
sons in such shaft. Such operator shall have the ma-
chinery used for lowering and hoisting persons into or out
of the mine kept in safe condition, equipped with a reli-
able indicator, and inspected once in each twenty-four
hours by a competent person. Where a hoisting engineer
is required he shall be readily available at all times when
men are in the mine. He shall operate the empty cage up
and down the shaft at least one round trip at the begin-
ing of each shift and after the hoist has been idle for one
hour or more before hoisting or lowering men, and there
shall be cut out around the side of the hoisting shaft, or
driven through the solid strata at the bottom thereof, a
traveling way not less than five feet high and three feet
wide to enable a person to pass the shaft in going from
one side of it to the other without passing over or under
the cage or other hoisting apparatus. Positive stop blocks
or derails shall be placed near the top and at all inter-
mediate landings of slopes and surface inclines and at
approaches to all shaft landings. A waiting station with
sufficient room, ample clearance from moving equipment,
and adequate seating facilities shall be provided where
men are required to wait for man trips or man cages, and
the men shall remain in such station until the man trip
or man cage is available.

No operator of any coal mine worked by shaft, slope, or
incline shall place in charge of any engine or drum used
for lowering or hoisting persons employed in such mine
any but competent and sober engineers or drum runners;
and no engineer or drum runner in charge of such ma-
chinery shall allow any person, except such as may be
designated for this purpose by the operator, to interfere
with any part of the machinery; and no person shall
interfere with any part of the machinery; and no person
shall interfere with or intimidate the engineer or drum
runner in the discharge of his duties. Where the mine is
operated or worked by shaft or slope, a minimum space
of two and one-half square feet per person shall be avail-
able for each person on any cage or car where men are
transported. In no instance shall more than twenty men
be transported on a cage or car without the approval of
the director of the department of mines. No person shall
ride on a loaded cage or car in any shaft, slope, or incline:
Provided, however, That this shall not prevent any trip
rider from riding in the performance of his authorized
duties. No engineer shall be required for automatically
operated cages, elevators, or platforms.

TRANSPORTATION

Sec. 37. Haulage; Equipment; Practices.—The roadbed.
rails, joints, switches, frogs, and other elements of all
haulage roads shall be constructed, installed and main-
tained in a manner consistent with speed and type of
haulage operations being conducted to insure safe opera-
tion.

Track switches, except room and entry development
switches, shall be provided with properly installed throws,
bridle bars and guard rails; switch throws and stands,
where possible, shall be placed on the clearance side.
Haulage roads on entries developed after the effective date of this article shall have a continuous unobstructed clearance of at least twenty-four inches from the farthest projection of any moving equipment on the clearance side.

On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

On the trolley wire or "tight" side, there shall be at least six inches of clearance from the farthest projection of any moving equipment. On haulage roads developed after the effective date of this article, where conditions permit there shall be a clearance of twelve inches maintained on the tight or wire side, but in no instance shall the clearance be less than six inches.

The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies or other materials, provided that not more than twenty-four inches need be kept free of such obstructions.

Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors.

Shelter holes shall be provided along haulage entries driven after the effective date of this article where locomotive, rope or animal haulage is used. Such shelter holes shall be spaced not more than eighty feet apart.

Except where the trolley wire is six feet six inches or more above the roadbed or guarded effectively at the shelter holes, they shall be on the side of the entry opposite the trolley wire.

Shelter holes made after the effective date of this article shall be at least five feet in depth, not more than four feet in width, and as high as the traveling space. Room necks and crosscuts may be used as shelter holes even though their width exceeds four feet.

Shelter holes shall be kept clear of refuse and other obstructions.

Shelter holes shall be provided at switch throws, and manually operated permanent doors, except where more
than six feet of clearance is maintained, and at room
switches.

No steam locomotive shall be used in mines where men
are actually employed in the extraction of coal, but this
shall not prevent operation of a steam locomotive through
any tunnel haulway or part of a mine that is not in actual
operation and producing coal.

Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any
other compound shall not be used in a coal mine unless
such equipment has been approved by the United States
bureau of mines for underground use in coal mines, and
only then when this equipment is maintained in compli-
ance with the requirements of the approval schedule.

Locomotives, mine cars, supply cars, shuttle cars, and
all other haulage equipment shall be maintained in a safe
operating condition. Each locomotive shall be equipped
with a suitable lifting jack and handle. An audible warn-
ing device and headlights shall be provided on each loco-
 motive and each shuttle car. All other mobile equipment,
using the face areas of the mine, purchased after the
effective date of this article, shall be provided with a
conspicuous light or other effective method, so as to re-
duce the possibility of collision.

No persons other than those necessary to operate a trip
or car shall ride on any loaded car or on the outside
of any car.

The pushing of trips, except for switching purposes, is
prohibited on main haulage roads. Motormen and trip
 riders shall use care in handling locomotives and cars.
It shall be their duty to see that there is a conspicuous
light on the front and rear of each trip or train of cars
when in motion: Provided, however, That trip lights
need not be used on cars being shifted to and from loading
machines, on cars being handled at loading heads during
gathering operations at working faces or on trips being
pulled by animals. No persons shall ride on locomotives
or loaded cars unless granted permission by the mine
foreman.
No motorman, trip rider or brakeman shall get on or off cars, trips, or locomotives while they are in motion, except that a trip rider or brakeman may get on or off the rear end of a slowly moving trip or the stirrup of a slowly moving locomotive to throw a switch, align a derail or open or close a door.

Flying or running switches, and riding on the front bumper of a car or locomotive are prohibited. Back poling shall be prohibited except with precaution to the nearest turning point (not over eighty feet), or when going up extremely steep grades and then only at slow speed. The operator of a shuttle car shall face in the direction of travel except during the loading operation when he shall face the loading machine.

A system of signals, methods or devices shall be used to provide protection for trips, locomotives, and other equipment, coming out onto tracks used by other equip- ment. Where a dispatcher is employed to control trips, traffic under his jurisdiction shall move only at his direction.

Motormen shall inspect locomotives and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

Sec. 38. Transportation of Men.—Man trips shall be pulled (unless self propelled) at safe speeds consistent with the condition of roads and type of equipment used, but not to exceed twelve miles an hour, except where special substantially covered man-trip cars are used. Each man trip shall be under the charge of a certified person or other competent person designated by a mine foreman or assistant mine foreman. It shall be operated independently of any loaded trip of coal or other heavy material, but may transport tools, small machine parts and supplies. When mine cars are used for man trips on steep grades a locomotive shall be used on each end of the trip. Cars on the man trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.

Where “drop-bottom” cars are used, special safety precautions shall be taken.
17 No person shall ride under the trolley wire unless suitable covered man cars are used.

19 Men shall not load or unload before the cars in which they are to ride, or are riding, come to a full stop. Men shall proceed in an orderly manner to and from man trips.

22 When belts are used for transporting men, a minimum clearance of eighteen inches shall be maintained between the belt and the roof or crossbars, projecting equipment, cap pieces, overhead cables, wiring, and other objects. Where the height of the coal seam permits, the clearance shall not be less than twenty-four inches.

28 The belt speed shall not exceed two hundred and fifty feet per minute where the minimum overhead clearance is eighteen inches, or three hundred feet per minute where the minimum overhead clearance is twenty-four inches, while men are loading, unloading, or being transported.

36 An assistant mine foreman or some other person designated by the mine foreman shall supervise the loading and unloading of belts and man trips. Where men are required to regularly cross over belts adequate and safe facilities shall be provided.

41 Adequate clearance and proper illumination shall be provided where men board or leave conveyor belts.

**ELECTRICITY**

Sec. 39. Electricity; General Provisions.—Operators of coal mines in which electricity is used as a means of power shall comply with the following provisions:

4 All surface transformers, unless of a construction which will eliminate shock hazards, or unless installed at least eight feet above ground, shall be enclosed in a house or surrounded by a fence at least six feet high. If the enclosure is of metal, it shall be grounded effectively. The gate or door to the enclosure shall be kept locked at all times, unless authorized persons are present.
Underground transformers purchased after the effective date of this article, shall be air cooled or cooled with non-inflammable liquid or inert gas.

Underground stations containing transformers or circuit breakers filled with inflammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or explosion occurs, and shall be of fireproof construction.

Transformers shall be provided with adequate overload protection.

Battery charging stations, motor generator sets, rotary converters and oil filled transformers and switches used underground shall be housed in fireproof buildings ventilated by a separate split of air direct to the main return (rectifiers excepted).

“Danger — high voltage” signs shall be posted conspicuously on all transformer enclosures, high-potential switchboards, and other high-potential installations.

Circuit breakers or other overload devices shall be provided to protect power circuits.

Insulating platforms of wood, rubber, or other suitable nonconductive material shall be kept in place at each switchboard, and at stationary machinery where shock hazards exist.

All power wires and cables in hoisting shafts, slopes and power boreholes shall be properly insulated, substantially installed and well maintained.

All power wires, except trailing cables, especially designed cable used as electrical conductors to underground rectifier or transformer stations, portable power cables or bare or insulated ground and return wires, shall be supported on well-installed insulators and shall not contact combustible material, roof or ribs.

