

**ACTS**  
**OF THE**  
**LEGISLATURE**  
**OF**  
**WEST VIRGINIA**



**Regular Session, 1959**  
**First Extraordinary Session, 1958**  
**Regular Session, 1960**

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## **FOREWORD**

This volume contains the Acts of the First Extraordinary Session of 1958, the Regular Sessions of 1959 and 1960, and resolutions of general interest adopted by the Legislature during these sessions.

### **First Extraordinary Session, 1958**

This session was called by the Governor for the purpose of considering and acting upon legislation authorizing the West Virginia Department of Employment Security to enter into an agreement with the Secretary of Labor of the United States for the payment of temporary unemployment compensation benefits to unemployed persons who had exhausted their rights under state law; and modification or suspension of the experience rate formula for employers under the Unemployment Compensation Law.

The Legislature convened on June 23, 1958, and after passing two bills dealing with the subjects set forth in the Governor's call adjourned sine die the same day.

Two identical bills were introduced in each House. Senate Bill Nos. 1 and 2 were passed. There were one House Concurrent Resolution and 12 House Resolutions, all of which were adopted. The Senate had two Senate Concurrent and nine Senate Resolutions, all of which were adopted. All the resolutions dealt with routine matters.

### **Regular Session, 1959**

The regular session convened on January 14 and adjourned sine die March 16, 1959. There was a total of 876 bills introduced in the Senate and House of Delegates during the 1959 Regular Session of the Legislature. Of this total 502 were House Bills and 374 Senate Bills. The Legislature passed 113 House Bills and 96 Senate Bills.

Of the 209 enactments of the session, the Governor approved 192, vetoed ten and permitted six to become law without his approval. The Budget Bill does not require executive action. The Acts vetoed were: H. B. 41 (Penalties for Forging or

Uttering Writings), H. B. 301 (Issuance of Marriage License to Persons Under the Age of Consent), H. B. 348 (Wrongful Death Actions), H. B. 480 (Overloading Motor Vehicles), S. B. 17 (Post Audits of State Spending Units), S. B. 21 (Audits of State Offices by Legislative Auditor), S. B. 36 (Examination of State Securities by Legislative Auditor), S. B. 235 (Pro Rata Reductions in Appropriations by Board of Public Works), S. B. 314 (Amending Horse Racing Law) and S. B. 356 (Excess Loads on Motor Vehicles). The six that became law without approval were H. B. 214 (Cabell County Youth Center), S. B. 19 (Examination of Cancelled Bonds, Coupons, etc., by Legislative Auditor), S. B. 30 (Motor Carriers Exempt from Regulation by Public Service Commission), S. B. 115 (Reimbursement of Former Sheriff of Lincoln County for Moneys Stolen from his Office), S. B. 247 (Authorizing Raleigh County Court to Compensate Prisoners for Work) and S. B. 251 (Motor Carrier Road Tax).

During the session there were 47 House Concurrent, 10 House Joint and 36 House Resolutions offered, of which 26 House Concurrent, two House Joint and 33 House Resolutions were adopted. The Senate had 22 Senate Concurrent, nine Senate Joint and 16 Senate Resolutions, of which 10 Senate Concurrent, no Senate Joint and 15 Senate Resolutions were adopted.

Two Constitutional Amendments were proposed. The amendments and the Resolutions proposing them were as follows: Preamble to State Constitution (HJR 8) and Continuity of Government Amendment (HJR 9).

Ninety-nine House Bills, passed by the House, failed of passage by the Senate; and 40 Senate Bills, passed by the Senate, failed of passage by the House.

### **Regular Session, 1960**

The third regular 30-day session of the Legislature convened January 13 and adjourned sine die February 11.

There was a total of 109 bills introduced in the Senate and House of Delegates during this session of the Legislature. Of this total 61 were House Bills and 48 were Senate Bills. The Legislature passed 25 House Bills and 14 Senate Bills.

Of the 39 enactments of the session, the Governor approved 33, permitted three (H. B. No. 14 and S. B. Nos. 23 and 29) to become law without his approval, and vetoed two (S. B. Nos. 40 and 44). The Budget Bill does not require executive action.

During the session there were 44 House Concurrent, 16 House and 3 House Joint resolutions offered, of which 20 House Concurrent, one House Joint and 16 House resolutions were adopted. The Senate had 25 Concurrent, 11 Senate and 3 Senate Joint resolutions offered, of which 17 Senate Concurrent, no Senate Joint, and 11 Senate resolutions were adopted.

Four House Bills, passed by the House, failed of passage by the Senate. The House passed all Senate Bills passed by the Senate.

This volume may be purchased from the Division of Printing, Department of Finance and Administration, State Capitol, Charleston 5, West Virginia.

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

## **ERRATA**

The article title in Chapter 81 should be "Assets and Liabilities," in Chapters 82, 83 and 84 "Agents, Brokers, Solicitors and Excess Line," and in Chapter 85 "Life Insurance."

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# LEGISLATURE OF WEST VIRGINIA MEMBERS AND OFFICERS

## FIFTY-FOURTH LEGISLATURE

### SENATE

#### OFFICERS

*President*—Ralph J. Bean, Moorefield  
*President Pro Tempore*—Ward Wylie, Mullens  
*Clerk*—J. Howard Myers, Martinsburg  
*Sergeant-at-Arms*—Jacob Alexander Neal, Tioga  
*Doorkeeper*—Paul Babich, Beckley

District	Name	Address
First	Arch W. Riley (D) •Herbert Traubert (D)	Wheeling Follansbee
Second	•Theodore M. Bowers (R) John E. Carrigan (R)	New Martinsville Moundsville
Third	Joseph M. Handlan (R) •Harry E. Moats (R)	Parkersburg Harrisville
Fourth	•R. L. McCulty (R) Paul R. Moore (D)	Spencer Ravenswood
Fifth	C. H. McKown (D) Lyle A. Smith (D)	Wayne Huntington
Sixth	•William Mitchell (D) Glenn Taylor (D)	Welch Matewan
Seventh	•Glenn Jackson (D) Lloyd G. Jackson (D)	Logan Hamlin
Eighth	•Wilson Anderson (R) J. Hornor Davis II (D)	Charleston Charleston
Ninth	Jack A. Nuckols (D) •Ward Wylie (D)	Beckley Mullens
Tenth	•O. H. Ballard (D) O. Roy Parker (D)	Princeton Union
Eleventh	•Howard W. Carson (D) W. N. Jasper, Jr. (D)	Fayetteville Lewisburg
Twelfth	Carl E. Galner (D) •Hans McCourt (D)	Richwood Webster Springs
Thirteenth	Walter A. Holden (D) •Raymond J. Vassar (R)	Salem Weston
Fourteenth	•O. G. Hedrick (D) William A. Moreland (D)	Fairmont Morgantown
Fifteenth	•A. L. Reed (R) Dayton R. Stemple (R)	Newburg Philippi
Sixteenth	•Ralph J. Bean (D) Clarence E. Martin, Jr. (D)	Moorefield Martinsburg
(D) Democrats		23
(R) Republicans		9
Total		32

\*Senators elected in 1956, all others elected in 1958.

# HOUSE OF DELEGATES

## OFFICERS

*Speaker*—Harry R. Pauley, Iaeger  
*Clerk*—C. A. Blankenship, Pineville  
*Sergeant-at-Arms*—Don Yoak, Spencer  
*Doorkeeper*—Ben White, Charleston

County	Name	Address
Barbour	Denzel J. Smith (D)	Philippi
Berkeley	Cecil S. Noll (D)	Martinsburg
Boone	Dennie Lee Hill (D)	Madison
Braxton	Rodney B. Belknap (D)	Gassaway
Brooke	Mino R. D'Aurora (D)	Follansbee
Cabell	Tennyson J. Bias (D)	Huntington
	Don Booth (D)	Huntington
	Mike Casey (D)	Huntington
	Hugh A. Kincaid (D)	Huntington
	J. Bernard Poindexter (D)	Huntington
Calhoun	James E. Morford (D)	Grantsville
Clay	J. C. Cruikshank (D)	Ivydale
Doddridge	Loutellus M. Stout (R)	New Milton
Fayette	Hobart Booth, Jr. (D)	Oak Hill
	Kenneth C. Legg (D)	Oak Hill
	T. E. Myles (D)	Fayetteville
	Mrs. Neil W. Walker (D)	Winona
Gilmer	Paul H. Kidd (D)	Glenville
Grant	Larkin B. Ours (R)	Dorcas
Greenbrier	Richard H. Bowman (D)	Rainelle
	J. R. Campbell (D)	Rupert
Hampshire	W. B. Slonaker (D)	Capon Bridge
Hancock	Callie Tsapis (D)	Weirton
Hardy	Donald J. Baker (D)	Moorefield
Harrison	Wade H. Garrett (D)	Salem
	C. Donald Robertson (D)	Clarksburg
	H. Laban White, Jr. (D)	Clarksburg
	Rene V. Zabeau (D)	Clarksburg
Jackson	Wayne W. Hughes (R)	Ravenswood, RFD 1
Jefferson	W. P. C. Perry (D)	Charles Town
Kanawha	Houghton R. Abbot (D)	Charleston
	Eudora Catherine Andrews (D)	Charleston
	Jesse S. Barker (D)	Charleston
	Pat Board, Jr. (D)	Charleston
	Ivor F. Boiarsky (D)	Charleston
	D. Earl Brawley (D)	Charleston
	W. T. Brotherton, Jr. (D)	Charleston
	George G. Burnette, Jr. (D)	South Charleston
	W. E. Chilton (D)	Charleston
	John L. Goshorn (D)	Charleston
	Edward D. Knight, Jr. (D)	Charleston
Lewis	Louis G. Craig (D)	Weston
Lincoln	A. J. Belcher (D)	Hamlin
Logan	Dan D. Dahill (D)	Logan
	J. Thomas Godby (D)	Logan
	Earl B. Hager (D)	Logan
	Clyde Staley (D)	Pecks Mill

## HOUSE OF DELEGATES

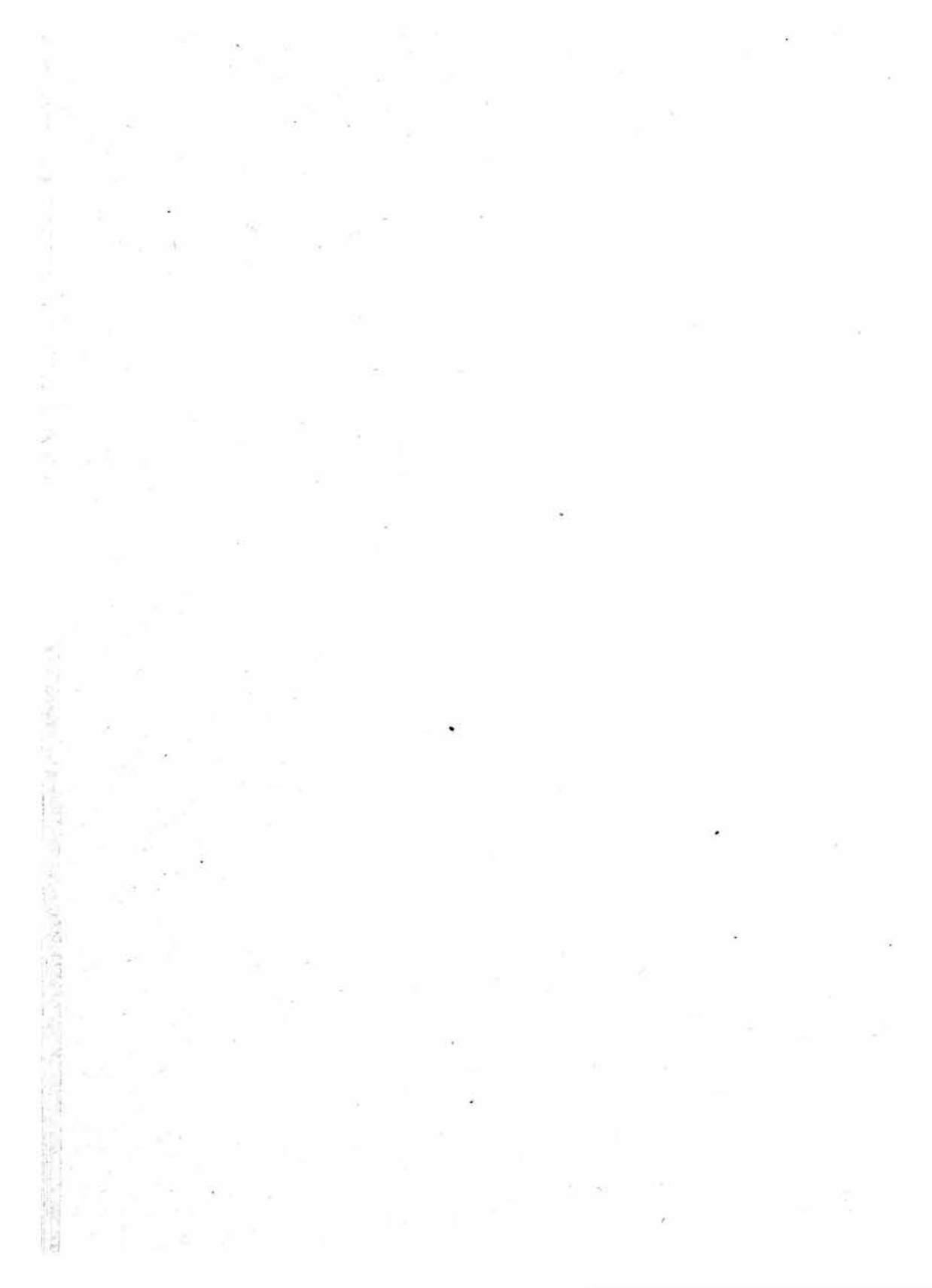
xxi

County	Name	Address
Marion	Harrison Conaway (D) William J. Parker (D) J. E. Watson (D)	Fairmont Fairmont Fairmont
Marshall	Roy W. Jolliffe (D) Robert F. McCarthy (D)	Cameron Glendale
Mason	George A. Rairden (R)	Leon
McDowell	Vernon Q. Callaway (D) Fred E. Counts (D) Mrs. Elizabeth Drewry (D) Smith McCoy (D) Harry R. Pauley (D)	Welch Bartley Northfork Roderfield Jaeger
Mercer	Clarence C. Christian, Jr. (D) Dan Wells (D) Benjamin F. Yancey, Jr. (D)	Princeton Bluefield Bluefield
Mineral	Joseph W. Kessel (R)	Keyser
Mingo	Noah E. Floyd (D) Cecil Mitchell (D)	Williamson Newtown
Monongalia	Charles S. Armistead (D) Julius W. Singleton, Jr. (D) David L. Solomon (D)	Morgantown Morgantown Morgantown
Monroe	T. G. Matney (D)	Peterstown, RFD
Morgan	Ward M. Dawson, Sr. (R)	Berkeley Springs
Nicholas	D. R. Frazer (D)	Richwood
Ohio	Charles F. Bachmann (R) Harry L. Buch (R) George H. Seibert, Jr. (R)	Wheeling Wheeling Wheeling
Pendleton	William McCoy, Jr. (D)	Franklin
Pleasants	Clarence E. Creek (D)	St. Marys
Pocahontas	*Neil Hevener (D)	Boyer
Preston	Richard Whetsell (R)	Kingwood
Putnam	Dorsel E. Smith (D)	Eleanor
Raleigh	O. D. Hall (D) Roy Lee Harmon (D) Ted T. Stacy (D) Paul J. Vennari (D)	Beckley Beckley Beckley Beckley
Randolph	Philip J. Graziani (D)	Elkins
Ritchie	J. F. Deem (R)	Harrisville
Roane	Mark K. Hersman (R)	Spencer
Summers	Paul J. Carr, Jr. (D)	Hinton
Taylor	Glenn Sapp (D)	Grafton, Rt. 1
Tucker	Ronald L. Hockman (D)	Thomas
Tyler	Sprigg Smith (R)	Sistersville, Rt. 1
Upshur	Darius Craven (R)	Tallmansville
Wayne	Y. Jefferson Rife (D) E. R. Romans (D)	Kenova Wayne
Webster	D. P. Given (D)	Webster Springs
Wetzel	Herbert Schupbach (D)	New Martinsville
Wirt	Ray R. Palmer (D)	Sandyville, RFD
Wood	Spencer K. Creel (R) James F. Haught (D) J. J. Omerberg (D)	Parkersburg, RFD 5 Parkersburg Parkersburg
Wyoming	Mrs. Mae S. Belcher (D) Marshall G. West (D)	Pineville Oceana

(D) Democrats 85  
(R) Republicans 15

Total 100

\*Appointed October 5, 1959, to succeed Frank P. McLaughlin, resigned.



# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1959

### REGULAR SESSION

#### CHAPTER 1

(Senate Bill No. 261—By Mr. Martin)

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 two-a, providing for periods of limitation on claims arising outside the state.

[Passed March 11, 1959; in effect ninety days from passage. Approved by the Governor.]

#### Article 2-a. Limitation on Foreign Claims.

##### Section

1. Definition.
2. Period.
3. Applicability.
4. Construction.
5. Citation.
6. Repeal.

*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 two-a, to read as follows:

Section 1. *Definition.*—As used in this article, "claim"  
2 means any right of action which may be asserted in a

3 civil action or proceeding and includes, but is not limited  
4 to, a right of action created by statute.

Sec. 2. *Period.*—The period of limitation applicable to  
2 a claim accruing outside of this state shall be either that  
3 prescribed by the law of the place where the claim ac-  
4 crued or by the law of this state, whichever bars the  
5 claim.

Sec. 3. *Applicability.*—The periods of limitation pre-  
2 scribed in this article apply only to a claim upon which  
3 action is commenced more than one year after the effec-  
4 tive date of this article.

Sec. 4. *Construction.*—This article shall be so construed  
2 as to effectuate its general purpose to make uniform the  
3 law of those states which enact it.

Sec. 5. *Citation.*—This article may be cited as the “Uni-  
2 form Statute of Limitations on Foreign Claims Act.”

Sec. 6. *Repeal.*—All laws and parts of laws inconsistent  
2 herewith are hereby repealed one year after the effective  
3 date of this article.

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## CHAPTER 2

(Senate Bill No. 359—By Mr. Martin)

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AN ACT to amend and reenact section twelve, article two, chap-  
ter fifty-five of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to the period  
of limitation on personal actions not otherwise provided for.

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[Passed March 13, 1959; in effect ninety days from passage. Approved by the  
Governor.]

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### Article 2. Limitation of Actions and Suits.

#### Section

12. Personal actions not otherwise provided for.

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

That section twelve, article two, chapter fifty-five of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 12. *Personal Actions Not Otherwise Provided for*.—Every personal action for which no limitation is otherwise prescribed shall be brought: (a) Within two years next after the right to bring the same shall have accrued, if it be for damage to property; (b) within two years next after the right to bring the same shall have accrued if it be for damages for personal injuries; and (c) within one year next after the right to bring the same shall have accrued if it be for any other matter of such nature that, in case a party die, it could not have been brought at common law by or against his personal representative.

## CHAPTER 3

(House Bill No. 400—By Mr. Bachmann and Mr. Goshorn)

An ACT to amend and reenact section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article seven by adding thereto a new section, designated section eight-a, all relating to the survivability and revivability of causes of action for wrongful death, and for injuries to property and to the person not resulting in death, in addition to the causes of action which survive at common law, and prescribing procedures and limitations concerning the same.

[Passed March 12, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Actions for Injuries.

#### Section

8. When action not to abate; survival of action for personal injury against wrongdoer.

8-a. Which actions survive; limitations; which law governs.

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

That section eight, article seven, chapter fifty-five of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seven be further amended by adding thereto a new section, designated section eight-a, all to read as follows:

Section 8. *When Action Not to Abate; Survival of Action for Personal Injury Against Wrongdoer.*—Where an action is brought by a person injured for damage caused by the wrongful act, neglect or default of any person or corporation, and the person injured dies as a result thereof pending the action, the action shall not abate by reason of his death but, his death being suggested, it may be revived in the name of his personal representative, and the declaration and other pleadings shall be amended so as to conform to an action under sections five and six of this article, and the case proceeded with as if the action had been brought under said sections. But in such case there shall be but one recovery for the same injury.

Sec. 8-a. *Which Actions Survive; Limitations; Which Law Governs.*—(a) In addition to the causes of action which survive at common law, causes of action for injuries to property, real or personal, or injuries to the person and not resulting in death, or for deceit or fraud, also shall survive; and such actions may be brought notwithstanding the death of the person entitled to recover or the death of the person liable.

(b) If any such action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by articles two and two-a of this chapter, (either against the wrongdoer or his personal representative), and such injured party dies pending the action it may be revived in favor of the personal representative of such injured party and prosecuted to judgment and execution against the wrongdoer or his personal representative.

(c) If the injured party dies before having begun any such action and it is not at the time of his death barred by the applicable statute of limitations under the provisions of articles two and two-a of this chapter, such action may be begun by the personal representative of



23 the injured party against the wrongdoer or his personal  
24 representative and prosecuted to judgment and execution  
25 against the wrongdoer or his personal representative.  
26 Any such action shall be instituted within the same period  
27 of time that would have been applicable had the injured  
28 party not died.

29 (d) If any such action mentioned in the preceding sub-  
30 sections (a), (b) and/or (c) shall have been begun  
31 against the wrongdoer and he or she dies during the pen-  
32 dency thereof, it may be revived against the personal  
33 representative of the wrongdoer and prosecuted to judg-  
34 ment and execution.

35 (e) The applicable provisions of article eight, chapter  
36 fifty-six of this code shall govern the actions hereinabove  
37 mentioned, with reference to their abatement, revival, dis-  
38 continuance, reinstatement and substitution of parties.

39 (f) Nothing contained in this section shall be construed  
40 to extend the time within which an action for any other  
41 tort shall be brought, nor to give the right to assign a  
42 claim for a tort not otherwise assignable.

3

## CHAPTER 4

(House Bill No. 37—By Mr. Harmon)

AN ACT to amend and reenact section two, article seven-a,  
chapter fifty-five of the code of West Virginia, one thou-  
sand nine hundred thirty-one, as amended, relating to  
action against parent for malicious or wilful destruction  
of property by a minor under the age of eighteen years.

[Passed February 24, 1959; in effect ninety days from passage. Approved by the  
Governor.]

### Article 7-a. Liability of Parents.

#### Section

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 section two, article seven-a, chapter fifty-five of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 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, or who shall maliciously or wilfully set fire to any forest or wooded area belonging to the state, any municipal corporation, county, school board or other political subdivision of the state, or any person or organization of any kind or character. The recovery hereunder shall be limited to the actual damages in addition to taxable court costs. The form of action hereunder shall be an action for a wrong in justice of the peace court and in trespass on the case in other courts of competent jurisdiction: *Provided, however,* That the right of action and remedy therefor granted herein shall be in addition to and not exclusive of any rights of action and remedies therefor against a parent or parents for the tortious acts of his or their children heretofore existing under the provisions of any law, statutory or otherwise, or now so existing independently of the provisions of this statute.

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## CHAPTER 5

(Senate Bill No. 279—By Mr. Stemple)

AN ACT to amend and reenact section six, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the administration of decedents' estates.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

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

### Section

6. Claims taken to be proved; objections to claims; hearings; funeral expenses.

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

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

Section 6. *Claims Taken to be Proved; Objections to Claims; Hearings; Funeral Expenses.*—Every claim so itemized, so accompanied by proper vouchers, and so verified, shall be taken to be proved, and shall be allowed, unless before the commissioner shall make up his report of claims the personal representative or a distributee, or a legatee, or, in the case of estates that appear to be insolvent, a creditor, shall file before the commissioner a counter affidavit, denying the claim in whole or in part; and when said counter affidavit is so filed the commissioner shall fix a time and place for hearing evidence for and against such claim and give reasonable notice of such time and place to the claimant, the party objecting, and the personal representative. If the commissioner, having held such hearing, does not allow any such claim, the claimant shall pay the expense of having the testimony adduced at such hearing recorded and/or transcribed. The commissioner, in the exercise of his sound discretion, may require that the claimant post a bond or other security sufficient to pay the estimated cost of having such testimony recorded and transcribed as a condition precedent to holding such hearing. If such claim, having been disallowed by the commissioner, subsequently shall be allowed as a claim against the estate, the claimant shall be entitled to recover from the estate the expenses so paid. Claims for funeral expenses shall be made and determined in the same manner as any other claims.

## CHAPTER 6

(Senate Bill No. 292—By Mr. Martin)

AN ACT to amend article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen-a, relating to payment and apportionment of federal estate taxes.

[Passed March 6, 1959; in effect from passage. Approved by the Governor.]

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

#### Section

16-a. Apportionment of federal estate taxes; fiduciary to deduct taxes from shares of beneficiaries.

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

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

Section 16-a. *Apportionment of Federal Estate Taxes; Fiduciary to Deduct Taxes From Shares of Beneficiaries.*

—(1) For the purposes of this section the term “persons interested in the estate” shall include all persons, firms and corporations who may be entitled to receive or who have received any property or interest which is required to be included in the gross estate of a decedent, or any benefit whatsoever with respect to any such property or interest, whether under a will or intestacy, or by reason of any transfer, trust, estate, interest, right, power or relinquishment of power, taxable under any estate tax law of the United States heretofore or hereafter enacted.

(2) Whenever it appears upon any settlement of accounts or in any other appropriate action or proceeding, that an executor, administrator, curator, trustee or other

16 person acting in a fiduciary capacity, has paid an estate  
17 tax levied or assessed under the provisions of any estate  
18 tax law of the United States heretofore or hereafter  
19 enacted, upon or with respect to any property required to  
20 be included in the gross estate of a decedent under the pro-  
21 visions of any such law, the amount of the tax so paid  
22 shall be prorated among the persons interested in the  
23 estate to whom such property is or may be transferred or  
24 to whom any benefit accrues. Such apportionment shall  
25 be made in the proportion that the value of the property,  
26 interest or benefit of each such person bears to the total  
27 value of the property, interests and benefits received by  
28 all such persons interested in the estate, except that in  
29 making such proration each such person shall have the  
30 benefit of any exemptions, deductions and exclusions al-  
31 lowed by such law in respect of such person or the prop-  
32 erty passing to him; and except that notwithstanding the  
33 preceding provisions of this sentence in cases where a  
34 trust is created, or other provision made whereby any  
35 person is given an interest in income, or an estate for  
36 years, or for life, or other temporary interest in any prop-  
37 erty or fund, the tax on both such temporary interest and  
38 on the remainder thereafter shall be charged against and  
39 paid out of the corpus of such property or fund without  
40 apportionment between remainders and temporary  
41 estates.

42 (3) In all cases in which any property required to be  
43 included in the gross estate does not come into the posses-  
44 sion of the executor, administrator or other fiduciary as  
45 such, he shall be entitled, and it shall be his duty, to re-  
46 cover from whomever is in possession, or from the per-  
47 sons interested in the estate, the proportionate amount of  
48 such tax payable by the persons interested in the estate  
49 with which such persons interested in the estate are  
50 chargeable under the provisions of this section.

51 (4) No executor, administrator or other person acting  
52 in a fiduciary capacity shall be required to transfer, pay  
53 over or distribute any fund or property with respect to  
54 which a federal estate tax is imposed until the amount of  
55 such tax or taxes due from the devise, legatee, distrib-

56 utee, or other person to whom such property is trans-  
57 ferred is paid to such fiduciary, or, if the apportionment  
58 of tax has not been determined, adequate security is  
59 furnished by the transferee for such payment.

60 (5) But it is expressly provided that the foregoing  
61 provisions of this section are subject to the following  
62 qualification, that none of such provisions shall in any  
63 way impair the right or power of any person by will or  
64 by written instrument executed inter vivos to make direc-  
65 tion for the payment of such estate taxes, and to designate  
66 the fund or funds or property out of which such payment  
67 shall be made, and in every such case the provisions of the  
68 will or of such written instrument executed inter vivos  
69 shall be given effect to the same extent as if this section  
70 had not been enacted.

71 (6) The provisions of this section shall be applicable to  
72 estates of decedents dying after the enactment of this sec-  
73 tion.

---

## CHAPTER 7

(Senate Bill No. 238—By Mr. Stemple)

AN ACT to amend article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-four-a, relating to accounting by personal representatives for certain moneys not capable of payment or distribution at the time of final settlement of estates.

---

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

---

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

#### Section

24-a. Accounting for money not disposable at time of settlement.

---

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

That article two, chapter forty-four of the code of West

Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-four-a, to read as follows:

Section 24-a. *Accounting for Money Not Disposable at Time of Settlement.*—Notwithstanding any other provision of law, in any event when an estate is otherwise ready for final settlement and the personal representative holds any sum or sums of money necessary for the payment or distribution of any contingent, unliquidated, unmatured or disputed bequest and/or claim which cannot be paid or distributed because the whereabouts of the claimant or distributee are unknown, or for any other reason, he may, with the consent of the commissioner of accounts to whom the estate has been referred, pay such sum or sums to the general receiver of the circuit court in the county in which the estate is being administered. Any such payment, together with a receipt therefor, shall be reflected and shown in said commissioner's final report. After said report is confirmed by the county court, such personal representative shall not be personally liable for any such aforesaid bequest or claim.