Trolley and feeder wires shall be installed as follows: Where installed on permanent haulage, after the effective date of this article, they shall be: (1) at least six inches
outside the track gauge line; (2) provided with cutout switches at intervals of not more than two thousand feet, and near the beginning of all branch lines; and (3) kept taut and not permitted to touch the roof, rib, or cross-bars. Particular care shall be taken where they pass through door openings to preclude bare wires from coming in contact with combustible material.

Trolley or bare feeder cables shall be guarded adequately where it is necessary for men to pass or work under them regularly unless the wires are more than six and one-half feet above the top of the rail. They shall also be guarded adequately on both sides of doors, and at all stations designated for the loading and unloading of man trips, and at sand boxes.

After the effective date of this article, new underground installations of electric face equipment in new mines shall not exceed six hundred volts direct current, (five hundred fifty volts D. C. equipment) or four hundred eighty volts alternating current, (four hundred forty volts A. C. equipment). No provision of this section shall prohibit the use of voltages in excess of four hundred forty volts alternating current on service lines to rectifiers, converters, transformers or switches connected thereto located in areas out by the immediate face regions.

In a gassy mine trolley and feeder wires shall not extend beyond the last open crosscut and shall be kept at least one hundred and fifty feet from open pillar workings. Trolley wires and feeder wires shall be anchored securely, insulated, and properly identified at the ends. Metallic frames, casings, and other enclosures of stationary electric equipment that can become “alive” through failure of insulation or by contact with energized parts shall be grounded effectively, or equivalent protection shall be provided.

Sec. 40. Same; Circuit Breakers, Switches, and Switchboards.—Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment against excessive overload: Provided, however, That this shall not apply to
6 locomotives operated regularly on grades exceeding five per cent.

8 Disconnecting switches shall be installed underground in all main direct current power circuits within five hundred feet of the bottom of shafts and boreholes, and at other places where main power circuits enter the mine.

12 Electric equipment and circuits shall be provided with switches or other controls of safe design, construction and installation.

15 When not in use, power circuits underground shall be de-energized on idle days and idle shifts. Suitable danger signs shall be posted conspicuously at all high-potential switchboard installations.

Sec. 41. Same; Bonding Track Used as Power Conductor.—Where track is used as a power conductor, rails and switches on main entries shall be bonded and cross-bonded in such a manner as to assure adequate return. At least one rail on secondary track-haulage roads shall be welded or bonded at every joint, and cross bonds shall be installed at intervals of not more than two hundred feet: Provided, however, That rail joints in such secondary haulage roads need not be bonded where a copper feeder adequate in size parallels the track and is electrically connected thereto at intervals of not more than two hundred feet by cross bonds.

Sec. 42. Same; Telephone Service or Communication Facilities.—Telephone service or equivalent two-way communication facilities shall be provided in all mines between the surface and each working section that is more than one thousand five hundred feet from the main portal.

6 Telephone lines, other than cables, shall be carried on insulators, installed on the opposite side from power or trolley wires, and where they cross power or trolley wires they shall be insulated adequately.

10 Lightning arresters shall be provided at the points where telephone circuits enter the mine.

Sec. 43. Electric Equipment in Gassy Mines.—After the effective date of this article all electric face equipment
acquired for use in a mine classified as gassy shall be per-
missible: Provided, however, That nonpermissible electric
equipment may be used in a mine classified as gassy if,
before the effective date of this article or the date such
mine became a mine classified as gassy, whichever is later,
the operator of such mine, or his successor, owned or
leased such equipment or had ordered such equipment.

Electric equipment shall not be taken into or operated
in any place where methane can be detected with a flame
safety lamp at any point not less than eight inches from
the roof, face, or rib.

In a mine classified as gassy electric haulage locomotives
operated from trolley wire shall not be used in return air.
For the purpose of this provision, air used to ventilate
a section of a mine shall not be considered return air until
such time as the air has ventilated all of the workings in
the section.

No person shall be placed in charge of a coal-cutting
machine in any mine classified as gassy, who is not a com-
petent person, capable of determining the safety of the
roof and sides of the working places and detecting the
presence of explosive gas. Machine runners in mines
classified as gassy shall be required to undergo examina-
tion by a mine foreman to determine their fitness to de-
tect explosive gas before they are permitted to have charge
of machines in such mines, unless they are accompanied
by a certified or competent person who has passed such
an examination.

In any mine classified as gassy, a coal-cutting ma-
chine shall not be brought in by the last break-through
next to the working face until the machine man shall have
made an inspection for gas in the place where the machine
is to work, unless such examination is made by some other
competent person authorized and designated for that pur-
pose by the mine foreman. If explosive gas in excess of
one per cent is found in the place, the machine shall not
be taken in until the danger is removed.

In working places where explosive gas is likely to be
encountered, a safety lamp, or other suitable approved
apparatus for the detection of explosive gas, shall be pro-
vided for use with each mining machine when working,
and should any indication of explosive gas in excess of
one per cent appear on the flame of the safety lamp, or on
other apparatus used for the detection of explosive gas,
the person in charge shall immediately stop the machine,
cut off the current at the nearest switch and report the
condition to the mine foreman or supervisor. The machine
shall not again be started in such place until the mine
foreman, supervisor, or a person authorized by one of
them has examined it and pronounced it safe.

No coal-cutting machine shall be operated in a mine
classified as gassy for a longer period than thirty minutes
without an examination as above described being made for
gas, and if gas is found in excess of one per cent the current
shall at once be switched off the machine, and the trailing
cable shall forthwith be disconnected from the power sup-
ply until the place is pronounced safe: Provided, however,
That at locations where continuous mining machines are
operating, such examinations for methane shall be made
at intervals not exceeding twenty minutes.

Machine runners and helpers shall use care while
operating mining machines. They shall not permit any
person to remain near the machine while it is in opera-
tion. They shall examine the roof of the working place
and see that it is safe before starting to operate the ma-
chine. They shall not move the machine while the cutter
chain is in motion.

Sec. 44. Same; Hand-held Drills; Trailing Cables.—
Electric drills and other electrically operated rotating
tools intended to be held in the hands shall have the
electric switch constructed so as to break the circuit when
the hand releases the switch, or shall be equipped with
friction or safety clutches.

All new trailing cables purchased after the effective
date of this article shall be safely and effectively insulated
by flame resistive materials. Splices in trailing cables
shall be made in a workmanlike manner, mechanically
11 strong and well insulated so as to exclude moisture so far
12 as possible.

Sec. 45. Same; Underground Illumination.—Electric
2 lights, or other approved methods of lighting, shall be
3 installed so that they do not come in contact with com-
4 bustible materials, and the wires shall be supported by
5 suitable insulators and fastened securely to the power
6 conductors.

Sec. 46. Welding and Cutting; Blowtorches; Fuel.—
2 Blowtorches may be used by competent persons in mines,
3 provided (1) suitable precautions are taken against igni-
4 tion of methane, coal dust, or combustible materials, (2)
5 means are provided for prompt extinguishment of fires
6 accidentally started, and (3) fuel is properly controlled.
7 Blowtorches must be maintained at all times in good oper-
8 ating condition and leakproof.

9 Fuel for blowtorches, in quantities not exceeding one
10 day’s supply, shall be transported from the surface in
11 approved safety cans, leakproof and sturdy. In trans-
12 ferring fuel to the torch, a funnel or flexible nozzle shall
13 be used to avoid spillage, and neither the supply can nor
14 the torch shall be opened within twenty-five feet of any
15 open light or other thing containing or apt to contain fire,
16 arcs, or sparks.

17 Welding and cutting may be done in mines: Provided,
18 That all equipment and gauges are maintained in good
19 order and not abused, that suitable precautions are taken
20 against ignition of methane, coal dust, or combustible
21 materials, that means are provided for prompt extinguish-
22 ment of fires accidentally started, and that only persons
23 who have demonstrated competency in welding and cut-
24 ting are entrusted to do this work. Adequate eye protec-
25 tion shall be used by all persons doing welding or cutting,
26 and precautions shall be taken to prevent other persons
27 from exposure that might be harmful to their eyes.

28 In mines classed as gassy, a certified person shall ex-
29 amine for gas with permissible flame safety lamps before
30 and during welding or cutting in, at or near working faces.
The safety of the equipment and methods used in such cases shall be subject to approval of the director of the department of mines.

Sec. 47. Responsibility for Care and Maintenance of Face Equipment.—Mine operators shall maintain face equipment in safe operating condition. Equipment operators shall exercise reasonable care in the operation of the equipment entrusted to them, and shall promptly report defects known to them.

Sec. 48. Control of Dust and Other Inhalation Hazards.—Men exposed for short periods to gas-, dust-, fume-, and mist-inhalation hazards shall wear permissible respiratory equipment. When exposure is for prolonged periods, dust shall be controlled by the use of permissible dust collectors, or by water or other approved methods.

SAFEGUARDS FOR MECHANICAL EQUIPMENT

Sec. 49. Safeguards for Mechanical Equipment.—The cutter chains of mining machines shall be locked securely by mechanical means or electrical interlocks while such machines are parked or being trammed. Loading machines shall not be trammed with loading arms in motion except when loading materials.

Belt, chain or rope drives and the moving parts of machinery which are within seven feet of the floor, ground or platform level, unless isolated, shall be guarded adequately. Repair pits shall be kept covered or guarded at all times when not in use. Machinery shall not be lubricated or repaired while in motion, except where safe remote lubricating devices are used. Machinery shall not be started until the person lubricating or repairing it has given a clear signal. Guards which have been removed shall be replaced before the machinery is again put into use. Provision shall be made to prevent accumulations of spilled lubricants.

Mechanically operated grinding wheels shall be equipped with safety washers, substantial retaining hoods, and, unless goggles are used, eye shields.
Rubber conveyor belts installed underground after the effective date of this article shall be provided with centrifugal switches. With the exception of main slopes, where rubber conveyor belts are used, multiple entries (three or more) shall be driven and the belt placed on a separate split of air. Where fire resistant belts are installed, two or more entries shall be driven and a single line of permanent stoppings may be used between the intake and return airways and the belt installed in intake air.

SURFACE STRUCTURES AND PRACTICES

Sec. 50. Tipple and Cleaning Plant.—In unusually dusty locations, electric motors, switches and controls shall be of dust-tight construction, or enclosed with reasonably dust-tight housings or enclosures. Open-type motors, switches or controls in use at the effective date of this article in tipples and cleaning plants in unusually dusty locations may be continued in use until such dust-tight equipment can be procured, or until they can be provided with reasonably dust-tight housings or enclosures.

Structures shall be kept free of excessive coal dust accumulations.

Where coal is dumped at or near air intake openings, reasonable provisions shall be made to prevent dust from entering the mine.

Where repairs are being made to the plant, proper scaffolding and proper overhead protection shall be provided for workmen wherever necessary.

Welding shall not be done in dusty atmospheres and dusty locations shall be well cleaned, and firefighting apparatus shall be readily available during welding.

Stairways, elevated platforms and runways shall be equipped with handrails. Railroad car trimmer platforms are excepted from such requirement.

Elevated platforms and stairways shall be provided with toeboards where necessary, and they shall be kept clear of refuse and ice and maintained in good repair.
Sec. 51. *Housekeeping.*—Good housekeeping shall be practiced in and around mine buildings and yards. Such practices include cleanliness, orderly storage of materials, and the removal of possible sources of injury, such as stumbling hazards, protruding nails and broken glass.

Sec. 52. *Lamp House.*—Naphtha or other flammable liquids in lamp houses shall be kept in approved containers or other safe dispensers.

Sec. 53. *Smoking in and Around Surface Structures.*—Smoking in or about surface structures shall be restricted to places where it will not cause fire or an explosion.

**MISCELLANEOUS SAFETY PROVISIONS AND REQUIREMENTS**

Sec. 54. *Duties of Persons Subject to Article; Rules and Regulations of Operators.*—It shall be the duty of the operator, mine foreman, supervisors, fire bosses and other officials to comply with and to see that others comply with the provisions of this article.

It shall be the duty of all employees and checkweighmen to comply with this article and to cooperate with management and the department of mines in carrying out the provisions hereof.

Reasonable rules and regulations of an operator for the protection of employees and preservation of property that are in harmony with the provisions of this article and other applicable laws shall be complied with. They shall be printed on cardboard or in book form in the English language and posted at some conspicuous place about the mine or mines, and given to each employee upon request.

Sec. 55. *Protective Clothing.*—Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use same where there is a hazard from flying particles, or other eye hazards.

Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.
Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntletted cuffs shall not be worn around moving equipment.

Sec. 56. Checking Systems.—Each mine shall have a check-in and check-out system that will provide positive identification upon the person of every individual underground. An accurate record of the men in the mine, which shall consist of a written record, a check board, or a time-clock record, shall be kept on the surface in a place that will not be affected in the event of an explosion. Said record shall bear a number or name identical to the identification check carried by, or fastened to the belt of, all persons going underground.

Sec. 57. No Act Permitted Endangering Security of Mine; Search for Intoxicants, Matches, Etc.—No miner, workman or other person shall knowingly injure any shaft, lamp, instrument, air course, or brattice, or obstruct or throw open airways, or carry matches or open lights in the places worked by safety lights, or disturb any part of the machinery or appliances, open a door closed for directing ventilation and not close it again, or enter any part of a mine against caution, or disobey any order of any mine foreman or assistant mine foreman given in carrying out any of the provisions of this section.

Open lights, smoking, and smokers’ articles including matches, are prohibited in mines where electric or safety lamps are used. No person shall at any time enter such mines with or carry therein any matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved. In all such mines the operator shall at frequent intervals search, or cause to be searched, any person, including his clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent such person from taking or carrying therein any of the above mentioned articles.

No person shall at any time carry into any mine any intoxicants, or enter any mine while under the influence of intoxicants.
Sec. 58. Fire Protection.—Suitable fire protection shall be provided at surface installations of fans, shops, tipples and preparation plants, substations, hoist rooms and compressor stations.

Suitable underground fire protection shall be provided at stationary substations and compressor stations, shops, pumps, doors, transformer stations, battery charging stations, where oil and grease is stored, at conveyor loading or discharge points, and strategic points along rubber belt lines, stables, and on active working sections.

Rock dust in quantities of five hundred pounds or more shall be considered suitable for fire protection at the above mentioned underground locations, except that a fire extinguisher suitable for the hazards present shall be provided as additional protection at underground shops, permanent substations, compressor stations, battery charging stations and transformer stations.

Mine openings, where there is danger of fire entering the mine, shall have adequate protection against surface fires or dangerous volumes of smoke entering the mine.

Sec. 59. Stable in Mines.—No operator, agent or mine foreman shall provide a horse or mule stable inside of any mine unless space is excavated in solid strata of rock, slate or coal. If excavated in the coal seam, the wall shall be built of brick, stone or concrete not less than four inches in thickness, or of steel plates, and shall be built from the bottom slate to the roof. No wood or other combustible material shall be used in the construction of the inside of the stable. The air current used for the ventilation of the stable shall not be intermixed with the air current used for ventilating any other portion of the mine, but shall be conveyed directly to the return air current. No open lights shall be permitted in any stable in any mine. No hay or straw shall be taken into any mine, unless pressed or made up in compact bales, and shall be transported from the surface to any underground location in incombustible closed cars, which shall be kept in a storehouse built apart from the stable, constructed in the same manner as the stable. Under no circumstances
shall hay be stored in the stable. All refuse and waste shall be removed from the stable and shall not be allowed to accumulate in the mine.

Sec. 60. First-aid Equipment.—In every mine where not more than fifty men are employed underground, it shall be the duty of the operator thereof to keep always on hand at the mine two properly constructed stretchers, two woolen and waterproof blankets, and all necessary requisites; and for each additional fifty men so employed, one additional stretcher and equipment as above specified shall be furnished. Such material shall be provided on the surface and at strategic locations underground near the working section. No first-aid material shall be removed or diverted, without authorization, except in case of accident in or about the mine.

Sec. 61. Mine Openings or Outlets; Roadways; Hoisting Equipment at Shaft Outlets; Limitation of Section.—No operator or mine foreman of any coal mine shall employ any person to work in such mine, or permit any persons to be in the mine for the purpose of working therein, unless they are in communication with at least two openings, or outlets, to each seam, separated by natural strata, such openings to be not less than three hundred feet apart, if the mine be worked by shaft; if the mine be worked by shaft and slope such openings shall be separated by one hundred feet of natural strata; and not less than fifty feet apart at the outlets, if worked by slope or drift; but this requirement of a distance of three hundred feet between openings or outlets to shaft mines shall not apply where such openings or outlets have been made prior to the effective date of this article. To each of the outlets there shall be provided from the interior of the mine a safe and available roadway, properly drained, which shall at all times, while the mine is in operation, be kept free from all obstructions that might prevent travel thereon in case of an emergency. If either of the outlets be by shaft, it shall be fitted with safe and available appliances, such as stairs or hoisting machinery, which shall at all times when men are underground be kept in order and ready for immediate use, whereby per-
sons employed in the mine may readily escape in case of
accident.

This section shall not apply to any mine while work is
being prosecuted with reasonable diligence in making
communication between outlets, necessary repairs, or re-
moving obstructions, so long as not more than twenty
persons are employed at any one time in the mine; neither
shall it apply to any mine, or part of a mine, in which
a second outlet has been rendered unavailable by reason
of the final robbing of pillars, preparatory to abandon-
ment, so long as not more than twenty persons are em-
ployed therein at any one time; but before a limited
number of men are so permitted to work, approval of
the necessity therefor shall be obtained from the depart-
ment of mines.

Sec. 62. No Mine to Be Opened or Reopened Without
Prior Approval of Director of Department of Mines.—
After the effective date of this article, no mine shall be
opened or reopened unless prior approval has been ob-
tained from the director of the department of mines,
which approval shall not be unreasonably withheld. The
operator shall pay for such approval a fee of five dollars,
which payment shall be tendered with the operator's
application for such approval.

Sec. 63. Survey on Closing of Mine.—When any coal
mine is worked out, or is about to be abandoned or
indefinitely closed, the operator of the same shall make or
due to be made a final survey, where not already made,
of all parts of such mine, and the results of the same shall
be duly extended on all maps of the mine and copies
thereof, so as to show all excavations and the most
advanced workings of the mine and their exact relation
to the boundary or section lines on the surface, and such
abandoned mines shall be properly fenced off.