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## CHAPTER 8

(Com. Sub. for Senate Bill No. 230—Originating in the Senate Committee on the Judiciary)

---

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

---

[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

---

### Article 6. Investments by Fiduciaries.

#### Section

2. In what securities fiduciaries may invest trust funds.

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

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

Section 2. *In What Securities Fiduciaries May Invest Trust Funds.*—Any executor, administrator, guardian, curator, committee, trustee, or other fiduciary whose duty it may be to loan or invest money entrusted to him as such, may without any order of any court, invest the same or any part thereof in any of the following securities, and without liability for any loss resulting from investments therein: *Provided*, That such fiduciary shall exercise the judgment and care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital:

(a) In bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is distinctly pledged to provide for the payment of the principal and interest thereof, including bonds or debentures issued under the "Federal Farm Loan Act", and in debentures issued by "Banks for Cooperatives" under the "Farm Credit Act of one thousand nine hundred thirty-three", as amended; and in debentures issued by the federal national mortgage association;

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

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

(d) In the bonds or interest-bearing notes or obligations of any county, district, school district or independent school district, municipality, or any other political division of this state that have been issued pursuant to the



35 authority of any law of this state, since the ninth day of  
36 May of the year one thousand nine hundred seventeen;

37 (e) In bonds and negotiable notes secured by first  
38 mortgage or first trust deed upon improved real estate  
39 in this state where the amount secured by such mortgage  
40 or trust deed shall not at the time of making the same  
41 exceed eighty per cent of the assessed value, or fifty per  
42 cent of the appraised value as determined by wholly dis-  
43 interested and independent appraisers, whichever value  
44 shall be the higher, of the real estate covered by such  
45 mortgage or trust deed, and when such mortgage or trust  
46 deed is accompanied by a satisfactory abstract of title,  
47 certificate of title, or title insurance policy, showing good  
48 title in the mortgagor when making such mortgage or  
49 trust deed, and by a fire insurance policy in an old line  
50 company with loss, if any, payable to the mortgagee or  
51 trustee as his interest may appear: *Provided*, That the  
52 rate of interest upon the above enumerated securities in  
53 this subsection (e), in which such investments may be  
54 made, shall not be less than two per cent, nor more than  
55 seven per cent, per annum;

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

66 (g) In shares of state building and loan associations,  
67 or federal savings and loan associations, to the extent that  
68 such shares are insured by the Federal Savings and Loan  
69 Insurance Corporation, or by any other similar federal  
70 instrumentality that may be hereafter created, provided  
71 that there shall be such an instrumentality in existence  
72 and available for the purpose, or by bonds of solvent  
73 surety companies: *Provided*, That the dividend rate upon

74 such shares shall not be less than the rate paid to other  
75 shareholders in such associations;

76 (h) In other securities of corporations organized and  
77 existing under the laws of the United States or of the  
78 District of Columbia or any state of the United States  
79 including, but not by way of limitation, bonds, debentures,  
80 notes, equipment trust obligations or other evidences of  
81 indebtedness, and shares of common and preferred stocks  
82 of such corporations and securities of any open end or  
83 closed end management type investment company or in-  
84 vestment trust registered under the Federal Investment  
85 Company Act of one thousand nine hundred forty, as from  
86 time to time amended, which men of prudence, discretion  
87 and intelligence acquire or retain for their own account,  
88 provided, and upon conditions however, that:

89 (1) No investment shall be made pursuant to the pro-  
90 visions of this subsection (h) which, at the time such in-  
91 vestment shall be made, will cause the aggregate market  
92 value thereof to exceed thirty-five per cent of the ag-  
93 gregate market value at that time of all of the property  
94 of the fund held by such fiduciary;

95 (2) No bonds, debentures, notes, equipment trust ob-  
96 ligations or other evidence of indebtedness of such cor-  
97 porations shall be purchased under authority of this sub-  
98 section (h) unless such obligations, if other than issues of  
99 a common carrier subject to the provisions of section  
100 twenty-a of the interstate commerce act, as amended, shall  
101 be obligations issued, guaranteed or assumed by corpora-  
102 tions which have any securities currently registered with  
103 the securities and exchange commission; and

104 (3) No common or preferred stocks, other than bank  
105 and insurance company stocks, shall be purchased under  
106 authority of this subsection (h) unless currently fully  
107 listed and registered upon an exchange registered with  
108 the securities and exchange commission as a national  
109 securities exchange. No sale or other liquidation of any  
110 investment shall be required solely because of any change  
111 in the relative market value of those investments made  
112 eligible by this subsection (h) and those made eligible by  
113 the preceding paragraphs of this section. In determining

114 the aggregate market value of the property of a fund and  
115 the percentage of a fund to be invested under the pro-  
116 visions of this subsection, a fiduciary may rely upon pub-  
117 lished market quotations as to those investments for which  
118 such quotations are available, and upon such valuations  
119 of other investments as in the fiduciary's best judgment  
120 seem fair and reasonable according to available informa-  
121 tion.

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

131 This section shall not apply where the instrument cre-  
132 ating the trust, or the last will and testament of any  
133 testator, or any court having jurisdiction of the matter,  
134 specially directs in what securities the trust funds shall  
135 be invested, and every such court is hereby given power  
136 specially to direct by order or orders, from time to time,  
137 additional securities in which trust funds may be invested,  
138 and any investment thereof made in accordance with any  
139 such special direction shall be legal, and no executor, ad-  
140 ministrator, guardian, curator, committee, trustee or other  
141 fiduciary shall be held for any loss resulting in any such  
142 case.

— C —

## CHAPTER 9

(Senate Bill No. 201—By Mr. Moore and Mr. Moreland)

AN ACT to amend article two-a, 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 three-a, relating to expenditure of state funds for civil air patrol training, materials and other requirements.

[Passed February 20, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 2-a. State Aeronautics Commission.

#### Section

3-a. Civil air patrol expenses; commission may expend funds pursuant to rules.

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

That article two-a, 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 three-a, to read as follows:

Section 3-a. *Civil Air Patrol Expenses; Commission May Expend Funds Pursuant to Rules.*—The commission, in addition to all other powers and functions authorized by law, is hereby authorized and empowered to expend state funds (1) for the purchase of civil air patrol aviation education training aid books, materials and equipment; (2) to defray maintenance, repair and replacement costs of civil air patrol aircraft; (3) to purchase and obtain supplies and equipment for the civil air patrol; and (4) to maintain the communications network for the civil air patrol.

No expenditure of state funds for any such purposes may be made unless the purchase order is first approved by the commission in accordance with commission's rules and regulations relating thereto. Only funds specifically appropriated by the Legislature for such purposes may be so expended by the commission and funds so appropriated shall be expended for no other purposes.

## CHAPTER 10

(Senate Com. Sub. for House Bill No. 108—Originating in the Senate Committee on Agriculture)

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

by adding thereto a new article, designated article two-b, relating to the development of the meat packing industry and to the regulation of the sale and transportation of meats and meat products and prescribing penalties for the violation hereof.

[Passed March 10, 1959; in effect from passage. Approved by the Governor.]

### **Article 2-b. Inspection of Meats and Meat Products.**

#### **Section**

1. Definitions.
2. Duties and powers of commissioner.
3. Access to premises, etc.
4. License required for packing plant or slaughterhouse; applications; fees; inspections; expiration and renewal; identification numbers.
5. Refusal, revocation or suspension of licenses; notice and hearing.
6. Marking or branding of meat or meat products.
7. Plants operating under the supervision of United States department of agriculture.
8. Commissioner to enforce article.
9. Penalties.

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

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

Section 1. *Definitions.*—For the purpose of this article the following definitions shall prevail:

- 3 (a) The term "slaughterhouse" means an establish-  
4 ment, including all buildings, structures and facilities  
5 used in connection therewith, where more than one hun-  
6 dred head of livestock of any specie is slaughtered annu-  
7 ally and dressed for food intended for human consump-  
8 tion.
- 9 (b) The term "packing plant" means an establishment,  
10 including all chill rooms, aging rooms, processing rooms,  
11 and sanitary facilities, together with all buildings, struc-  
12 tures and facilities or utensils used in connection there-  
13 with, with or without slaughtering facilities, where live-  
14 stock carcasses or edible products derived therefrom are

15 cured, salted, processed, packaged, or otherwise prepared  
16 for sale as food intended for human consumption.

17 (c) The term "livestock" means animals used for food  
18 for human consumption, but shall not include poultry or  
19 rabbits.

20 (d) The term "person" means any individual, firm,  
21 partnership, corporation, company, society or association,  
22 or any officer, agent or employee thereof, and such term  
23 shall import either the singular or the plural, as the case  
24 may be.

25 (e) "Commissioner" shall mean the state commissioner  
26 of agriculture.

Sec. 2. *Duties and Powers of Commissioner.*—In order  
2 to properly regulate, supervise and promote the meat  
3 packing industry in the state and to provide consumers  
4 with a healthy and wholesome product, it shall be the  
5 duty of the commissioner, and he shall have authority to  
6 promote, regulate and supervise a system of inspection of  
7 all slaughter and meat packing houses in the state of West  
8 Virginia.

Sec. 3. *Access to Premises, etc.*—The commissioner or  
2 his agents shall during business hours have access to any  
3 place, premises or conveyances either private or public,  
4 where animals are slaughtered or meat processed, handled,  
5 stored, transported, distributed or sold, for the purpose of  
6 examining any livestock or carcasses or any edible or in-  
7 edible parts thereof, or any record pertaining to the source  
8 and sale of livestock, carcasses, processed, or packaged  
9 meat or meat products.

Sec. 4. *License Required for Packing Plant or Slaugh-*  
2 *terhouse; Applications; Fees; Inspections; Expiration and*  
3 *Renewal; Identification Numbers.*—It shall be unlawful  
4 for any person to operate, or engage in the operation of a  
5 packing plant or slaughterhouse, unless he shall first have  
6 obtained a license therefor from the commissioner.

7 Application for such license shall be made on forms pre-  
8 scribed by the commissioner and shall be accompanied  
9 by a fee of twenty-five dollars, payable to the state de-  
10 partment of agriculture. Before issuing such a license the

11 commissioner shall have authority to inspect the premises  
12 and facilities of the applicant and if satisfied with said  
13 inspection, then the commissioner may issue said license.  
14 Each such license shall expire on the thirtieth day of June  
15 next following its issuance. Said license can be renewed  
16 upon proper application accompanied by a fee of twenty-  
17 five dollars.

18 The commissioner shall assign permanent identification  
19 numbers to persons holding such licenses.

Sec. 5. *Refusal, Revocation or Suspension of Licenses;*  
2 *Notice and Hearing.*—The commissioner may refuse to  
3 grant a license or may revoke or suspend a license issued  
4 under the provisions of this section when a slaughterhouse  
5 or packing plant is being operated contrary to or in viola-  
6 tion of the provisions of this article or any rules or regu-  
7 lations promulgated thereunder by the commissioner:  
8 *Provided, That* such a revocation or suspension shall not  
9 be effective until the licensee has been notified of and  
10 given an opportunity to attend a hearing before the com-  
11 missioner.

Sec. 6. *Marking or Branding of Meat or Meat Products.*  
2 —The carcasses of all livestock slaughtered, together with  
3 the usual wholesale cuts thereof, and such meat or meat  
4 products, in loose form, encased, packaged, or canned, as  
5 may be designated by the commissioner shall be legibly  
6 marked or branded with an edible ink or otherwise identi-  
7 fied with the name and assigned identification number of  
8 the slaughterhouse or packing plant producing such an  
9 article of food, all in accordance with the rules and regula-  
10 tions of the commissioner.

Sec. 7. *Plants Operating Under the Supervision of*  
2 *United States Department of Agriculture.*—The provisions  
3 of this article shall not apply to slaughterhouses or pack-  
4 ing plants, or to meat and meat food products thereof, oper-  
5 ating under the supervision of the meat inspection branch  
6 of the United States department of agriculture, nor to  
7 livestock slaughtered for an individual's personal use.

Sec. 8. *Commissioner to Enforce Article.*—The commis-  
2 sioner of agriculture shall be charged with the enforce-

3 ment of this article and shall have the authority to make  
4 and enforce rules and regulations for the administration of  
5 this article.

Sec. 9. *Penalties.*—Any person who shall violate any of  
2 the provisions of this article or the rules and regulations  
3 promulgated hereunder, shall be guilty of a misdemeanor  
4 and upon conviction thereof, shall for the first offense  
5 be fined not more than one hundred dollars and upon con-  
6 viction of each subsequent offense be fined not more than  
7 five hundred dollars, and, in addition to such fine, may be  
8 confined in the county jail for not more than ten days.

—C—

## CHAPTER 11

(House Bill No. 313—By Mr. Baker and Mr. Campbell)

AN ACT to amend article nine, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve-a, relating to the possession, sale, distribution, or administration of unattenuated hog cholera virus.

[Passed March 6, 1959; in effect from passage. Approved by the Governor.]

### Article 9. Diseases among Domestic Animals.

#### Section

12-a. Possession, sale, distribution or administration of unattenuated hog cholera virus.

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

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

Section 12-a. *Possession, Sale, Distribution or Administration of Unattenuated Hog Cholera Virus.*—It shall be  
2 unlawful for any person, firm, corporation or association  
3



- 4 to sell or offer for sale, distribute, administer, barter,  
5 exchange, give away or otherwise dispose of unattenuated  
6 hog cholera virus except upon a special written permit  
7 issued by the commissioner of agriculture.  
8 "Hog cholera virus" means an unattenuated virus ad-  
9 ministered to swine for the purpose of immunizing such  
10 swine against the disease known as hog cholera.
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## CHAPTER 12

(House Bill No. 95—By Mr. McLaughlin)

AN ACT to amend and reenact section three, article eleven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to standards for milk and milk products.

[Passed February 10, 1959; in effect from passage. Approved by the Governor.]

### Article 11. Milk and Milk Products.

#### Section

#### 3. Standards.

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

That section three, article eleven, 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 3. *Standards.*—It shall be unlawful for any  
2 person to manufacture, offer or expose for sale or ex-  
3 change, or have in his possession with intent to sell,  
4 offer or expose for sale or exchange, any milk or milk  
5 products that do not conform to rules and regulations  
6 promulgated by the public health council and to the  
7 following standards or definitions: *Provided, however,*  
8 That the standards set out in subsection (a) of this sec-  
9 tion shall not be construed to include persons producing  
10 milk and selling the same on a wholesale basis to dairies  
11 or receiving plants.