Sec. 64. Mining Close to Abandoned Workings.—Any
operator working up to an abandoned coal mine may be
permitted to work to his property line, if approved by
the director of the department of mines, but in such cases
precaution must be taken as provided in this article.
Sec. 65. Explosion or Accident; Investigation by Department of Mines.—Whenever, by reason of any explosion or other accident in or about any coal mine or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the superintendent of the mine, and in his absence, the mine foreman in charge of the mine, to give immediate notice to the director of the department of mines and the inspector of the district, stating the particulars of such accident. If anyone is killed, the inspector shall immediately go to the scene of such accident and make such suggestions and render such assistance as he may deem necessary for the future safety of the men, and investigate the cause of such explosion or accident and make a record thereof which he shall preserve with the other records of his office, the cost of such records to be paid by the department of mines, and a copy shall be furnished the operator and other interested parties. To enable him to make such investigations, he shall have the power to compel the attendance of witnesses and to administer oaths or affirmations. The director of the department of mines shall have the right to appear and testify and to offer any testimony that may be relevant to the question and to cross-question witnesses.

Sec. 66. Written Report of Accidents.—Whenever any accident occurs in or about any coal mine to any employee or person connected with the mining operation, resulting in personal injury or death, the operator shall, within twenty-four hours, report the same in writing to the director of the department of mines and to the district mine inspector of the district in which the accident occurs, giving full details thereof upon forms furnished by the department of mines.

Sec. 67. Scene of Accident; Preservation of Evidence.—Following a mine accident resulting in the death of one or more persons and following any mine disaster, the evidence surrounding such occurrence shall not be disturbed after recovery of bodies or injured persons until an investigation by the department of mines has been
completed: Provided, however, That sufficient wreckage or debris may be moved to allow recovery work after disasters or continued general operation of the mine following fatalities not caused by mine fires or mine explosions.

Sec. 68. Fire in or About Mine; Notification of Director and District Mine Inspector.—The operator or mine foreman, upon the discovery of fire in or about a mine, shall immediately notify the director of the department of mines and the district mine inspector in whose district the mine is located.

WEIGHING OR MEASURING COAL

Sec. 69. Weighing and Measuring Coal; Appliances; Testing Correctness Thereof.—It shall be the duty of every operator who compensates any employees by weight or measure of coal mined to provide scales or measures and whatever else may be necessary to correctly weigh or measure such coal.

It shall be the duty of the commissioner of labor of the state of West Virginia, upon the reasonable request of any operator of a mine or of two or more miners working therein, to cause such mine to be visited by one of his deputies for the purpose of testing such scales or measures.

Sec. 70. Marking and Weighing Cars Used in Hauling Coal.—At any mine where employees are paid on the basis of weight or measure, each car used for removal of coal shall be numbered and plainly marked. Where coal mining is paid for on the basis of weight, every car so used shall be weighed and the weight thereof shall be plainly marked thereon. Where coal mining is paid for on the basis of measure, every car so used shall be plainly marked with the number of bushels of coal such car will hold when loaded to its capacity. No car shall be used for such purposes until the provisions of this section are complied with.
Sec. 71. Weighing Coal Before Screening; Payment for Coal.—All coal mined and paid for by weight shall be weighed before it is screened, and shall be paid for according to the weight so ascertained, at such price per ton as may be agreed upon by the operators and miners who mined the same. All coal mined and paid for by measure shall be paid for according to measure or number of bushels marked upon cars in which it is removed from the mine, and before it is screened, and the price paid for each measure or bushel so ascertained shall be such as may be agreed upon as aforesaid.

Sec. 72. Weighman; Checkweighman; Employment; Oath.—At every mine where mining of coal is paid for by weight or measure, the operator shall employ a weighman, and the miners working in such mine may employ a checkweighman as provided by general law, and the two so employed shall supervise the weighing of each car while empty, and the weighing of the same when loaded with coal so paid for by weight, or the measurement of such coal, as the case may be. Where such checkweighman is employed by the miners, the operator shall furnish such checkweighman with a check or number and pay him for all coal placed to his check or number in the same manner as other miners are paid. If the miners fail to employ a checkweighman, then the weighman employed by the operator shall supervise weighing and measuring. All weighmen and checkweighmen, before entering upon the discharge of their duties, shall take an oath or affirmation to honestly and impartially perform the duties of such employment and do equal and exact justice between employer and employees to the best of their judgment, skill and ability.

Where a weighman is mutually selected by a majority of the miners working in a mine and the operator, it shall not be necessary to employ a checkweighman. Whenever either of the parties to such an agreement shall become dissatisfied with such weighman, they may dismiss him on ten days' notice.
GENERAL PROVISIONS

Sec. 73. Reopening Old or Abandoned Mine.—No person, without first giving to the director of conservation ten days' written notice thereof, shall reopen for any purpose any old or abandoned mine wherein water or mine seepage has collected or become impounded or exists in such manner or quantity that upon the opening of such mine such water or seepage may drain into any stream or watercourse. Such notice shall state clearly the name or names of the owner or owners of the mine proposed to be opened, its exact location, and the time of the proposed opening thereof.

Upon receipt of any such notice, the director of conservation shall have his representative present at the mine at the time designated in the notice for such opening, who shall have full supervision of the work of opening such mine with full authority to direct said work in such manner as to him seems proper and necessary to prevent the flow of mine water or seepage from such mine in such manner or quantity as will kill or be harmful to the fish in any stream or watercourse into which such mine water or seepage may flow directly or indirectly.

Sec. 74. Annual Report By Operator of Mine; Owner's Report in Case of Sale.—The operator of every coal mine shall annually, during the month of January, mail or deliver to the director of the department of mines a report for the preceding calendar year. Such report shall state the name of the operator, the quantity of coal mined, and such other information not of a private nature, as may be required by the director of the department of mines. Forms for such reports shall be furnished by the director of the department of mines. Whenever any operator of a coal mine shall transfer the ownership thereof, such operator shall, within thirty days, report such transfer to the director of the department of mines, together with a statement of the tons of coal produced at such mine during the current calendar year.

Sec. 75. Examinations to Determine Compliance With Permits.—Whenever permits are issued by the depart-
ment of mines, frequent examination shall be made by
the mine inspector during the tenure of the permit to
determine that the requirements and limitations of the
permit are complied with.

Sec. 76. Compliance With Article Suspended Where
Required Equipment Unobtainable; Allowance for Plan-
ing and Instituting Changes.—Whenever any equipment
or supplies required by this article, including rock-dusting
machines, flame safety lamps, and permissible electric
equipment, are unobtainable in the normal course of busi-
ess, compliance with the requirements of this article
with respect thereto is suspended so long as such items
remain unobtainable. Due allowance shall also be made
for planning, institution of change procedures, and in-
stallation of new equipment.

Sec. 77. Intimidation of Workmen.—No person or per-
sons, or combination of persons, shall, by force, threats,
menaces or intimidations of any kind, prevent or attempt
to prevent from working in or about any mine any person
or persons who have the lawful right to work in or about
the same, and who desire so to work; but this provision
shall not be so construed as to prevent any two or more
persons from associating together under any name they
may desire, for any lawful purpose, or from using moral
suasion or lawful argument to induce any one not to work
in and about any mine.

Sec. 78. Penalties.—Any person who shall wilfully
violate sections two, seven, twelve, nineteen, twenty-four,
three-three, fifty-seven, fifty-eight, sixty, sixty-two,
seventy, seventy-one, seventy-four, seventy-five or
seventy-seven of this article shall be fined not less than
ten nor more than five hundred dollars

Sec. 75. Examinations to Determine Compliance With
provisions of this article shall be construed as separable
and severable, and should any of the provisions, sentences,
classes, or parts thereof be construed or held unconstitu-
tional or for any reason be invalid, the remaining pro-
visions of this article shall not be thereby affected.
Article 2-b. Auger Mining.

Section
1. Permit required.
2. Duties of operator.
3. Reports.

Section 1. Permit Required.—No auger mining shall be conducted by any person without securing a permit issued by the department of mines. Such permit shall be on a form prescribed by the director of the department of mines. Such permit shall not be unreasonably withheld. The operator shall pay for such permit a fee of five dollars, which payment shall be tendered with the operator's application for such permit.

Sec. 2. Duties of Operator.—It shall be the duty of the operator to see that all work is performed in a safe manner; equipment where necessary shall be properly guarded; high walls shall be carefully scaled; and loose and overhanging materials taken down.

If, after auger mining is completed, the operator decides to deep mine the remaining area, he shall comply with the provisions of article two that are applicable.

Sec. 3. Reports.—The operator of any auger mining shall furnish to the director of the department of mines the reports required in article two of this chapter.

CHAPTE R 14
(Senate Bill No. 2—By Mr. Martin)

AN ACT to amend article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, to be designated sections twenty-two, twenty-three and twenty-four, relating to public service districts for water and sewerage services; providing for the validation, ratification, approval and confirmation of certain proceedings heretofore taken by county courts of this state relative to the creation and continuance of public service districts pursu-
ant to the provisions of said chapter sixteen of said code and the subsequent inclusion of additional territory to existing public service districts by such county courts and the appointment of members of public service boards; authorizing the appointment of successors to members of certain public service boards; and the validation, ratification, approval and confirmation of certain acts and proceedings of public service boards prior to the date this act takes effect, and authorizing the acceptance by any public service district of loans or temporary advances from, and contracts and agreements with, federal agencies or private parties.

[Passed February 1, 1958; in effect from passage. Became a law without the approval of the Governor.]


Section 22. Validation of prior proceedings by county courts for creation of districts, inclusion of additional territory and appointment of members of district boards.

Section 23. Validation of acts and proceedings of public service boards.

Section 24. Acceptance of loans or temporary advances from, and contracts and agreements with, federal agencies or private parties.

Be it enacted by the Legislature of West Virginia:

That article thirteen-a, chapter sixteen 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 twenty-two, twenty-three and twenty-four, to read as follows:

Section 22. Validation of Prior Proceedings by County Courts for Creation of Districts, Inclusion of Additional Territory and Appointment of Members of District Boards.

—All acts and proceedings taken by any county court of this state purporting to have been carried out under the provisions of this article which have been taken, prior to the date this act takes effect, for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service
districts, after notice published by any such county court
having territorial jurisdiction thereof of its intention to
include such additional territory after hearing thereon,
are hereby validated, ratified, approved and confirmed
notwithstanding any other lack of power (other than
constitutional) of any such county court to create such
public service districts or to include additional territory
to existing public service districts or irregularities (other
than constitutional) in such proceedings, relating
to the appointment and qualification of more than
three members to the board of any such public serv-
ice district or the subsequent appointment of successors
of any or all of such members, notwithstanding that no
city, incorporated town or other municipal corporation
having a population in excess of three thousand is in-
cluded within the district, and the appointment and qualifi-
cation of such members, and further including any ir-
regularities in the petition for the creation of any public
service district, irregularities in the description of the area
embraced by such district, and irregularities in the notice
and publication of notice for the hearing creating such
district, prior to the date this act takes effect is hereby
validated, ratified, approved and confirmed; and, further,
in such cases where more than three members of the
board of such districts have been so appointed prior to the
date this act takes effect then such county court shall ap-
point, and they are hereby authorized and empowered to
appoint, successors to such members in the manner as
otherwise provided by this article.

Sec. 23. Validation of Acts and Proceedings of Public
Service Boards.—All acts and proceedings taken by any
public service board the members of which were ap-
pointed, prior to the date this act takes effect, by any
county court of this state having territorial jurisdiction
thereof, are hereby validated, ratified, approved and con-
firmed, as to defects and irregularities which may other-
wise exist on account of their appointment and qualifi-
cation.

Sec. 24. Acceptance of Loans or Temporary Advances
from, and Contracts and Agreements with, Federal Agen-
cies or Private Parties.—Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants or temporary advances for the purpose of paying part or all of the cost of construction or acquisition of water or sewerage systems, or both, and the other purposes herein authorized, from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which temporary advances may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article and to enter into the necessary contracts and agreements to carry out the purposes hereof with the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual.

CHAPTER 15
(Senate Bill No. 36—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections twenty-five and twenty-six, and by adding thereto a new section, to be designated section twenty-five-a, relating to permitting county courts to expend certain funds for participation in any equalization and revaluation program.

[Passed February 4, 1958; in effect from passage. Approved by the Governor.]

Article 8. Levies.
Section
25. Funds expended only for purposes for which raised.
25-a. Right of county court to expend surplus funds for equalization and revaluation.
26. Unlawful expenditures by local fiscal body.

Be it enacted by the Legislature of West Virginia:
That article eight, chapter eleven of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections twenty-five and twenty-six, and by adding thereto a new section, to be designated section twenty-five-a, to read as follows:

Section 25. — Funds Expended Only for Purposes for Which Raised.—Except as otherwise provided in this article, boards or officers expending funds derived from the levying of taxes shall expend the funds only for the purposes for which they were raised.

Sec. 25-a. — Right of County Court to Expend Surplus Funds for Equalization and Revaluation.—In order to permit county courts to participate more fully in an equalization and revaluation program, which equalization and revaluation would result in increased local support for the public schools, any county court having funds in excess of the amount needed for the purpose for which such funds were raised, may expend such funds for any equalization and revaluation program upon the written approval of the state tax commissioner, provided that under no circumstances shall a county court expend money or incur obligations in excess of the funds available for current expenses.

Sec. 26.—Unlawful Expenditures by Local Fiscal Body. —Except as provided in the next preceding section a local fiscal body shall not expend money or incur obligations:

(1) In an unauthorized manner;
(2) For an unauthorized purpose;
(3) In excess of the amount allocated to the fund in the levy order;
(4) In excess of the funds available for current expenses.

CHAPTER 16
(Senate Bill No. 37—By Mr. Bean, Mr. President)

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 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 Due; How Computed.—This bill is enacted for the purpose of providing revenue for the administration of Senate Bill No. 34, regular session, one thousand nine hundred fifty-eight. When used in this section the phrase "normal tax" shall mean the tax computed by the application of rates against intrastate gross income, pro-rated gross income, assessed value of all property in West Virginia and by pro-rated net income as set forth in sections two, three, four or five, inclusive, of this article.

When used in this section the term "surtax" shall mean the tax computed by the application of the tax rate as set forth in section five-a of this article.

When used in this section the phrase "total net balance of taxes due" shall mean the total of the normal tax and surtax less exemption at the rate of fifty dollars annually or at the rate of four dollars and sixteen cents per month for the period actually engaged in business.

For the period commencing July one, one thousand nine hundred sixty, and thereafter, a reduction of five percent of the total net balance of taxes due is allowed. The normal tax shall be computed by the application of rates against intrastate gross income, pro-rated gross income, assessed value of all property in West Virginia, and by pro-rated net income as set forth in sections two, three, four or five, inclusive, of this article. The surtax shall be computed by the application of the tax rate as set forth in section five-a of this article. For the period commencing July one, one thousand nine hundred sixty, the total net balance of
tates due shall be reduced by the five percent credit allowed herein. The total net balance of taxes due, for the period commencing on the aforesaid date, reduced by the five percent credit is the amount of tax payable.

CHAPTER 17
(Senate Bill No. 35—By Mr. Bean, Mr. President)

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 business and occupation tax.

[Passed February 4, 1958; in effect July 1, 1958. Approved by the Governor.]


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 Due; How Computed.—This bill is enacted for the purpose of providing revenue for the administration of Senate Bill No. 34, regular session, one thousand nine hundred fifty-eight. When used in this section the phrase "normal tax" shall mean the tax computed by the application of rates against values or gross income as set forth in sections two-a to two-j, inclusive, of this article.

When used in this section the term "surtax" shall mean the tax computed by the application of the tax rate as set forth in section three-a of this article.

When used in this section the phrase "total net balance of taxes due" shall mean the total of the normal tax in
those classifications under which only a normal tax is
imposed, and the total of the normal tax and the surtax
in those classifications under which both a normal tax
and surtax is imposed, and the combined total of all taxes
when the tax return shows taxes due under more than
one classification as set forth in sections two-a to two-j,
inclusive, of this article, and section three-a of this article
less exemption at the rate of fifty dollars annually or at
the rate of four dollars and sixteen cents per month for
the period actually engaged in business.

For the period commencing July one, one thousand
nine hundred sixty, and thereafter, a reduction of five
per cent of the total net balance of taxes due is allowed.
The normal tax shall be computed by the application of
rates against values or gross income as set forth in sec­
tions two-a to two-j, inclusive, of this article. The surtax
shall be computed by the application of the tax rate as
set forth in section three-a of this article. For the period
commencing July one, one thousand nine hundred sixty,
the total net balance of taxes due shall be reduced by the
five per cent credit allowed herein. The total net balance
of taxes due, for the period commencing on the aforesaid
date, reduced by the five per cent credit is the amount of
the tax payable.

CHAPTER 18
(Senate Bill No. 5—By Mr. Carrigan and Mr. Traubert)

AN ACT to amend and reenact 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, relating to the imposition, collection and
disposition of an additional tax on the sale of cigarettes,
and upon the use, consumption or storage of cigarettes in
this state; providing for the extension of the present tax
thereon beyond June thirty, one thousand nine hundred
fifty-eight, and declaring the purpose thereof.

[Passed January 28, 1958; in effect July 1, 1958. 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-eight, 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 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 by this section shall be suspended on the last day of June, one thousand nine hundred sixty-one.

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 of providing revenue for the general fund of this state an
3 excise tax is hereby levied, on and after midnight of the
4 last day of June, one thousand nine hundred fifty-eight, on
5 the use, consumption or storage of cigarettes by consum-
6 ers in this state at the rate of two and one-half cents on
7 each ten cigarettes or fractional part thereof: Provided,
8 however, That the tax shall not apply if the tax levied in
9 article seventeen of this chapter has been paid: Provided
10 further, That the additional one-half cent tax on each ten
11 cigarettes or fractional part thereof imposed or levied by
12 this section shall be suspended on the last day of June, one
13 thousand nine hundred sixty-one.

CHAPTER 19
(Senate Bill No. 39—By Mr. Hedrick and Mr. Marchand)

AN ACT to amend article nineteen, chapter eleven of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, by amending and reenacting sections one, two,
three, five and six; and by enacting six new sections, to
be designated sections four-a, four-b, five-a, five-b, five-c
and seven-a, all relating to the soft drinks tax.