12 (a) Milk is the whole, fresh, clean, lacteal secretion  
13 obtained by the complete milking of one or more healthy  
14 cows, properly fed and kept, excluding that obtained  
15 within fifteen days before and five days after calving, or  
16 such longer period as may be necessary to render the  
17 milk practically colostrum-free, and shall contain not less  
18 than three and one-half per cent of milk fat and not less  
19 than eight and one-half per cent of solids not fat, and  
20 twelve per cent total solids;

21 (b) Pasteurized milk is milk that has been subjected  
22 to a temperature not lower than one hundred and forty-  
23 five degrees Fahrenheit for not less than thirty minutes.  
24 Unless it is bottled hot, it is promptly cooled to fifty de-  
25 grees Fahrenheit, or lower;

26 (c) Skimmed milk is milk from which a part or all of  
27 the cream has been removed, and contains not less than  
28 nine per cent of milk solids;

29 (d) Buttermilk is the product that remains when fat  
30 is removed from milk or cream, sweet or sour, in the  
31 process of churning. It contains not less than eight per  
32 cent of milk solids not fat;

33 (e) Condensed milk, evaporated milk, concentrated  
34 milk, is the product resulting from the evaporation of a  
35 considerable portion of the water from the whole, fresh,  
36 clean, lacteal secretion obtained by the complete milking  
37 of one or more healthy cows, properly fed and kept,  
38 excluding that obtained within fifteen days before and  
39 five days after calving, and contains, all tolerances being  
40 allowed for, not less than twenty-five and five-tenths  
41 per cent of total solids and not less than seven and eight-  
42 tenths per cent of milk fat;

43 (f) Sweetened condensed milk, sweetened evaporated  
44 milk, sweetened concentrated milk, is the product re-  
45 sulting from the evaporation of a considerable portion of  
46 the water from the whole, fresh, clean, lacteal secretion  
47 obtained by the complete milking of one or more healthy  
48 cows, properly fed and kept, excluding that obtained  
49 within fifteen days before and five days after calving, to  
50 which sugar (sucrose) has been added. It contains, all  
51 tolerances being allowed for, not less than twenty-eight

52 per cent of total milk solids and not less than seven and  
53 eight-tenths per cent of milk fat;

54 (g) Condensed skimmed milk, evaporated skimmed  
55 milk, concentrated skimmed milk, is the product result-  
56 ing from the evaporation of a considerable portion of the  
57 water from skimmed milk, and contains, all tolerances  
58 being allowed for, not less than twenty per cent of milk  
59 solids;

60 (h) Sweetened condensed skimmed milk, sweetened  
61 evaporated skimmed milk, sweetened concentrated skim-  
62 med milk, is the product resulting from the evaporation  
63 of a considerable portion of the water from skimmed  
64 milk to which sugar (sucrose) has been added. It con-  
65 tains, all tolerances being allowed for, not less than  
66 twenty-eight per cent of milk solids;

67 (i) Dried milk is the product resulting from the remov-  
68 al of water from milk, and contains, all tolerances being  
69 allowed for, not less than twenty-six per cent of milk  
70 fat, and not more than five per cent of moisture;

71 (j) Dried skimmed milk is the product resulting from  
72 the removal of water from skimmed milk, and contains,  
73 all tolerances being allowed for, not more than five per  
74 cent of moisture;

75 (k) Sweet cream is that portion of milk, rich in milk  
76 fat, which rises to the surface of milk on standing or is  
77 separated from it by centrifugal force. It is fresh, clean.  
78 It shall contain not less than eighteen per cent of milk  
79 fat. Whipping cream is cream which shall contain not  
80 less than thirty per cent of milk fat. Cream for butter  
81 making shall be clean and contain no foreign matter and  
82 shall be free from filth, putrefaction, mold and/or de-  
83 composition;

84 (l) Butter is the clean, non-rancid product made by  
85 gathering in any manner the fat of fresh or ripened milk  
86 or cream into a mass, which also contains a small por-  
87 tion of the other milk constituents with or without salt,  
88 and contains not less than eighty per cent of milk fat.  
89 The addition of vegetable butter coloring is permitted;

90 (m) Cheese is the sound solid, and ripened product  
91 made from milk or cream by coagulating the casein

92 thereof with rennett or lactic acid, with or without the  
93 addition of ripening ferments and seasoning and con-  
94 tains, in the water-free substance, not less than fifty per  
95 cent of milk fat. The addition of harmless coloring mat-  
96 ter is permitted;

97 (n) Ice cream is a frozen substance made from pure,  
98 wholesome milk products sweetened with sugar and may  
99 contain not to exceed one half of one per cent of gelatin,  
100 vegetable gum or other wholesome stabilizer. When  
101 wholesome and harmless flavoring extracts are used, ice  
102 cream shall contain not less than eight per cent of milk  
103 fats and ten per cent of milk solids not fats. When eggs,  
104 fruits, nuts, chocolate or cake are used, such reduction in  
105 the percentage of milk fat and milk solids not fat shall  
106 be allowed as may be caused by the addition of such  
107 ingredients.

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## CHAPTER 13

(House Bill No. 421—By Mr. Poindexter and Mr. Seibert)

AN ACT to amend article twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-c, relating to construction of flood control projects and the payment therefor.

[Passed March 12, 1959; in effect from passage. Approved by the Governor.]

### Article 21-a. Soil Conservation Districts.

#### Section

13-c. Contracts; construction of flood projects; power to borrow money; levy.

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

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

Section 13-c. *Contracts; Construction of Flood Projects; Power to Borrow Money; Levy.*—The county court of each county and the governing body of each municipality in the state is hereby authorized and empowered to enter into a contract or agreement with the soil conservation district or districts for the purpose of constructing flood control projects within their respective counties or municipalities or adjacent thereto and to use said projects as recreational areas or public parks. For the purpose of defraying the cost of any such project or projects, the county court or the governing body of any municipality is hereby authorized to borrow from the federal government or from any federal agency having money to loan, a sum sufficient to cover the cost of such project or projects. For the purpose of retiring any such indebtedness incurred under the provisions of this section, notwithstanding any other provisions of law, said county courts or the governing body of any municipality is hereby authorized to lay and impose a county or city-wide levy as the case might be.

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## CHAPTER 14

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

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

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[Passed March 16, 1959; in effect from passage.]

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**Title**

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

**Title 1. General Provisions.****Section**

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

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

Section 1. *General Policy.*—The purpose of this act is to  
2 appropriate money necessary for economical and efficient  
3 discharge of the duties and responsibilities of the state and  
4 its agencies during the fiscal year one thousand nine hun-  
5 dred sixty.

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

- 2 "Board" shall mean the board of public works;
- 3 "Spending Unit" shall mean the department, agency or  
4 institution to which an appropriation is made;
- 5 The "fiscal year one thousand nine hundred sixty" shall  
6 mean the period from July first, one thousand nine hundred  
7 fifty-nine through June thirtieth, one thousand nine hundred  
8 sixty.
- 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 unit.
- 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  
 12 altering buildings, grounds and equipment;

13 "Equipment" shall be expended only for things which have  
 14 an appreciable and calculable period of usefulness in excess  
 15 of one year;

16 "Buildings" shall include construction and alteration of  
 17 structures and the improvements of lands, sewer and water  
 18 improvements, and shall include shelter, support, storage,  
 19 protection, or the improvement of a natural condition;

20 "Lands" shall be expended only for the purchase of lands  
 21 or interest in lands.

22 Appropriations otherwise classified shall be expended  
 23 only where the distribution of expenditures for different  
 24 purposes cannot well be determined in advance or it is  
 25 necessary or desirable to permit the spending unit freedom  
 26 to spend an appropriation for more than one of the above  
 27 purposes.

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

## Title 2. Appropriations.

### Section

#### 1. Appropriations from general revenue.

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11. Appropriations for local governments.
12. Total appropriation.
13. 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 sixty.

## LEGISLATIVE

## 1—Senate

## Acct. No. 101

	<i>Fiscal Year</i> 1959-60
1 Salaries of Members .....	\$ 49,500.00
2 Compensation and per diem of officers and	
3 attaches .....	35,000.00
4 Mileage of Members .....	1,600.00
5 Current Expenses and Contingent Fund .....	75,000.00
6 To pay Clerk of the Senate for Compiling	
7 and publishing the West Virginia Blue	
8 Book, the distribution of which shall be	
9 made by the Office of the Clerk of the	
10 Senate and shall include seventy-five	
11 copies for each member of the Legislature	
12 and two copies to each classified and ap-	
13 proved High and Junior High School and	
14 one to each Elementary School within the	
15 state .....	10,000.00
16 To pay the cost of printing the 1959 edition	
17 of Blue Book .....	46,000.00
18 To establish bill drafting service and ex-	
19 penses connected therewith .....	5,000.00
20 Installation of Elevator .....	43,500.00
21 To be expended by the Clerk of the Senate	
22 to provide automatic elevator service to	
23 the second and third floors in the Main	
24 Unit of the Capitol Building.	
25 The appropriations for the Senate for the	

26 fiscal year 1958-59 are to remain in full  
 27 force and effect, and are hereby reappro-  
 28 priated to June 30, 1960.

29 Any balances so reappropriated may be  
 30 transferred and credited to the 1959-60  
 31 accounts.

32 Upon the written request of the Clerk of the  
 33 Senate the State Auditor shall transfer  
 34 amounts between items of the total ap-  
 35 propriation in order to protect or increase  
 36 the efficiency of the service.

37 The Clerk of the Senate is authorized to  
 38 draw his requisitions upon the Auditor,  
 39 payable out of the contingent fund of the  
 40 Senate, for any bills for supplies and serv-  
 41 ices that may have been incurred by the  
 42 Senate and not included in the appropria-  
 43 tion bill, and for bills for supplies and  
 44 services incurred after adjournment, and  
 45 for the necessary operation of the Senate  
 46 offices, the requisition for same to be ac-  
 47 companied by the bills to be filed with the  
 48 Auditor.

## 2—House of Delegates

### Acct. No. 102

1	Salaries of Members .....	\$	150,000.00
2	Compensation and per diem of officers and at-		
3	taches .....		75,000.00
4	Mileage of Members .....		3,000.00
5	Current Expenses and Contingent Fund .....		78,000.00
6	Drafting Service .....		5,000.00
7	An amount, not to exceed \$3,600.00 per year,		
8	is hereby authorized to be expended from		
9	the contingent fund of the House of Dele-		
10	gates for janitor services, etc.		
11	The appropriations for the House of Dele-		
12	gates for the fiscal year 1958-59 are to re-		
13	main in full force and effect, and are here-		
14	by reappropriated to June 30, 1960.		

15 Any balances so reappropriated may be  
16 transferred and credited to the 1959-60  
17 accounts.

18 Upon the written request of the Clerk of the  
19 House of Delegates the State Auditor shall  
20 transfer amounts between items of the total  
21 appropriation in order to protect or in-  
22 crease the efficiency of the service.

23 The Clerk of the House of Delegates, with  
24 approval of the Speaker, is authorized to  
25 draw his requisitions upon the Auditor,  
26 payable out of the contingent fund of the  
27 House of Delegates, for any bills for sup-  
28 plies and services that may have been in-  
29 curred by the House of Delegates, and not  
30 included in the appropriation bill, for bills  
31 for services and supplies incurred in prepa-  
32 ration for the opening of the session and  
33 after adjournment, and for the necessary  
34 operation of the House of Delegates offices,  
35 the requisition for same to be accompanied  
36 by bills to be filed with the Auditor.

37 For duties imposed by law and by the House  
38 of Delegates, including the salary allowed  
39 by law as keeper of the rolls, the Clerk of  
40 the House of Delegates shall be paid a  
41 salary of \$900.00 per month, payable from  
42 the contingent fund of the House of Dele-  
43 gates, and the Clerk may employ a secre-  
44 tary at a salary not to exceed \$375.00 per  
45 month, payable monthly from the same  
46 fund.

### 3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative printing and	
2 stationery .....	\$ 50,000.00
3 Commission on Interstate Cooperation .....	15,000.00
4 Joint Committee on Government and Fi-	

5	nance, including Legislative Auditor's Of-	
6	fice for administrative expenses and post	
7	auditing .....	225,000.00
8	Other Authorized Legislative Committees .....	50,000.00
9	The appropriations for Joint Expenses for	
10	the fiscal year 1958-59 are to remain in full	
11	force and effect, and are hereby reappro-	
12	priated to June 30, 1960.	
13	Any balances so reappropriated may be	
14	transferred and credited to the 1959-60	
15	accounts.	
16	Upon the written request of the Clerk of	
17	the Senate and the Clerk of the House of	
18	Delegates the State Auditor shall transfer	
19	amounts between items of the total appro-	
20	priation in order to protect or increase the	
21	efficiency of the service.	
22	Upon the written request of the Clerk of	
23	the Senate and the Clerk of the House of	
24	Delegates the State Auditor shall transfer	
25	from the 1957-58 appropriations, as re-	
26	appropriated by the 1958 Budget Act, for	
27	"Legislative Council" and/or "Other Auth-	
28	orized Committees" the sum of \$20,000.00	
29	to Account 101, Compensation and Per	
30	Diem of Officers and Attaches, and the sum	
31	of \$55,000.00 to Account 102, Compensation	
32	and Per Diem of Officers and Attaches.	

## 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

5—*Judicial—Auditor's Office*

## Acct. No. 111

1	Salaries of Judges.....	\$	324,600.00
2	Other Personal Services.....		75,600.00
3	Current Expenses .....		26,400.00
4	Judges' Retirement System.....		25,000.00
5	Criminal Charges .....		235,000.00
6	Total.....	\$	686,600.00
7	The appropriation for Judges' Retirement		
8	System is to be transferred to the Judges'		
9	Retirement Fund, in accordance with the		
10	law relating thereto, upon requisition of		
11	the State Auditor.		

6—*State Law Library*

## Acct. No. 114

1	Personal Services.....	\$	15,580.00
2	Current Expenses .....		2,000.00
3	Equipment .....		14,500.00
4	Total.....	\$	32,080.00

7—*Judicial Council*

## Acct. No. 118

1	To pay expenses of Members of the Council...	\$	500.00
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## EXECUTIVE

8—*Governor's Office*

## Acct. No. 120

1	Salary of Governor .....	\$	17,500.00
2	Other Personal Services .....		34,627.00
3	Current Expenses .....		12,000.00
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 expended,	
13	at the discretion of the Governor, an amount	
14	not to exceed \$1,000.00 as West Virginia's	
15	contribution to the Interstate Oil Compact	
16	Commission.	
17	Custodial Fund .....	45,000.00
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 house-	
22	hold expenses occasioned by such official	
23	functions.	
24	Total .....	\$ 210,627.00

#### 9—Board of Probation and Parole

##### Acct. No. 123

1	Personal Services .....	\$ 158,560.00
2	Current Expenses .....	60,000.00
3	Equipment .....	2,000.00
4	Total .....	\$ 220,560.00

#### FISCAL

#### 10—Auditor's Office—General Administration

##### Acct. No. 150

1	Salary of State Auditor .....	\$ 11,000.00
2	Other Personal Services .....	171,520.00
3	Current Expenses .....	13,000.00
4	Equipment .....	10,000.00
5	To match contributions of state employees for	
6	social security .....	550,000.00
7	Total .....	\$ 755,520.00



8 The above appropriation for social security is  
 9 intended to cover the state's share of social  
 10 security costs for those spending units op-  
 11 erating from General Revenue Fund and  
 12 General School Fund appropriations. The  
 13 State Road Commission, Department of  
 14 Motor Vehicles, Workmen's Compensation  
 15 Commission, Public Service Commission,  
 16 and other departments operating from Spe-  
 17 cial Revenue Funds and/or Federal Funds  
 18 shall pay their proportionate share of the  
 19 social security cost for their respective di-  
 20 visions.

21 Any unexpended balance remaining in the  
 22 appropriation "To match contributions of  
 23 state employees for social security" at the  
 24 close of the fiscal year 1958-59 is hereby re-  
 25 appropriated for expenditure during the fis-  
 26 cal year 1959-60.

#### 11—*Treasurer's Office*

##### Acct. No. 160

1	Salary of State Treasurer .....	\$	11,000.00
2	Other Personal Services .....		86,000.00
3	Current Expenses .....		14,500.00
4	Equipment .....		12,500.00
5	Total .....	\$	124,000.00

#### 12—*Sinking Fund Commission*

##### Acct. No. 170

1	Personal Services .....	\$	15,640.00
2	Current Expenses .....		750.00
3	Total .....	\$	16,390.00

#### 13—*State Tax Commissioner*

##### Acct. No. 180

1	Personal Services .....	\$	638,760.00
2	Current Expenses .....		179,470.00

3	Equipment .....	21,700.00
4	Property Evaluation .....	140,000.00
5	Total .....	\$ 979,930.00

## 14—State Tax Commissioner

## Acct. No. 185

1	For Property Appraisal, Tax Maps, etc., in	
2	accordance with the provisions of Senate	
3	Bill No. 34 (1958 Legislature) .....	\$ 1,500,000.00
4	Reserve for Property Appraisal, Tax Maps,	
5	etc. (Anticipated excess collections over	
6	\$3,000,000.00 appropriations for 1958-60) .....	1,262,812.00
7	Total .....	\$ 2,762,812.00
8	Any unexpended balance remaining in the	
9	account at the close of the fiscal year 1958-	
10	59 is hereby reappropriated for expendi-	
11	ture during the fiscal year 1959-60.	

## 15—State Commissioner of Public Institutions

## Acct. No. 190

1	Salary of Commissioner .....	\$ 10,000.00
2	Other Personal Services .....	37,340.00
3	Current Expenses .....	7,825.00
4	Equipment .....	450.00
5	Total .....	\$ 55,615.00

## 16—Department of Finance and Administration

## Acct. No. 210

1	Personal Services .....	\$ 428,270.00
2	Current Expenses .....	158,620.00
3	Repairs and Alterations .....	40,000.00
4	Equipment .....	8,200.00
5	Postage .....	90,000.00
6	Total .....	\$ 725,090.00

7 The Workmen's Compensation Commission,  
 8 Department of Public Assistance, Public  
 9 Service Commission, Conservation Commis-  
 10 sion, Department of Motor Vehicles, State  
 11 Road Commission and State Health Depart-  
 12 ment shall reimburse the postage appro-  
 13 priation of the Department of Finance and  
 14 Administration monthly for all meter serv-  
 15 ice. Any spending unit receiving reimburse-  
 16 ment for postage costs from the Federal  
 17 Government shall refund to the postage  
 18 account of the Department of Finance and  
 19 Administration such amounts. Should this  
 20 appropriation for postage be insufficient to  
 21 meet the mailing requirements of the State  
 22 spending units as set out above, any excess  
 23 postage meter service requirements shall be  
 24 a proper charge against the units, and each  
 25 spending unit shall refund to the postage  
 26 appropriation of the Department of Finance  
 27 and Administration any amounts required  
 28 for that department for postage in excess  
 29 of this appropriation.  
 30 Any unexpended balance remaining in the  
 31 postage account at the close of the fiscal  
 32 year 1958-59 is hereby reappropriated for  
 33 expenditure during the fiscal year 1959-  
 34 60.

17—*The Board of Public Works*

Acct. No 220

1 Contingent Fund .....\$ 25,000.00

LEGAL

18—*Attorney General*

Acct. No. 240

1 Salary of Attorney General .....\$ 12,000.00  
 2 Other Personal Services ..... 120,220.00  
 3 Current Expenses ..... 18,000.00

## APPROPRIATIONS

[Ch. 14]

4	Equipment .....	7,500.00
5	To protect the resources or tax structure of	
6	the State in controversies or legal proceed-	
7	ings affecting same .....	4,000.00
8	Total .....	\$ 161,720.00

## 19—Commission on Uniform State Laws

Acct. No. 245

1	Total .....	\$ 3,150.00
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## 20—State Board of Insurance

Acct. No. 248

1	Personal Services .....	\$ 5,000.00
2	Current Expenses .....	2,200.00
3	Total .....	\$ 7,200.00

## INCORPORATING AND RECORDING

## 21—Secretary of State

Acct. No. 250

1	Salary of Secretary of State .....	\$ 11,000.00
2	Other Personal Services .....	42,900.00
3	Current Expenses .....	7,500.00
4	Equipment .....	2,000.00
5	Total .....	\$ 63,400.00

## EDUCATIONAL

## 22—Department of Education—State Aid to Schools

Acct. No. 295

1	State aid to supplement the General School	
2	Fund .....	\$ 53,238,180.00
3	To be transferred to the general school fund	
4	upon the requisition of the Governor. To	
5	be distributed according to law except an	

6 amount not to exceed \$225,000.00, which  
 7 sum shall be available to the Department  
 8 of Education to aid counties in provid-  
 9 ing instruction for exceptional children:  
 10 *Provided, however,* That from the amount  
 11 appropriated herein to the Department of  
 12 Education to aid counties in providing in-  
 13 struction for exceptional children, an  
 14 amount not to exceed \$15,000.00 may be  
 15 used to pay the salary of a director and  
 16 other administrative expenses for the ex-  
 17 ceptional children's program.  
 18 In making distribution of state aid to counties  
 19 as provided by law, the State Board of  
 20 School Finance shall allocate to each county,  
 21 state aid of not less than fifty dollars for  
 22 each weighted pupil in the county.

### 23—Department of Education—Textbook Aid

#### Acct. No. 297

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

### 24—Teachers Retirement Board

#### Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers \$	1,745,851.00
2 Employers' Accumulation Fund—To match	
3 contributions of members .....	3,458,816.00
4 Expense Fund .....	22,213.00
5 Total .....	\$ 5,226,880.00

### 25—West Virginia University

#### Acct. No. 300

1 Personal Services .....	\$ 5,655,421.00
2 Current Expenses .....	854,789.00
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	State aid to Medical Students .....	62,500.00

8      Total .....\$ 7,109,210.00

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

*26—West Virginia University—Medical School*

Acct. No. 310

1 To supplement Funds for Construction of  
 2 Medical School Hospital .....\$ 1,400,000.00

*27—Potomac State College of West Virginia University*

Acct. No. 315

1	Personal Services .....	\$ 308,447.00
2	Current Expenses .....	46,690.00
3	Repairs and Alterations .....	21,200.00
4	Equipment .....	10,700.00
5	Total .....	\$ 387,037.00

*28—Marshall College*

Acct. No. 320

1	Personal Services .....	\$ 1,822,700.00
2	Current Expenses .....	155,538.00
3	Repairs and Alterations .....	56,500.00
4	Equipment .....	57,500.00
5	Flood Wall Assessment .....	3,200.00
6	Total .....	\$ 2,095,438.00

29—*Fairmont State College*

## Acct. No. 321

1	Personal Services .....	\$	583,173.00
2	Current Expenses .....		57,017.00
3	Repairs and Alterations .....		28,000.00
4	Equipment .....		25,350.00
5	Total .....	\$	693,540.00

30—*Glenville State College*

## Acct. No. 322

1	Personal Services .....	\$	378,089.00
2	Current Expenses .....		47,351.00
3	Repairs and Alterations .....		24,200.00
4	Equipment .....		18,200.00
5	Total .....	\$	467,840.00

31—*West Liberty State College*

## Acct. No. 323

1	Personal Services .....	\$	407,855.00
2	Current Expenses .....		44,448.00
3	Repairs and Alterations .....		21,450.00
4	Equipment .....		18,200.00
5	Total .....	\$	491,953.00

32—*Shepherd College*

## Acct. No. 324

1	Personal Services .....	\$	382,829.00
2	Current Expenses .....		43,815.00
3	Repairs and Alterations .....		21,600.00
4	Equipment .....		13,350.00
5	Dormitory Equipment .....		66,000.00
6	Total .....	\$	527,594.00

33—*Concord College*

## Acct. No. 325

1	Personal Services .....	\$ 631,920.00
2	Current Expenses .....	53,556.00
3	Repairs and Alterations .....	25,950.00
4	Equipment .....	22,850.00
5	Dormitory Equipment .....	138,000.00
6	Total .....	\$ 872,276.00

34—*West Virginia Institute of Technology*

## Acct. No. 327

1	Personal Services .....	\$ 520,561.00
2	Current Expenses .....	56,902.00
3	Repairs and Alterations .....	32,700.00
4	Equipment .....	45,400.00
5	Total .....	\$ 655,563.00

35—*West Virginia State College*

## Acct. No. 328

1	Personal Services .....	\$ 886,843.00
2	Current Expenses .....	115,840.00
3	Repairs and Alterations .....	45,500.00
4	Equipment .....	33,000.00
5	Total .....	\$ 1,081,183.00

36—*Bluefield State College*

## Acct. No. 329

1	Personal Services .....	\$ 324,255.00
2	Current Expenses .....	50,425.00
3	Repairs and Alterations .....	19,200.00
4	Equipment .....	15,200.00
5	Total .....	\$ 409,080.00



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

## Acct. No. 330

1	Personal Services .....	\$	12,960.00
2	Current Expenses .....		5,000.00
3	Repairs and Alterations .....		3,500.00
4	Equipment .....		2,300.00
5	Total .....	\$	23,760.00

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

## Acct. No. 333

1	Personal Services .....	\$	405,786.00
2	Current Expenses .....		152,030.00
3	Repairs and Alterations .....		23,500.00
4	Equipment .....		19,850.00
5	Total .....	\$	601,166.00

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

## Acct. No. 336

1	Personal Services .....	\$	13,620.00
2	Current Expenses .....		6,000.00
3	Repairs and Alterations .....		5,600.00
4	Equipment .....		5,900.00
5	Total .....	\$	31,120.00

40—*Department of Archives and History*

## Acct. No. 340

1	Personal Services .....	\$	25,100.00
2	Current Expenses .....		6,690.00
3	Equipment .....		7,100.00
4	Total .....	\$	38,890.00

41—*West Virginia Library Commission*

## Acct. No. 350

1	Personal Services .....	\$	41,940.00
2	Current Expenses .....		16,060.00

3	Equipment .....	7,000.00
4	Books and Periodicals .....	34,000.00
5	Total .....	\$ 99,000.00

## CHARITIES AND CORRECTION

42—*West Virginia Industrial School for Boys*

## Acct. No. 370

1	Personal Services .....	\$ 196,040.00
2	Current Expenses .....	99,250.00
3	Repairs and Alterations .....	65,500.00
4	Equipment .....	18,250.00
5	Total .....	\$ 379,040.00

43—*Forestry Camp for Boys*

## Acct. No. 371

1	Personal Services .....	\$ 47,836.00
2	Current Expenses .....	57,854.00
3	Repairs and Alterations .....	2,500.00
4	Equipment .....	3,100.00
5	Total .....	\$ 111,290.00

44—*West Virginia Industrial Home for Girls*

## Acct. No. 372

1	Personal Services .....	\$ 97,173.00
2	Current Expenses .....	61,900.00
3	Repairs and Alterations .....	10,500.00
4	Equipment .....	9,950.00
5	Total .....	\$ 179,523.00

45—*West Virginia State Prison for Women*

## Acct. No. 374

1	Personal Services .....	\$ 37,420.00
2	Current Expenses .....	31,600.00

3	Repairs and Alterations .....	7,000.00
4	Equipment .....	1,400.00
5	Total .....	\$ 77,420.00

46—*West Virginia Penitentiary*

## Acct. No. 375

1	Personal Services .....	\$ 571,280.00
2	Current Expenses .....	477,700.00
3	Repairs and Alterations .....	34,000.00
4	Equipment .....	17,700.00
5	Total .....	\$ 1,100,680.00

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 1958-59 are  
 10 hereby reappropriated for expenditure  
 11 during the fiscal year 1959-60. Any un-  
 12 expended balance remaining in the "Re-  
 13 build Sewerage System" account as herein  
 14 reappropriated may be used to supple-  
 15 ment the "Complete New Cell Block" ac-  
 16 count to aid in that project.

47—*Medium Security Prison*

## Acct. No. 376

1	Personal Services .....	\$ 215,544.00
2	Current Expenses .....	150,804.00
3	Repairs and Alterations .....	20,000.00
4	Equipment .....	11,300.00
5	Total .....	\$ 397,648.00

48—*West Virginia Children's Home*

## Acct. No. 380

1	Personal Services .....	\$ 42,195.00
2	Current Expenses .....	30,425.00

3	Repairs and Alterations .....	11,000.00
4	Equipment .....	5,850.00
5	Total .....	\$ 89,470.00

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

Acct. No. 382

1	Personal Services .....	\$ 35,000.00
2	Current Expenses .....	44,325.00
3	Repairs and Alterations .....	10,200.00
4	Equipment .....	4,000.00
5	Total .....	\$ 93,525.00

50—*Andrew S. Rowan Memorial Home*

Acct. No. 384

1	Personal Services .....	\$ 175,920.00
2	Current Expenses .....	153,511.00
3	Repairs and Alterations .....	12,550.00
4	Equipment .....	8,300.00
5	Total .....	\$ 350,281.00

HEALTH AND WELFARE

51—*State Health Department*

Acct. No. 400

1	Personal Services .....	\$ 592,100.00
2	Current Expenses .....	50,060.00
3	Equipment .....	4,500.00
4	Cancer Control and Treatment .....	93,000.00
5	Tuberculosis Field Clinic and Nursing Service .....	8,480.00
6	Out-Patient Pneumothorax Treatment .....	20,000.00
7	Total .....	\$ 768,140.00

52—*State Water Resources Commission*

Acct. No. 401

1	Personal Services .....	\$ 37,960.00
2	Current Expenses .....	10,000.00
3	Equipment .....	975.00

4	For cooperation with the U.S. Geological Sur-	
5	vey for a program of stream gauging .....	17,500.00
6	Total .....	\$ 66,435.00

## 53—Department of Veterans Affairs

## Acct. No. 404

1	Personal Services .....	\$ 155,000.00
2	Current Expenses .....	43,000.00
3	Equipment .....	1,500.00
4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	
6	Chapter thirty-nine, Acts of the Legisla-	
7	ture, 1943 .....	12,500.00
8	Total .....	\$ 212,000.00

9 Any unexpended balance remaining in the ap-  
 10 propriation "To Provide Educational Oppor-  
 11 tunities for Children of War Veterans" at  
 12 the close of the fiscal year 1958-59 is hereby  
 13 reappropriated for expenditure during the  
 14 fiscal year 1959-60.