[Passed February 5, 1958; in effect from passage. Approved by the Governor.]

Section
1. Definitions.
2. Excise tax on bottled soft drinks and syrups; disposition thereof.
3. Soft drink permits required.
4-a. Cancellation and removal of stamps.
4-b. Disposition of unused crowns; penalty for violation.
5. Purchase of tax stamps or tax crowns; discounts and commissions;
provisions for credit.
5-a. Keeping of records; inspections and audits.
5-b. Penalties for late filing.
5-c. Assessment; collection by action or suit.
7-a. Seizure and sale of soft drink syrups by commissioner; forfeiture;
collection of tax.

Be it enacted by the Legislature of West Virginia:
That article nineteen, chapter eleven of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended, be
amended by amending and reenacting sections one, two, three, five and six; and by enacting six new sections, to be designated sections four-a, four-b, five-a, five-b, five-c and seven-a, all to read as follows:

Section 1. Definitions.—As used in this article:

1. (1) "Bottled soft drinks" shall include any and all non-alcoholic beverages, whether carbonated or not, such as soda water, ginger ale, coca cola, lime cola, pepsi cola, doctor pepper, root beer, carbonated water, orangeade, lemonade, fruit juice when any plain or carbonated water, flavoring or syrup is added, or any and all preparations commonly referred to as "soft drinks" of whatever kind, which are closed and sealed in glass, paper, or any other type of container or bottle, whether manufactured with or without the use of any syrup. The term "bottled soft drinks" shall not include fluid milk to which no flavoring has been added, or natural undiluted fruit juice or vegetable juice.

2. (2) "Soft drink syrups" shall include the compound mixture or the basic ingredients, whether dry or liquid, usable in making, mixing or compounding soft drinks by the mixing thereof with carbonated or plain water, ice, fruit, milk or any other product suitable to make a soft drink among such syrups being such products as coca cola syrup, chero cola syrup, pepsi cola syrup, doctor pepper syrup, root beer syrup, nu-grape syrup, lemon syrup, vanilla syrup, chocolate syrup, cherry smash syrup, rock candy syrup, simple syrup or any other prepared syrups sold or used for the purpose of mixing soft drinks, as well as all powder bases prepared for the purpose of mixing soft drinks, including but not limited to such soft drinks as kool-aid, oh boy drink, tip top and miracle aid: Provided, however, That powdered mixes prepared for domestic cooking or baking only shall be excluded therefrom.

3. (3) "Simple syrup" shall mean the making, mixing, compounding or manufacturing, by dissolving sugar and water or any other mixture that will create simple syrup to which may or may not be added concentrates or extracts.
(4) "Person" shall mean and include an individual, firm, partnership, association or corporation.

(5) "Wholesale dealer" includes only those persons who sell any bottled soft drink or soft drink syrup to retail dealers for the purpose of resale.

(6) "Retail dealer" includes every person other than a wholesale dealer mixing, making, compounding or manufacturing any drink from a soft drink syrup or powder base.

(7) "Distributor" shall mean any person who manufactures, bottles, produces or purchases for sale to retail dealers any bottled soft drink or soft drink syrup.

(8) "Commissioner" means the state tax commissioner, and where the meaning of the context requires, all deputies and employees duly authorized by him.

Sec. 2. Excise Tax on Bottled Soft Drinks and Syrups; Disposition Thereof.—For the purpose of providing revenue for the construction, maintenance and operation of a four-year school of medicine, dentistry and nursing of West Virginia university, an excise tax is hereby levied and imposed on and after midnight of the last day of June, one thousand nine hundred fifty-one, upon the sale, use, handling or distribution of all bottled soft drinks and all soft drink syrups, whether manufactured within or without this state, as follows:

(1) On each bottled soft drink, a tax of one cent on each sixteen fluid ounces, or fraction thereof, contained therein.

(2) On each gallon of soft drink syrup, a tax of eighty cents, and in like ratio on each part gallon thereof, and on each ounce of dry mixtures used for making soft drinks, a tax proportionate to that levied on soft drink syrup, in a ratio to be determined by the commissioner.

Any person manufacturing or producing within this state any bottled soft drink or soft drink syrup for sale within this state and any distributor, wholesale dealer or retail dealer or any other person who is the original con-
signee of any bottled soft drink or soft drink syrup manufactured or produced outside this state, or who brings such drinks or syrups into this state, shall be liable for the excise tax hereby imposed. The excise tax hereby imposed shall not be collected more than once in respect to any bottled soft drink or soft drink syrup manufactured, sold, used or distributed in this state.

All revenue collected by the commissioner under the provisions of this article, less such costs of administration as are hereinafter provided for, shall be paid by him into a special medical school fund, which is hereby created in the state treasury, to be used solely for the construction, maintenance and operation of a four-year school of medicine, dentistry and nursing, as otherwise provided by law.

Sec. 3. **Soft Drink Permits Required.**—On and after the first day of July, one thousand nine hundred fifty-one, it shall be unlawful for any person to manufacture, bottle, import, distribute or sell in this state any bottled soft drink or any soft drink syrup without having first obtained from the commissioner a soft drink permit as provided in this section. Each wholesale dealer and each distributor shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of ten dollars. Each wholesale dealer and each distributor who sells or distributes any such drink or syrup within the state, but who does not own or operate any place of business within the state, shall likewise obtain each year from the commissioner a soft drink permit and shall pay therefor a fee of ten dollars. Each retail dealer manufacturing and/or purchasing unstamped syrups shall each year obtain from the commissioner a soft drink permit for each place of business owned or operated by him within the state and shall pay for each permit an annual fee of five dollars. The commissioner may suspend or, after a hearing, revoke any soft drink permit whenever the holder thereof has failed to comply with any of the provisions of this article or any rules or regulations made and promulgated by him as provided herein.
Sec. 4-a. Cancellation and Removal of Stamps.—Any person subject to the tax imposed by this article who affixes a soft drink stamp to a container shall be required to immediately cancel the stamp by writing or marking initials thereon and the date upon which the stamp was affixed. When any container to which a stamp has been affixed is emptied, the person emptying the same or on whose behalf the same has been emptied shall be required to immediately remove or deface the tax stamp thereon.

Sec. 4-b. Disposition of Unused Crowns; Penalty for Violation.—Unused tax crowns upon which the tax imposed by this article has not been paid and which the original purchaser has not used and does not intend to use, and which are fit for use, shall be disposed of in the following manner only:

(1) By returning same to the manufacturer thereof and receiving from such manufacturer a certificate which shall indicate the name of the person returning the crowns, the date of return and the number and denominations of crowns returned; or

(2) By transferring such crowns to any person and receiving in exchange therefor a certificate issued by the commissioner authorizing the transferee to acquire such crowns.

Upon receipt of either such certificate the commissioner shall credit the account of the original purchaser in the amount indicated by the certificate.

In the event of the disposition of such crowns in a manner not authorized by this section, the original purchaser thereof or his estate, and/or any person (whether acting in an official capacity or otherwise) who shall make such unauthorized disposition shall be liable for the amount of tax which the crowns represent; and, in addition, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of five thousand dollars and imprisonment in the county jail for not less than sixty days nor more than one year, in the discretion of the court.
Sec. 5. Purchase of Tax Stamps or Tax Crowns; Dis
counts and Commissions; Provisions for Credit.—The com-
missioner is hereby authorized to promulgate rules and
regulations governing the design, purchase, sale and dis-
tribution of tax stamps and tax crowns required by this
article. Manufacturers or distributors of crowns may be
required to furnish bond to insure faithful compliance
with such regulations. Any person desiring to purchase
such crowns shall obtain from the commissioner an au-
thorization to do so, which shall specify the number of
crowns to be purchased, and upon shipment thereof the
manufacturer shall transmit to the commissioner a copy
of the invoice of such shipment. The commissioner shall
not authorize the purchase of crowns by any person who
is in default in the payment of any tax required by this
article.

The commissioner shall sell the stamps required by this
article, or may authorize any sheriff, or any bank or trust
company in this state, to sell such stamps as his deputy,
and may allow as a commission a fee of one-half of one
per cent of the face value of all stamps sold by such
deputy. In the sale of such stamps the commissioner shall
allow the following discounts: On a sale of less than
twenty-five dollars, no discount; on a sale of twenty-five
dollars or over and less than fifty dollars, a discount of
five per cent; and on a sale of fifty dollars or more, a dis-
count of ten per cent.

In the case of stamps, the tax imposed by this article
shall be paid in advance at the time the stamps are pur-
chased. In the case of tax crowns, the tax shall be paid
in advance at the time the tax commissioner authorizes
the purchase of such tax crowns, unless the purchaser
applies for and obtains credit as provided in the following
paragraph.

Whenever any person applies for an authorization to
purchase tax crowns, he may apply for an extension of
credit on the tax due with respect to such crowns, and if
he files a bond in the form prescribed by the commissioner,
with satisfactory corporate surety, in an amount not less
than twenty-five per cent more than the tax due with re-
spect to the tax crowns to be purchased, the commissioner shall issue the necessary authorization. Any person who obtains such credit shall, on or before the fifteenth day of each month, file with the commissioner on forms prescribed by him a return stating the number of tax crowns used by such person during the preceding month, and he shall at the same time pay to the commissioner the tax due on the crowns so used.