## 54—Department of Public Assistance

## Acct. No. 405

1	Personal Services .....	\$ 1,437,880.00
2	Current Expenses .....	224,000.00
3	Equipment .....	8,000.00
4	Public Assistance Grants (Classified Aid) .....	7,068,000.00
5	Aid to Crippled Children .....	300,000.00
6	Medical Services .....	785,000.00
7	Conservation of Vision and Prevention of	
8	Blindness .....	40,000.00
9	Child Welfare Services .....	113,000.00
10	General Relief .....	125,000.00
11	Boarding Care .....	340,000.00
12	Social Security Matching Funds .....	25,600.00
13	Total .....	\$ 10,466,480.00

- 14 Out of the above appropriation for Child  
 15 Welfare Services there shall be made avail-  
 16 able the sum of \$15,000.00 by the Depart-  
 17 ment of Public Assistance to meet actual  
 18 per capita costs for residential aid to emo-  
 19 tionally disturbed children at Hillcrest, Inc.

55—*Department of Public Assistance—  
 Commodity Distribution*

Acct. No. 406

1	Personal Services .....	\$	185,640.00
2	Current Expenses .....		97,420.00
3	Equipment .....		19,400.00
4	Total .....	\$	302,460.00

56—*Department of Mental Health*

Acct. No. 410

1	Personal Services .....	\$	133,305.00
2	Current Expenses .....		25,000.00
3	Equipment .....		8,300.00
4	Research and Training .....		25,000.00
5	Merit System Costs .....		28,335.00
6	Total .....	\$	219,940.00

57—*West Virginia Training School*

Acct. No. 419

1	Personal Services .....	\$	399,802.00
2	Current Expenses .....		149,650.00
3	Repairs and Alterations .....		69,500.00
4	Equipment .....		31,500.00
5	Total .....	\$	650,452.00

58—*Weston State Hospital*

## Acct. No. 420

1	Personal Services .....	\$	1,346,463.00
2	Current Expenses .....		748,130.00
3	Repairs and Alterations .....		54,600.00
4	Equipment .....		30,580.00
5	Total .....	\$	2,179,773.00
6	Any unexpended balance remaining in the		
7	Water Supply account at the close of the		
8	fiscal year 1958-59 is hereby reappropriated		
9	for expenditure during the fiscal year 1959-		
10	60.		

59—*Spencer State Hospital*

## Acct. No. 421

1	Personal Services .....	\$	626,199.00
2	Current Expenses .....		376,755.00
3	Repairs and Alterations .....		49,600.00
4	Equipment .....		37,550.00
5	Total .....	\$	1,090,104.00
6	All revenue collected by the above spending		
7	unit in excess of the amount required to pay		
8	the principal and interest on outstanding		
9	Clinic Bonds shall be deposited to the State		
10	Fund-General Revenue.		

60—*Huntington State Hospital*

## Acct. No. 422

1	Personal Services .....	\$	848,160.00
2	Current Expenses .....		519,965.00
3	Repairs and Alterations .....		34,000.00
4	Equipment .....		34,300.00
5	Total .....	\$	1,436,425.00

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

61—*Lakin State Hospital*

Acct. No. 423

1	Personal Services .....	\$	330,453.00
2	Current Expenses .....		178,120.00
3	Repairs and Alterations .....		36,975.00
4	Equipment .....		37,950.00
5	Total .....	\$	583,498.00

62—*Barboursville State Hospital*

Acct. No. 424

1	Personal Services .....	\$	237,808.00
2	Current Expenses .....		131,045.00
3	Repairs and Alterations .....		22,900.00
4	Equipment .....		6,150.00
5	Total .....	\$	397,903.00

63—*Fairmont Emergency Hospital*

Acct. No. 425

1	Personal Services .....	\$	106,880.00
2	Current Expenses .....		70,000.00
3	Repairs and Alterations .....		6,800.00
4	Equipment .....		5,500.00
5	Total .....	\$	189,180.00

64—*Welch Emergency Hospital*

Acct. No. 426

1	Personal Services .....	\$	120,320.00
2	Current Expenses .....		126,600.00



3	Repairs and Alterations .....	\$ 17,000.00
4	Equipment .....	17,000.00
5	Total .....	\$ 280,920.00

*65—Hopemont Sanitarium*

## Acct. No. 430

1	Personal Services .....	\$ 396,080.00
2	Current Expenses .....	292,850.00
3	Repairs and Alterations .....	15,000.00
4	Equipment .....	10,900.00
5	Total .....	\$ 714,830.00

*66—Pinecrest Sanitarium*

## Acct. No. 431

1	Personal Services .....	\$ 532,440.00
2	Current Expenses .....	462,940.00
3	Repairs and Alterations .....	26,500.00
4	Equipment .....	11,500.00
5	Total .....	\$ 1,033,380.00

*67—Denmar State Hospital*

## Acct. No. 432

1	Personal Services .....	\$ 177,920.00
2	Current Expenses .....	132,325.00
3	Repairs and Alterations .....	10,000.00
4	Equipment .....	6,400.00
5	Total .....	\$ 326,645.00

*68—Berkeley Springs Sanitarium*

## Acct. No. 436

1	Personal Services .....	\$ 27,800.00
2	Current Expenses .....	6,800.00

3	Repairs and Alterations .....	6,000.00
4	Equipment .....	1,600.00
5	Total .....	\$ 42,200.00

## 69—State Board of Education—Rehabilitation Division

## Acct. No. 440

1	Personal Services .....	\$ 153,730.00
2	Current Expenses .....	34,010.00
3	Rehabilitation Center .....	100,090.00
4	Case Services .....	234,947.00
5	Supervisory Service for Vending Stand Pro-	
6	gram for the Blind .....	11,920.00
7	Training and Special Projects .....	11,040.00
8	Total .....	\$ 545,737.00

## BUSINESS AND INDUSTRIAL RELATIONS

## 70—Bureau of Labor and Department of Weights and Measures

## Acct. No. 450

1	Personal Services .....	\$ 194,910.00
2	Current Expenses .....	59,090.00
3	Equipment .....	5,000.00
4	Total .....	\$ 259,000.00

## 71—Department of Mines

## Acct. No. 460

1	Personal Services .....	\$ 661,980.00
2	Current Expenses .....	146,500.00
3	Equipment .....	31,000.00
4	Total .....	\$ 839,480.00

*72—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.		

*73—Interstate Commission on Potomac River Basin*

## Acct. No. 473

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

*74—Ohio River Valley Water Sanitation Commission*

## Acct. No. 474

1	West Virginia's contribution to the Ohio River		
2	Valley Water Sanitation Commission.....	\$	15,860.00

*75—Southern Regional Education Board*

## Acct. No. 475

1	West Virginia's Contribution to Southern Re-		
2	gional Education Board .....	\$	28,000.00
3	To be expended upon requisition of the Gov-		
4	ernor.		

*76—Department of Banking*

## Acct. No. 480

1	Personal Services .....	\$	71,600.00
2	Current Expenses .....		27,980.00
3	Equipment .....		1,000.00
4	Total.....	\$	100,580.00

77—*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

78—*West Virginia Industrial and Publicity Commission*

## Acct. No. 486

1	Personal Services .....	\$	71,600.00
2	Current Expenses .....		63,350.00
3	Equipment .....		1,000.00
4	Total .....	\$	135,950.00

79—*West Virginia Centennial Commission*

## Acct. No. 487

1	Expenses for planning 1963 Centennial cele-		
2	bration .....	\$	12,550.00
3	To be transferred to "West Virginia Centen-		
4	nial Fund" provided by House Bill No. 57		
5	(1959 Legislature) .....		100,000.00
6	Total .....	\$	112,550.00

80—*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

81—*West Virginia Racing Commission*

## Acct. No. 495

1	Personal Services .....	\$	60,300.00
2	Current Expenses .....		12,750.00
3	Total .....	\$	73,050.00

## AGRICULTURE

82—*Department of Agriculture*

## Acct. No. 510

1	Salary of Commissioner .....	\$	11,000.00
2	Other Personal Services .....		148,380.00
3	Current Expenses .....		63,600.00
4	Equipment .....		8,000.00
5	Eradication and Control of White Pine Blister .....		15,000.00
6	Eradication and Prevention of Livestock Dis-		
7	eases .....		150,000.00
8	Eradication and Control of Japanese beetle		
9	and other plant pests .....		14,880.00
10	Aid to Dairy Development Program .....		51,820.00
11	Eradication and Control of Oak Wilt .....		40,000.00
12	Total .....	\$	502,680.00

83—*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

84—*Department of Agriculture—Marketing and Research*

## Acct. No. 513

1	For cooperation with the Federal Government		
2	in a program of marketing and research.....	\$	91,000.00
3	Any part or all of this appropriation may be		
4	transferred to Special Revenue Fund for		

- 5 the purpose of matching federal funds for  
 6 the above named program.  
 7 Any unexpended balance remaining in the  
 8 Farm Market Facilities Account at the  
 9 close of the fiscal year 1958-59 is hereby  
 10 reappropriated for expenditure during the  
 11 fiscal year 1959-60.

85—*Department of Agriculture—Agricultural Awards*

Acct. No. 515

1	Agricultural Awards .....	\$	40,000.00
2	Mountain State Forest Festival .....		12,500.00
3	West Virginia State Fair .....		22,500.00
<hr/>			
4	Total .....	\$	75,000.00
5	To be expended at the discretion of the Com-		
6	missioner of Agriculture in accordance with		
7	law.		

CONSERVATION AND DEVELOPMENT

86—*Geological and Economic Survey Commission*

Acct. No. 520

1	Personal Services .....	\$	80,570.00
2	Current Expenses .....		27,080.00
3	Equipment .....		3,650.00
4	Cooperative Mapping Program .....		60,000.00
<hr/>			
5	Total .....	\$	171,300.00
6	Of the above appropriation for Current Ex-		
7	penses, the sum of \$15,000.00 may be used to		
8	cooperate with the United States Geological		
9	Survey in Ground Waters Resources Study.		
10	Of the above appropriation for Cooperative		
11	Mapping Program the sum of \$10,000.00 may		
12	be used for preparation of accurate geo-		
13	graphic and political maps of West Virginia.		

87—*Conservation Commission*

## Acct. No. 521

1	For construction of forest tree nursery facilities at McClintic Wildlife Station.....	\$	100,000.00
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88—*Conservation Commission—Division of State Parks*

## Acct. No. 522

1	Personal Services .....	\$	231,935.00
2	Current Expenses .....		149,125.00
3	Repairs and Alterations .....		81,950.00
4	Equipment .....		26,000.00
5	Forestry Camp Expense .....		26,930.00
6	Advertising and Publicity .....		10,000.00
7	Total .....	\$	525,940.00

89—*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 1958-59 is hereby reappropriated for expenditure during the fiscal year 1959-60.		

90—*Conservation Commission—Historical Monuments and Parks*

## Acct. No. 561

1	Care and maintenance of:		
2	Point Pleasant Battle Monument and Park .....	\$	4,500.00
3	Rumsey Monument and Park .....		900.00
4	Morgan Morgan Memorial .....		400.00
5	Fairfax Stone .....		400.00
6	Booker T. Washington Park .....		400.00

7	Cathedral Park .....	2,100.00
8	Pinnacle Rock Park.....	1,600.00
9	Total.....\$	10,300.00

91—*Economic Development Agency*

Acct. No. 563

1	For administration and economic planning	
2	expenses in accordance with the provi-	
3	sions of Senate Bill No. 340	
4	(1959 Legislature) .....	\$ 100,000.00

92—*Department of Veterans Affairs*

Acct. No. 564

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

## PROTECTION

93—*Department of Public Safety*

Acct. No. 570

1	Personal Services .....	\$ 1,273,220.00
2	Current Expenses .....	647,155.00
3	Repairs and Alterations.....	21,960.00
4	Equipment .....	112,500.00
5	Total .....	\$ 2,054,835.00

94—*Adjutant General—State Militia*

Acct. No. 580

1	Personal Services .....	\$ 47,768.00
2	Current Expenses .....	232,315.00
3	Repairs and Alterations.....	7,200.00



4	Equipment .....	6,300.00
5	Compensation of Commanding Officers, Cleri-	
6	cal Allowances and Uniform Allowances....	71,960.00
7	Property Maintenance .....	47,240.00
		<hr/>
8	Total .....	\$ 412,783.00

95—*Division of Civilian Defense*

## Acct. No. 581

1	Personal Services .....	\$ 19,770.00
2	Current Expenses .....	5,450.00
3	Equipment .....	2,350.00
		<hr/>
4	Total.....	\$ 27,570.00

96—*State Board of Education—Insurance*

## Acct. No. 584

1	Boiler Insurance Premiums.....	\$ 8,000.00
2	To pay boiler insurance premiums on build-	
3	ings at state colleges and institutions under	
4	the supervision of the State Board of Edu-	
5	cation.	
6	The above appropriation is for premiums for	
7	a three-year period.	
8	To insure contents of buildings.....	6,821.00
9	To insure contents of non-revenue producing	
10	buildings.	
11	Third annual installment due on a policy	
12	covering a five-year period ending June 30,	
13	1963.	
		<hr/>
14	Total.....	\$ 14,821.00

97—*Commissioner of Public Institutions—Insurance*

## Acct. No. 585

1	Boiler Insurance Premiums.....	\$ 6,000.00
2	To pay boiler insurance premiums on build-	

- 3 ings at state institutions under the super-  
 4 vision of Commissioner of Public Institu-  
 5 tions.  
 6 The above appropriation is for premiums for  
 7 a three-year period.

98—*State Board of Accountancy*

Acct. No. 586

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

99—*West Virginia Board of Examiners  
for Practical Nurses*

Acct. No. 587

1 To pay the per diem of members and other		
2 general expenses .....	\$	12,500.00
3 From Collections .....		12,500.00

100—*State Board of Examiners for Registered Nurses*

Acct. No. 588

1 To pay the per diem of members and other		
2 general expenses .....	\$	30,750.00
3 From Collections .....		30,750.00

101—*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

102—*State Board of Pharmacy*

Acct. No. 590

1 To pay the per diem of members and other		
2 general expenses .....	\$	10,555.00
3 From Collections .....		10,555.00

103—*State Board of Osteopathy*

## Acct. No. 591

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

104—*State Board of Optometry*

## Acct. No. 592

1 To pay the per diem of members and other		
2   general expenses .....	\$	2,400.00
3 <i>From Collections</i> .....		2,400.00

105—*State Board of Embalmers and Funeral Directors*

## Acct. No. 593

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

106—*State Board of Registration for Professional Engineers*

## Acct. No. 594

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

107—*State Board of Architects*

## Acct. No. 595

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

108—*State Veterinary Board*

## Acct. No. 596

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

109—*State Board of Law Examiners*

Acct. No. 597

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

110—*West Virginia Board of Sanitarrians*

Acct. No. 599

1 To pay the per diem of members and other		
2 general expenses .....	\$	600.00
3 From Collections .....		600.00

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

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

Acct. No. 670

## TO BE PAID FROM STATE ROAD FUND

1 Personal Services .....	\$	425,000.00
2 Current Expenses .....		90,000.00
3 Equipment .....		8,000.00
4 Total .....	\$	523,000.00
5 In addition to the foregoing appropriations		
6 and claims as authorized by this act or by		
7 law to be paid from the state road fund, the		
8 balance or residue of the annual receipts of		
9 the state road fund is hereby appropriated		
10 first for the payment of interest on and		
11 principal of outstanding road bonds, and		
12 thereafter for maintenance, construction		
13 and reconstruction of state roads, in ac-		

- 14 cordance with the provisions of chapter  
15 seventeen, code of West Virginia, 1931, as  
16 amended.