The commissioner shall allow to each purchaser of tax crowns, whether for cash or credit, a discount of twelve and one-half per cent of the tax value of such tax crowns. Such discount, and the discount allowed on the sale of tax stamps, shall be in lieu of the allowance of any claim for refund by reason of the breakage or destruction of containers stamped or crowned as provided in this article, the spoilation of the soft drinks or syrups, or the loss or destruction of tax stamps or tax crowns.

Sec. 5-a. Keeping of Records; Inspections and Audits.—Every person subject to the provisions of this article shall make such reports and keep such records as may be required by the rules and regulations of the commissioner, and shall permit him to inspect such records and the stocks and supplies on hand at any time. Every such person shall be required either to make his records available for inspection within this state or to pay the reasonable expenses of sending an auditor outside the state to inspect and audit such records.

Sec. 5-b. Penalties for Late Filing.—If any taxpayer fails to file a return or pay the proper amount of tax within the time specified herein, there shall be added to the unpaid tax the amount of the discount to which the taxpayer would have been entitled had he not been delinquent as a penalty for being delinquent for the first month, or a fraction thereof, and, if the delinquency continues, there shall be a penalty of one per cent of the unpaid tax for each succeeding month, or fraction thereof: Provided, however, That if the failure to pay was due to reasonable cause, the commissioner may waive or remit the penalties imposed in this section in whole or in part. In addi-
tion to the penalties herein provided, the commissioner shall refuse to authorize the purchase of tax stamps or crowns by the delinquent taxpayer.

Sec. 5-c. Assessment; Collection by Action or Suit.—If the commissioner believes that the tax imposed by this article has been insufficiently returned, he shall proceed to investigate and determine the tax liability of any taxpayer and make an assessment therefor.

Taxes and penalties due and unpaid may be collected by action in debt, motion for judgment, or other appropriate remedy, including suit in a justice court.

Sec. 6. Rules and Regulations.—The commissioner is hereby authorized to make and promulgate such reasonable rules and regulations as may be necessary to administer the provisions of this article and to insure the collection of the tax imposed hereby.

Sec. 7-a. Seizure and Sale of Soft Drink Syrups by Commissioner; Forfeiture; Collection of Tax.—Whenever the commissioner or any of his duly authorized agents shall discover any soft drink syrups, subject to tax as provided by this article and upon which the tax has not been paid as herein required, the commissioner or his duly authorized agent is hereby authorized and empowered forthwith to seize and take possession of such soft drink syrups, which shall thereupon be deemed to be forfeited to the state and the commissioner may within a reasonable time thereafter by a notice posted upon the premises where such seizure was made, or by publication in some newspaper having circulation in the county wherein such seizure is made, at least five days before the day of sale, sell such forfeited soft drink syrups; and from the proceeds of such sale shall collect the tax due thereon together with a penalty of fifty per cent thereof and the cost incurred in such proceedings, and pay the balance, if any, to the person in whose possession such soft drink syrups were found: Provided, however, That such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this article. Such sale shall be made in the
county where most convenient and economical. All mon-
ey s collected under the provisions of this section shall be
paid into the state treasury and treated as other taxes
collected under this article.

CHAPTER 20

(Senate Bill No. 25—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT validating the issuance and sale of Korean veterans' bonus bonds to the board of public works of the state of West Virginia on account of various trust funds of the state, and providing for the deposit in the Korean veterans' bonus sinking fund of all funds for the payment of said bonds.

[Passed January 31, 1958; in effect from passage. Approved by the Governor.]

Korean Veterans Bonus Bonds.

Section
1. Findings and declaration of legislative intent.
2. Award of bonds validated.
3. Deposit of past and future revenues validated.

Be it enacted by the Legislature of West Virginia:

Section 1. Findings and Declaration of Legislative Intent.—It is hereby determined and declared as a matter of legislative finding that, pursuant to the authority provided in chapter one hundred sixty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, as amended by house bill number two, an act of the Legislature, first extraordinary session, one thousand nine hundred fifty-seven, as amended by house bill number two, an act of the Legislature, first extraordinary session, one thousand nine hundred fifty-seven, bonds in the total principal amount of eighteen million five hundred thousand dollars, which said bonds were authorized by the “Korean Veterans’ Bonus Amendment” to the constitution of the state of West Virginia adopted at the general election held in November, one thousand nine hundred fifty-six, were awarded by the governor to the board of public works of
the state of West Virginia for the account of various
trust funds of the state, and the revenues derived from
charges for alcoholic liquors by the state liquor control
commissioner of the state pursuant to section nineteen-a,
article three, chapter sixty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, were
duly deposited by the state treasurer to the credit of the
Korean veterans' bonus sinking fund for the retirement of
said bonds.

Therefore, as it is deemed advisable and in the best
interests of the state, it is the intent of the Legislature to
hereby validate the award of said bonds to the board of
public works as aforesaid and to validate the deposit of
said revenues in the Korean veterans' bonus sinking fund.

Sec. 2. Award of Bonds Validated.—The award of bonds
in the total principal amount of eighteen million five
hundred thousand dollars by the governor to the board
of public works for various trust funds of the state, as
designated in section one of this act, is hereby validated
and confirmed.

Sec. 3. Deposit of Past and Future Revenues Validated.
—The deposit by the state treasurer of the revenues de-
derived from charges for alcoholic liquors by the state
liquor control commissioner, as designated in section one
of this act, is hereby validated and confirmed; and all such
revenues hereafter derived from charges for alcoholic
liquors by the state liquor control commission shall, not-
withstanding the provisions of any other law or laws to
the contrary, be deposited by the state treasurer in the
said Korean veterans' bonus sinking fund for and until
the retirement of said Korean veterans' bonus bonds.
RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature and the two Houses thereof during the 1958 Regular 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. Craig and Mr. Frazer)

[Adopted January 15, 1958.]

Memorializing the Congress of the United States to take action so as to afford protection to certain small industries of West Virginia.

WHEREAS, West Virginia manufacturers of pottery, glass, ceramics, clothespins, and numerous other small industries are competing constantly with imports of foreign commodities; and

WHEREAS, Said foreign commodities, because of the low cost of foreign labor and the use of inferior material, are sold at such low prices that the aforesaid West Virginia manufacturers are unable to compete with them without some means of protection; and

WHEREAS, The import of said foreign commodities is presently permitted virtually without restriction and without protection to the aforesaid small industries; and

WHEREAS, The present influx of foreign commodities is causing irreparable damage to the aforesaid small industries and can only result in their eventually being driven out of business, which would foster increased and widespread unemployment in West Virginia; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Congress of the United States is hereby requested to take immediate action to afford relief and protection to the aforesaid small industries of West Virginia, through regulation
by tariffs and through such other means as are available to the Congress for the accomplishment of said end; and, be it

Further Resolved, That the Secretary of State is hereby directed to forward attested copies of this concurrent resolution to the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the West Virginia delegation in the Congress of the United States.

HOUSE CONCURRENT RESOLUTION NO. 4
(By Messrs. Zabeau, Garrett, Robertson and White, of Harrison)
[Adopted January 14, 1958.]
Congratulating the City of Clarksburg on being named one of the All-America Cities in the annual contest co-sponsored by the National Municipal League and Look Magazine.

WHEREAS, The City of Clarksburg has received the unusual distinction of being selected as one of the All-America Cities in the annual contest co-sponsored by the National Municipal League and Look Magazine for the year 1957, and is the only city in West Virginia ever to receive such recognition; and

WHEREAS, This award is given annually to eleven cities in the United States for especially noteworthy civic projects as a result of citizen initiative, such awards being made on the basis of alert, hard-hitting action taken by citizens to meet pressing community problems and push for needed civic improvements; and

WHEREAS, This award was made to the City of Clarksburg because of intelligent and concerted action leading to major accomplishments in the fields of government and civic betterment; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:
That the members of the Fifty-third West Virginia Legislature do hereby congratulate and commend the City of Clarksburg and its citizens upon the actions resulting in this noteworthy recognition; and, be it
Further Resolved, That the Clerk of the House of Delegates transmit a copy of this resolution to the Honorable E. W. James, Mayor of the City of Clarksburg.

HOUSE CONCURRENT RESOLUTION NO. 14
(By Mr. Myles and Mr. Seibert)

[Adopted January 30, 1958.]

Authorizing and directing the Joint Committee on Government and Finance to include in its studies and survey an investigation and study of matters affecting the valuation and assessment of the properties of public service corporations in West Virginia for tax purposes.

WHEREAS, Approximately twenty-five per cent of all property in the State is owned by public service corporations or persons engaged in public service business, and the taxes derived from direct levies thereon constitute an important source of revenue to the State and its subdivisions of government; and

WHEREAS, The nature and value of said properties to be assessed each year not only require study throughout the year but involve skill, knowledge and experience in the fields of accounting, engineering and appraisal methods, and it is common knowledge that the members of the Board of Public Works, on account of the heavy responsibilities of their respective departments, are in a position to give only a small part of their time to the discharge of the duties imposed upon them by chapter eleven, article six of the Code of West Virginia; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Joint Committee on Government and Finance be authorized and directed to include in its survey and studies an investigation and study concerning the advisability of the establishment of a state agency for the valuation and assessment of the properties of public service corporations in West Virginia, in the place and stead of the Board of Public Works of West Virginia as provided in chapter eleven, section six of the Code.
That prior to the convening of the next regular session of the Legislature, the Joint Committee make and issue a report to the Governor and to the Legislature concerning its study, together with such recommendations and proposed legislation as in its opinion will best serve the interests of all the people of the State.