112—*Department of Motor Vehicles*

Acct. No. 671

## TO BE PAID FROM STATE ROAD FUND

1	Personal Services .....	\$	550,000.00
2	Current Expenses .....		211,110.00
3	Equipment .....		9,000.00
4	Purchase of License Plates .....		120,000.00
5	Social Security Matching Fund .....		13,750.00
6	Total .....	\$	903,860.00

113—*State Tax Commissioner—Gasoline Tax  
Division*

Acct. No. 672

## TO BE PAID FROM STATE ROAD FUND

1	Personal Services .....	\$	103,670.00
2	Current Expenses .....		24,900.00
3	Equipment .....		6,500.00
4	Social Security Matching Fund .....		2,595.00
5	Total .....	\$	137,665.00

114—*State Board of Education*

Acct. No. 700

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	25,700.00
2	Current Expenses .....		9,775.00
3	Total .....	\$	35,475.00

115—*State Board of Education—Vocational Division*

Acct. No. 701

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	23,310.00
2	Current Expenses .....		6,500.00
3	Equipment .....		1,000.00
4	Vocational Aid .....		350,000.00
5	Total .....	\$	380,810.00

116—*Department of Education—Veterans Education*

Acct. No. 702

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	48,180.00
2	Current Expenses .....		16,508.00
3	Total .....	\$	64,688.00
4	Expenditures from this appropriation shall		
5	not exceed the amount to be reimbursed by		
6	the Federal Government.		
7	Federal funds in excess of the amounts here-		
8	by appropriated may be made available by		
9	budget amendment upon request of the		
10	State Superintendent of Schools and ap-		
11	proval of the Board of Public Works for		
12	any emergency which might arise in the		
13	operation of this division during the fiscal		
14	year.		

117—*Department of Education*

Acct. No. 703

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent .....	\$	12,000.00
2	Other Personal Services .....		209,460.00
3	Current Expenses .....		75,500.00
4	Equipment .....		1,000.00

5	For administration of the National Defense	
6	Education Act. (85-864) .....	80,000.00
7	Not more than \$50,000.00 of this item may	
8	be expended for personal services.	
9	Total .....	\$ 377,960.00

118—*State Board of School Finance*

## Acct. No. 704

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$ 14,560.00
2	Current Expenses .....	2,480.00
3	Total .....	\$ 17,040.00

119—*Department of Education—School Lunch Program*

## Acct. No. 705

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$ 46,000.00
2	Current Expenses .....	12,025.00
3	Aid to Counties—Includes hot lunches and	
4	canning for hot lunches .....	125,000.00
5	Total .....	\$ 183,025.00

120—*Department of Education*

## Acct. No. 706

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents .....	\$ 62,000.00
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121—*Department of Education*

## Acct. No. 707

## TO BE PAID FROM GENERAL SCHOOL FUND

1	State Aid to Children's Homes .....	\$ 25,000.00
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## 122—Auditor's Office—Land Department

Acct. No. 709

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	87,980.00
2	Current Expenses .....		11,940.00
3	Equipment .....		7,000.00
4	Total .....	\$	106,920.00

## 123—Department of Education

Acct. No. 715

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Scholarships for Teacher Training.....	\$	150,000.00
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## 124—Real Estate Commission

Acct. No. 801

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	16,000.00
2	Current Expenses .....		10,000.00
3	Equipment .....		1,000.00
4	Social Security Matching Fund .....		400.00
5	Total .....	\$	27,400.00

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

## 125—Public Land Corporation

Acct. No. 802

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	9,750.00
2	Current Expenses .....		4,000.00
3	Total .....	\$	13,750.00



- 4 The total amount of this appropriation shall  
5 be paid from Special Revenue Fund out of  
6 income received by the corporation as pro-  
7 vided by law.

126—*West Virginia Racing Commission*

Acct. No. 808

TO BE PAID FROM SPECIAL REVENUE FUND

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

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

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

- |  |    |           |
|--|----|-----------|
| 1 Personal Services .....                      | \$ | 15,000.00 |
| 2 Current Expenses .....                       |    | 16,500.00 |
| 3 Total .....                                  | \$ | 31,500.00 |
| 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.     |    |           |

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

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

- |                           |    |           |
|---------------------------|----|-----------|
| 1 Personal Services ..... | \$ | 73,860.00 |
| 2 Current Expenses .....  |    | 15,330.00 |

3	Equipment .....	5,500.00
4	Social Security Matching Fund.....	1,850.00

5	Total.....	\$ 96,540.00
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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 and  
 11 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.

### 129—Department of Agriculture

Acct. No. 818

#### TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$ 135,600.00
2	Current Expenses .....	40,700.00
3	Equipment .....	8,300.00
4	Social Security Matching Fund.....	3,390.00

5	Total.....	\$ 187,990.00
---	------------	---------------

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

### 130—State Committee of Barbers and Beauticians

Acct. No. 822

#### TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$ 20,480.00
2	Current Expenses .....	10,750.00

3 Social Security Matching Fund ..... 520.00

4 Total .....\$ 31,750.00

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

131—*Insurance Commissioner*

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....\$ 98,240.00

2 Current Expenses ..... 12,930.00

3 Equipment ..... 1,000.00

4 Social Security Matching Fund ..... 2,460.00

5 Total .....\$ 114,630.00

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

132—*Insurance Commissioner—Fire Marshal*

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....\$ 79,700.00

2 Current Expenses ..... 22,940.00

3 Equipment ..... 5,800.00

4 Building Repair and Maintenance ..... 2,600.00

5 Social Security Matching Fund ..... 1,900.00

6 Building and Equipment ..... 80,000.00

7 Total .....\$ 192,940.00

8 The total amount of this appropriation shall  
9 be paid from Special Revenue Fund out of  
10 collections of the special tax of one-half of

- 11 one per cent of premium receipts of fire in-  
 12 surance companies as provided by law.

133—*Public Service Commission*

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners .....	\$	24,000.00
2	Other Personal Services .....		368,000.00
3	Current Expenses .....		45,000.00
4	Equipment .....		6,650.00
5	Social Security Matching Fund .....		6,350.00
6	Total .....	\$	450,000.00

- 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 \$5,000.-  
 12 00 may be transferred to the State Water  
 13 Resources Commission for use in coopera-  
 14 tion with the U. S. Geological Survey in a  
 15 program of stream gauging.

134—*Public Service Commission—Motor Carrier  
 Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	151,400.00
2	Current Expenses .....		40,300.00
3	Equipment .....		4,600.00
4	Social Security Matching Fund .....		3,460.00
5	Total .....	\$	199,760.00

- 6 The total amount of this appropriation shall  
 7 be paid from Special Revenue Fund out of  
 8 receipts collected for or by the Public Serv-  
 9 ice Commission pursuant to and in the exer-

- 10 cise of regulatory authority over motor car-  
 11 riers as authorized by law.

135—*Conservation Commission*

Acct. No. 830

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$ 1,058,425.00
2	Current Expenses .....	431,750.00
3	Repairs and Alterations .....	108,000.00
4	Equipment .....	68,700.00
5	Buildings, Land and Improvements .....	25,000.00
6	Land Purchase .....	100,000.00
7	National Forests .....	89,820.00
8	White Pine Blister Rust Control .....	5,000.00
9	Oak Wilt Control .....	8,000.00
10	Payment of Bounties .....	10,000.00
11	For construction of ponds and small lakes	
12	including highway dams .....	75,000.00
13	For restocking of game .....	35,000.00
14	Social Security Matching Fund .....	25,000.00
15	For the construction, maintenance and opera-	
16	tion of new trout hatcheries, for the main-	
17	tenance, operation and expansion of exist-	
18	ing trout hatcheries and for the propagation	
19	of trout and restocking of trout streams .....	75,000.00
20	For the propagation and distribution of elk,	
21	deer, bear and turkey and for the purchase	
22	of public hunting lands .....	125,000.00
23	Total .....	\$ 2,239,695.00

- 24 The total amount of this appropriation shall  
 25 be paid from Special Revenue Fund out of  
 26 fees collected by the Conservation Commis-  
 27 sion. Expenditures shall be limited to the  
 28 amounts appropriated except for Federal  
 29 Funds received and Special Funds collected  
 30 at state parks. Special Funds in excess of  
 31 the amounts hereby appropriated may be  
 32 made available by budget amendment upon

33 request of the Conservation Commission  
 34 and approval of the Board of Public Works  
 35 for any emergency which might arise in  
 36 the operation of this division during the fis-  
 37 cal year.

136—*Department of Public Safety—Inspection Fees*

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$	90,600.00
2 Current Expenses .....		66,470.00
3 Repairs and Alterations .....		7,100.00
4 Equipment .....		18,000.00
5 Social Security Matching Fund .....		390.00

6 Total .....	\$	182,560.00
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7 The total amount of this appropriation shall  
 8 be paid from Special Revenue Fund out of  
 9 fees collected for inspection stickers as pro-  
 10 vided by law.

11 In addition to the above appropriation,  
 12 the Department of Public Safety is here-  
 13 by authorized to expend from this fund,  
 14 effective upon date of passage of this  
 15 act, an amount not to exceed fifty thou-  
 16 sand dollars in any one fiscal year for re-  
 17 pairs to, or construction of police bar-  
 18 racks.

137—*West Virginia Liquor Control Commission*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salary of Commissioner .....	\$	10,000.00
2 Other Personal Services .....		2,566,280.00
3 Current Expenses .....		730,650.00
4 Repairs and Alterations .....		17,200.00

5 Equipment .....	27,500.00
6 Social Security Matching Fund .....	64,000.00

7     Total .....\$   3,415,630.00

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

11 The above appropriation includes the salaries  
12 of store personnel, store inspectors, store  
13 operating expenses and equipment; and  
14 salaries, expenses and equipment for ad-  
15 ministration offices.

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

138—*West Virginia Merit System Council*

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$     58,050.00
2 Current Expenses .....	15,655.00
3 Social Security Matching Fund .....	1,500.00

4     Total .....\$     75,205.00

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.

139—*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.

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

Acct. No. 886

TO BE PAID FROM SPECIAL REVENUE FUND

- 1 To construct and equip a science classroom  
 2 building at West Liberty State College.....\$ 1,200,000.00  
 3 The total amount of this appropriation shall  
 4 be paid from the special non-revolving  
 5 Capital Improvement Fund created by  
 6 Com. Sub. for Senate Bill No. 154 (1959  
 7 Legislature)

141—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1 Personal Services .....	\$ 590,000.00
2 Current Expenses .....	243,326.00
3 Equipment .....	5,400.00
4 Social Security Matching Fund .....	14,630.00
5 Total .....	\$ 853,356.00

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

Sec. 3. *Awards for Claims Against the State.*—From the  
 2 funds designated there are hereby appropriated for the  
 3 fiscal year 1959-60, for payment of claims against the state,  
 4 the following amounts, as itemized:



*Claims versus the Adjutant General*

## TO BE PAID FROM GENERAL REVENUE FUND

1 Francis B. Lewis, et al .....	\$	100.00
2 Air Products of West Virginia, Inc. ....		107.13
3 A. J. Farris, et al .....		95.50
4 Edith Lovejoy .....		94.10
5 Guyan Lumber Company .....		150.00
6 Mrs. Mike D. Haddad .....		261.38
7 A. C. Morris Garage .....		694.41
8 Reed Schwemer .....		87.37

*Claims versus Department of Agriculture*

## TO BE PAID FROM GENERAL REVENUE FUND

1 R. N. Hewitt Corporation .....	\$	7,891.31
2 W. K. Oldham .....		300.00

*Claims versus the State Board of Education*

## TO BE PAID FROM GENERAL REVENUE FUND

1 Miss Blanch Price .....	\$	2,500.00
2 Kerr Whitfield .....		945.84

*Claims versus the State Tax Commissioner*

## TO BE PAID FROM GENERAL REVENUE FUND

1 Madison Grocery Company .....	\$	193.54
2 Paul LeMasters .....		768.58
3 C. & R. Coal Company .....		1,212.76

*Claims versus Department of Mental Health*

## TO BE PAID FROM GENERAL REVENUE FUND

1 Farmers Hardware Company .....	\$	1,111.73
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*Claims versus Commissioner of Public Institutions*

## TO BE PAID FROM GENERAL REVENUE FUND

1 Carl T. McKinney .....	\$	113.40
2 Beckley Ice and Feed Company .....		67.51

3	McCutcheon & Drake Motor Company .....	40.48
4	Nora Lear Wood, Executrix of the Estate of	
5	Carleton C. Wood .....	10,280.95

*Claims versus the Department of Public Safety*

TO BE PAID FROM GENERAL REVENUE FUND

1	William Elden Williamson or his legally	
2	qualified guardian .....	\$ 3,678.00

*Claims versus the Department of Motor Vehicles*

TO BE PAID FROM STATE ROAD FUND

1	Mrs. Ellen Given .....	\$ 259.50
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*Claims versus the State Road Commission*

TO BE PAID FROM STATE ROAD FUND

1	Richard I. Bergman .....	\$ 108.43
2	Mrs. Wesley H. Tincher .....	400.00
3	Edward L. Hicks .....	129.09
4	Okey Darl Nestor .....	70.03
5	Erwin L. Dayton .....	250.00
6	Icie Myrtle Parsons, Administratrix of the	
7	Estate of Elihu Taylor Parsons .....	2,500.00

*Claims versus the Conservation Commission*

TO BE PAID FROM SPECIAL REVENUE FUND

1	Rhodes-Walker Chevrolet Company .....	\$ 1,108.70
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Sec. 4. *Reappropriations.*—The date for expiring the un-  
 2 expended balances, if any, in items 1, First, Second, Third,  
 3 Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Elev-  
 4 enth, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth,  
 5 Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-  
 6 first, Twenty-second, Twenty-third, in the appropriations  
 7 made by and under authority of Section 4 of the 1958 Budget  
 8 Act is extended to June 30, 1960 and is hereby reappropriated  
 9 to June 30, 1960.

10 Item Fourth, Conservation Commission—Division of State  
11 Parks, as herein reappropriated, may be used at Grandview  
12 State Park for public toilets, park water supply, road pav-  
13 ing, quarters for personnel, or other park improvements.

14 Item Twentieth, Conservation Commission—Division of  
15 State Parks, as herein reappropriated, may be used for park  
16 improvements and equipment at Blackwater Falls State  
17 Park to include completion of swimming area and beach;  
18 boat docks and boats; picnic area expansion; walkway, steps  
19 and trails for the observation of the Falls; camping area; and  
20 Canyon overlook development.