HOUSE CONCURRENT RESOLUTION NO. 19

(By Messrs. Craig, Frazer, Parker and Cynock)

[Adopted February 6, 1958.]

Requesting the U. S. Bureau of Public Roads to allocate additional mileage to the State of West Virginia under the Federal Highway Act of 1956 and to include U. S. Route 19 in the interstate system.

WHEREAS, The State of West Virginia is desperately lacking in transportation facilities North and South, including both rail and highway; and

WHEREAS, U. S. Route 19 offers an ideal route for a North-South highway through this State, providing a fitting link in a highway leading from the Great Lakes to Florida; and

WHEREAS, Such a highway through the State from Morgantown to Bluefield would start only 15 miles from the Pennsylvania Turnpike on the North and connect with improved highways to the South, portions of which are now being improved in the States of North Carolina, Georgia and Florida; and

WHEREAS, Such a route would accommodate a huge amount of traffic and transportation from East, West, North and South; and

WHEREAS, Route 19 through West Virginia serves many state institutions, including West Virginia University and its new Medical Center, Fairmont College and Weston State Hospital; and traverses an area rich in scenic and historical values, including the boyhood home of General Stonewall Jackson; and
WHEREAS, West Virginia is one of the most vital states in our National Defense due to its production of metallurgical coals and chemicals; and

WHEREAS, West Virginia is strategically located as a refuge for citizens of a large segment of the United States population in case of attack by foreign enemies, providing adequate transportation is available; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we, the members of the Legislature of West Virginia, representing the two million citizens of this State, do hereby respectfully request the U. S. Bureau of Public Roads to allocate additional highway mileage for improvement or reconstruction of U. S. Route 19 through the State of West Virginia under the Federal Highway Act of 1956, thereby providing a vital link in a direct route from the Great Lakes to Florida and strengthening the National Defense System of the Nation; and,

Further Resolved, That the Clerk of the House of Delegates transmit a copy of this resolution to the United States Bureau of Public Roads, the members of the Congress from the State of West Virginia, the Governor and the State Road Commissioner of West Virginia.

SENATE CONCURRENT RESOLUTION NO. 9
(By Mr. Ballard)
[Adopted February 4, 1958.]

Providing for a request to the Board of Public Works concerning the salary and job classification schedules of the State Road Commission.

WHEREAS, The investigations conducted by both Houses of the Legislature, at this session, have disclosed a public need for the revision of the job and salary classification schedules of the State Road Commission; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:
That the Board of Public Works be, and it is hereby, requested to revise and amend the present salary and job classification schedules of the State Road Commission, in order that the salaries of qualified engineering personnel thereof, presently employed, may be increased, and in order also, that additional qualified engineering personnel may be attracted to, and employed by, the State Road Commission, and the planning, engineering, and development departments thereof thus enabled to operate more efficiently now and in the future.
AN ACT to appropriate money out of the treasury for the purpose of purchasing equipment and supplies for the college of engineering of West Virginia university.

[Passed August 9, 1956; in effect from passage. Approved by the Governor.]

Section 1. Supplemental appropriation for the college of engineering of West Virginia university.

WHEREAS, Most of the equipment and supplies of the college of engineering of West Virginia university were recently destroyed by fire; therefore

Be it enacted by the Legislature of West Virginia:

Section 1. Supplemental Appropriation for the College of Engineering of West Virginia University.—It appearing from the most recent statement of revenue estimates for the current fiscal year, prepared and submitted to the Legislature by the board of public works, and from the definitely appropriated items contained in the budget bill
for the current year, that there will be sufficient money in the state fund general revenue with which to meet the appropriation herein made, there is hereby appropriated to West Virginia university from the general revenue fund the additional sum of three hundred ten thousand dollars, to be available for expenditure during this fiscal year, for the purpose of purchasing equipment and supplies for the college of engineering of West Virginia university.

CHAPTER 2

(House Bill No. 2—By Mr. Speaker, Mr. Flannery)

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new chapter, numbered and designated thirty-seven-a, consisting of sections one through six, article one, enacting zoning restrictions governing the use of electrical equipment and the emanation of electrical impulses therefrom within a ten-mile radius of any radio astronomy facility in the state of West Virginia.

[Passed August 9, 1956; in effect from passage. Approved by the Governor.]

CHAPTER 37-A. ZONING


Section

1. Short title.
2. Restrictions within two miles of facility.
3. Restrictions within ten miles of facility.
4. Exemption for existing equipment.
5. Penal provisions.
6. Injunctive relief.

WHEREAS, The National Science Foundation has selected, subject to zoning and other arrangements, Green Bank, Pocahontas county, West Virginia, as the site for the installation
Ch. 2] RADIO ASTRONOMY ZONING 1027

and operation of a major radio astronomy facility in the state of West Virginia; and

WHEREAS, To avoid interference caused by emanations of electrical impulses from electrical equipment functioning in the area surrounding the proposed site, it is necessary that such area be zoned to avoid interfering electrical emanations; and

WHEREAS, It is in the public interest to encourage the economic improvement and development of all areas in this state and to promote educational and scientific research within this state; and

WHEREAS, The establishment of said radio astronomy facility in an undeveloped area in this state will encourage and contribute to the economic improvement and development of such area and will promote educational and scientific research within this state; and

WHEREAS, The establishment and operation of said radio astronomy facility within the state of West Virginia will lend great prestige to this state and stimulate tourist trade to said area; and

WHEREAS, The establishment and operation of said radio astronomy facility within the state of West Virginia is contingent upon the area within ten miles of the site thereof being substantially free of emanations from unshielded electrical equipment of such field strength as to interfere with the efficient and proper functioning of said radio astronomy facility; and

WHEREAS, The restrictions necessary to insure freedom from such emanations in such area are reasonable and proper and the benefits to be derived therefrom are substantial; therefore

Be it enacted by the Legislature of West Virginia:

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

Section 1. Short Title.—This article shall be known as the “Radio Astronomy Zoning Act.”
Sec. 2. Restrictions Within Two Miles of Facility.—It shall be illegal to operate or cause to be operated any electrical equipment within a two-mile radius of the reception equipment of any radio astronomy facility if such operation causes interference with reception by said radio astronomy facility of radio waves emanating from any nonterrestrial source.

Sec. 3. Restrictions Within Ten Miles of Facility.—It shall be unlawful to operate or cause to be operated any electrical equipment within a radius of ten miles of the reception equipment of any radio astronomy facility, if the instantaneous peak field strength of the emanation from such electrical equipment is in excess of:

Ten microvolts per meter measured at a distance of ten feet from such electrical equipment, if such electrical equipment is located less than three miles from said reception equipment; ten microvolts per meter measured at a distance of fifteen feet from such electrical equipment, if such electrical equipment is located less than four miles from said reception equipment; ten microvolts per meter measured at a distance of twenty feet from such electrical equipment, if such electrical equipment is located less than five miles from said reception equipment; five microvolts per meter measured at a distance of fifty feet from such electrical equipment, if such electrical equipment is located less than six miles from said reception equipment; six microvolts per meter measured at a distance of fifty feet from such electrical equipment, if such electrical equipment is located less than seven miles from said reception equipment; seven microvolts per meter measured at a distance of fifty feet from such electrical equipment, if such electrical equipment is located less than eight miles from said reception equipment; eight microvolts per meter measured at a distance of fifty feet from such electrical equipment, if such electrical equipment is located less than nine miles from such reception equipment; nine microvolts per meter measured at a distance of fifty feet from such electrical equipment, if such electrical equipment is located less than ten miles from said reception equipment: Provided, however, That
notwithstanding the provisions of this section, it shall not be unlawful to operate or cause to be operated any electrical equipment so constructed or shielded as not to cause interference with the reception by such radio astronomy facility of radio waves emanating from a nonterrestrial source.

Sec. 4. Exemption for Existing Equipment.—Nothing in this article shall be construed to render unlawful the continued operation of electrical equipment within a ten-mile radius of a radio astronomy site if such equipment existed within such distance of such site previous to the commencement of operation of such radio astronomy facility, or if such equipment is intended as a replacement for such existing equipment.

Sec. 5. Penal Provisions.—Any person knowingly operating or causing to be operated electrical equipment in violation of the provisions of this article shall be subject to a fine of fifty dollars plus an additional fine of fifty dollars for each day such electrical equipment is knowingly operated after receipt by such person of written notice from the prosecuting attorney of the county in which the radio astronomy facility is situated that such operation is in violation of the provisions of this article.

Sec. 6. Injunctive Relief.—The operation of any electrical equipment in violation of this article shall be enjoined by the circuit court of the county in which such electrical equipment is located upon petition filed by the prosecuting attorney of such county or by the attorney general of this state irrespective of any other legal remedy available.
# DISPOSITION OF BILLS ENACTED
## Regular Session, 1957

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.

### HOUSE BILLS

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