21 The date for expiring the unexpended balances, if any, in  
22 items 1, 2, 4, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,  
23 21, 22, 23, and appropriations, in subsequent paragraph made  
24 to Marshall College, State Tax Commissioner and the De-  
25 partment of Public Safety, in the appropriations made by  
26 and under authority of Section 5 of the 1957 Budget Act and  
27 reappropriated under Section 5 of the 1958 Budget Act is  
28 extended to June 30, 1960 and is hereby reappropriated to  
29 June 30, 1960.

30 Item 4: Marshall College, (a) to repair third floor of Old  
31 Main Building, \$20,000.00, as herein reappropriated, may be  
32 used to install catwalks, stairs and metal doors in Hodges  
33 Hall Men's Dormitory.

34 Item 11: West Virginia Industrial School for Boys, (a)  
35 to complete Swimming Pool and purchase equipment for  
36 Gymnasium, \$25,000.00, any unexpended balance as herein  
37 reappropriated, may be used to rewire, renovate and re-  
38 furnish the administration building.

39 Item 14: West Virginia Penitentiary, as herein reappro-  
40 priated, may be used to complete new cell blocks.

41 There is hereby transferred from Item 18, Huntington  
42 State Hospital, as herein reappropriated, a sum not to ex-  
43 ceed \$25,000.00 to Item 17, Spencer State Hospital, as herein  
44 reappropriated, for the purpose of completing projects under  
45 sub-items (a) and (d).

46 To meet the following existing emergencies in 1958-59  
47 appropriations there is hereby transferred from Item 18,  
48 Huntington State Hospital, as herein reappropriated from  
49 the unencumbered balance thereof, the amounts to certain  
50 1958-59 accounts as set out below:

51 (a) Acct. No. 119, Auditor's Office—Criminal Charges,  
52 \$20,000.00; (b) Acct. No. 120, Governor's Office, Civil Con-  
53 tingent Fund, \$22,400.00; (c) Acct. No. 123, Board of Pro-  
54 bation and Parole, Current Expenses, \$12,000.00; (d) Acct.  
55 No. 210, Department of Finance and Administration,  
56 Postage, \$30,000.00; (e) Acct. No. 371, Forestry Camp for  
57 Boys, Current Expenses, \$10,000.00; Repairs and Alterations,  
58 \$3,000; Total \$13,000.00; (f) Acct. No. 406, Department of  
59 Public Assistance—Commodity Distribution, Personal Serv-  
60 ices, \$23,910.00; Current Expenses, \$14,750.00; Total \$38,-  
61 660.00; (g) Acct. No. 495, West Virginia Racing Commission,  
62 Personal Services, \$11,875.00; Current Expenses, \$2,500.00;  
63 Total \$14,375.00; (h) Acct. No. 564, Department of Veterans  
64 Affairs, Veterans Day Patriotic Exercises, \$2,000.00; (i)  
65 Acct. No. 570, Department of Public Safety, Current  
66 Expenses, \$34,028.00; Repairs and Alterations, \$5,400.00;  
67 Equipment, \$10,000.00; Total \$49,428.00.

68 Any of the items herein reappropriated by this section  
69 to Conservation Commission may be used for the purchase  
70 of land and/or construction of recreational facilities in the  
71 areas designated in the original appropriation.

Sec. 5. *Special Revenue Appropriations.*—There is hereby  
2 appropriated for expenditure during the fiscal year one  
3 thousand nine hundred sixty appropriations made by gen-  
4 eral 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 ses-  
13 sion, one thousand nine hundred thirty-nine, and unless the  
14 spending unit has filed with the state director of the budget  
15 and the state auditor prior to the beginning of each fiscal  
16 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. 6. *Specific Funds and Collection Accounts.*—A fund or collection account, which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account, and shall be expended according to the provisions of article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one.

Sec. 7. *Appropriations for Refunding Erroneous Payments.*—Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid for refund to the proper person.  
When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he shall issue his requisition upon the auditor for the refunding of the proper amount. The auditor shall issue his warrant to the treasurer and the treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 8. *Sinking Fund Deficiencies.*—There is hereby appropriated to the board of public works a sufficient amount to meet a deficiency that may arise in the funds of the state sinking fund commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The board of public works is authorized to transfer from time to time such amounts to the state sinking fund commission as may be necessary for this purpose.  
The state sinking fund commission shall reimburse the State of West Virginia through the board of public works from the first remittance collected from any state agency or local taxing district for which the board of public works advanced funds, with interest at the rate carried by the bonds for which the advance was made.

Sec. 9. *Appropriations from Taxes and License Fees.*—There is hereby appropriated from 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

8 two and one-half per cent of the total revenues collected.  
9 There is hereby appropriated from the store and general  
10 license revenues for administration and enforcement of  
11 the law relating to said licenses, a sum not to exceed  
12 \$39,800.00. All such salaries and expenses, authorized by  
13 law as aforesaid, shall be paid by the tax commissioner  
14 through the state treasurer out of gross collections.

Sec. 10. *Appropriations to Pay Costs of Publication of  
2 Delinquent Corporations.*—There is hereby appropriated out  
3 of the state fund, general revenue, out of funds not other-  
4 wise appropriated, to be paid upon requisition of the auditor  
5 and/or the governor, as the case may be, a sum sufficient to  
6 pay the cost of publication of delinquent corporations as pro-  
7 vided by sections seventy-five and seventy-seven of article  
8 twelve, chapter eleven, code of West Virginia.

Sec. 11. *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. 12. *Total Appropriations.*—Where only a total sum  
2 is appropriated to a spending unit that total sum shall in-  
3 clude personal services, current expenses, and capital out-  
4 lay, except as otherwise provided in Title I, Section 3.

Sec. 13. *General School Fund.*—The balance of the pro-  
2 ceeds of the general school fund remaining after the payment  
3 of the appropriations made by this act is appropriated for  
4 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.
- 2. Constitutionality.

Section 1. *Appropriations Conditional.*—The expenditure  
2 of the appropriations made by this act, except those appro-

priations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of article five, chapter five, of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine.

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

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## CHAPTER 15

(House Bill No. 14—By Mrs. Drewry)

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AN ACT to amend and reenact section two, article four, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to admission to West Virginia home for aged and infirm colored.

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[Passed March 7, 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 4. Home for Aged and Infirm Colored Men and Women.

#### Section

#### 2. Admission of inmates.

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

That section two, article four, chapter twenty-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. *Admission of Inmates*.—Any colored man or woman who, because of extreme old age, or because of feeble, infirm or impaired physical condition, is without means to support himself or herself, and has no relatives,

5 friends or organization upon whom or which to depend  
6 for care and support, shall be eligible for admission to  
7 said home, provided his or her admission to the home  
8 shall first have been recommended by the council of the  
9 department of public assistance of the county of this  
10 state in which the individual seeking admission resided  
11 at the date of application therefor.

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## CHAPTER 16

(Senate Bill No. 45—By Mr. Davis)

AN ACT to amend and reenact section one, article three, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to private child welfare agencies.

[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

### Article 3. Private Institutions and Organizations.

#### Section

1. Private child welfare agencies.

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

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

Section 1. *Private Child Welfare Agencies.*—Whenever  
2 a child welfare agency licensed to place children for  
3 adoption shall have been given the permanent care,  
4 custody and guardianship of any child and the rights of  
5 the parents of such child shall have been terminated by  
6 order of a court of competent jurisdiction or by a legally  
7 executed relinquishment of parental rights, the child welfare  
8 agency may consent to the adoption of such child  
9 pursuant to the statutes regulating adoption proceedings.  
10 The parents or the surviving parent of a child or the  
11 mother of an illegitimate child may relinquish the child  
12 to a child welfare agency licensed to place children for



13 adoption by a written statement acknowledged as deeds  
14 are required to be acknowledged by law: *Provided, how-*  
15 *ever,* That if either of the parents of such child is under  
16 twenty-one years of age, such relinquishment shall not  
17 be valid unless and until the same shall have been ap-  
18 proved in writing by a judge of a juvenile court of the  
19 county in which such parent may reside or in which such  
20 relinquishment is made.

## CHAPTER 17

(House Bill No. 422—By Mr. Boiarsky and Mr. Chilton)

AN ACT to amend and reenact section three, article five, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to criminal jurisdiction of persons under eighteen years of age.

[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### Article 5. Juvenile Courts.

#### Section

#### 3. Criminal jurisdiction.

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

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

Section 3. *Criminal Jurisdiction.*—Except as to a violation of law which if committed by an adult would be a capital offense, the juvenile court shall have exclusive jurisdiction to hear and determine criminal charges including a charge of violation of a municipal ordinance, against a person who is under eighteen years of age at the time of the alleged offense.

If during the pendency of a criminal proceeding against a person in a court other than a juvenile court, it shall be ascertained, or it shall appear, that the person was under the age of eighteen years at the time of the alleged offense,

12 the court, judge or magistrate shall immediately transfer  
13 the case with all the papers, documents, and testimony  
14 connected therewith to the juvenile court having juris-  
15 diction. The juvenile court shall proceed to hear and dis-  
16 pose of the case in the same manner as if it had been  
17 instituted in that court in the first instance: *Provided,*  
18 *however,* That for violations of the traffic laws of West  
19 Virginia as contained in chapter seventeen-c of this code,  
20 or for the violation of a municipal traffic ordinance, jus-  
21 tices of the peace courts and municipal courts when appro-  
22 priate shall have concurrent jurisdiction with the juvenile  
23 court and such persons under the age of eighteen years  
24 shall be liable for punishment for violation of such traffic  
25 statutes and ordinances in the same manner as adults.

26 Any person who is under the age of eighteen years shall  
27 be entitled to be admitted to bail or recognizance in the  
28 same manner as a person over the age of eighteen years,  
29 and shall have the protection guaranteed by article three,  
30 section five of the constitution of West Virginia, and also  
31 the right to be admitted to bail or recognizance in the  
32 same manner as a person over the the age of eighteen  
33 years.

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## CHAPTER 18

(Com. Sub. for Senate Bill No. 227—Originating in the  
Senate Committee on Claims and Grievances)

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.

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[Passed March 14, 1959; in effect July 1, 1959. Approved by the Governor.]

### Section

1. Finding and declaring certain claims against the adjutant general, the conservation commission, the department of agriculture, the department of mental health, the department of motor vehicles, the department of public institutions, the department of public safety, the state board of education, the state road commission and the state tax commissioner 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 Adjutant General, the Conservation Commission, the Department of Agriculture, the Department of Mental Health, the Department of Motor Vehicles, the Department of Public Institutions, the Department of Public Safety, the State Board of Education, the State Road Commission and the State Tax Commissioner 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 the Adjutant General:

(1) Francis B. Lewis, et al.....	\$ 100.00
(2) Air Products of West Virginia, Inc.....	107.13
(3) A. J. Farris, et al.....	95.50
(4) Edith Lovejoy.....	94.10
(5) Guyan Lumber Company.....	150.00
(6) Mrs. Mike D. Haddad.....	261.38
(7) A. C. Morris Garage.....	694.41
(8) Reed Schwemer.....	87.37

(b) Claims versus the Conservation Commission:

(1) Rhodes-Walker Chevrolet Company..	1,108.70
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(c) Claims versus Department of Agriculture:

(1) R. N. Hewitt Corporation.....	7,891.31
(2) W. K. Oldham.....	300.00

(d) Claims versus Department of Mental Health:

(1) Farmers Hardware Company.....	1,111.73
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(e) Claims versus Department of Motor Vehicles:

(1) Mrs. Ellen Given.....	259.50
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(f) Claims versus Department of Public Institutions:

(1) Carl T. McKinney.....	113.40
(2) Beckley Ice and Feed Company.....	67.51
(3) McCutcheon & Drake Motor	

41	Company.....	40.48
42	(4) Norma Lear Wood, Executrix of the	
43	Estate of Carleton C. Wood.....	10,280.95
44	(g) Claims versus the Department of Public Safety:	
45	(1) William Elden Williamson or his	
46	legally qualified guardian.....	3,678.00
47	(h) Claims versus the State Board of Education:	
48	(1) Miss Blanch Price.....	2,500.00
49	(2) Kerr Whitfield.....	945.84
50	(i) Claims versus the State Road Commission:	
51	(1) Richard I. Bergman.....	108.43
52	(2) Mrs. Wesley H. Tincher.....	400.00
53	(3) Edward L. Hicks.....	129.09
54	(4) Okey Darl Nestor.....	70.03
55	(5) Edwin L. Dayton.....	250.00
56	(6) Icie Myrtle Parsons, Administratrix	
57	of the Estate of Elihu Taylor Parsons	2,500.00
58	(j) Claims versus the State Tax Commissioner:	
59	(1) Madison Grocery Company.....	193.54
60	(2) Paul LeMasters.....	768.58
61	(3) C. & R. Coal Company.....	1,212.76

## CHAPTER 19

(Senate Bill No. 349—Originating in the Senate Committee  
on the Judiciary)

AN ACT to provide for the submission to the voters of the state an amendment to the constitution of the state, amending article six thereof by adding thereto a new section designated section fifty-four, providing for continuity of governmental operations in event of enemy attack.

[Passed March 12, 1959; in effect ninety days from passage. Approved by the Governor.]

### Continuity of Government Amendment.

#### Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "continuity of government 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 sixty, which proposed amendment is as follows:

#### **Article VI. The Legislature.**

Sec. 54. *Continuity of Government Amendment.*—The Legislature of West Virginia, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty (1) to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations.

Sec. 2. *Amendment to be Known as the "Continuity of Government 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 "Continuity of Government 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 sixty, the board of ballot commissioners of each county is hereby required to place upon, and at the foot

7 of, the official ballot to be voted at that election, the fol-  
8 lowing:

9 Ballot on "Continuity of Government Amendment".

10 ☐ For ratification of Continuity of Government  
11 Amendment.

12 ☐ Against ratification of Continuity of Government  
13 Amendment.

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

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

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

16 "For ratification of Continuity of Government Amend-  
17 ment — votes.

18 "Against ratification of Continuity of Government  
19 Amendment — votes.

20 "Given under our hands this — day of November,  
21 one thousand nine hundred sixty."

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

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

42 "We, the board of canvassers of the county of \_\_\_\_\_,  
43 having carefully and impartially examined the returns of  
44 the election held in said county, in each district thereof,  
45 on the eighth day of November, one thousand nine hun-  
46 dred sixty, do certify that the results of the election in  
47 said county, on the question of the ratification or rejection  
48 of the proposed amendment is as follows:

49 "For ratification of Continuity of Government Amend-  
50 ment — votes.

51 "Against ratification of Continuity of Government  
52 Amendment — votes.

53 "Given under our hands this — day of November,  
54 one thousand nine hundred sixty."

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

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

2—On the twenty-fifth day after the election is held, or as

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

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

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## CHAPTER 20

(House Bill No. 143—By Mr. Knight and Mr. Bachmann)

AN ACT to amend chapters thirty-one and thirty-three of the  
code of West Virginia, one thousand nine hundred thirty-  
one, as amended, by amending and reenacting sections six,  
eleven, twelve, thirteen, twenty-one, twenty-two, thirty-  
seven, thirty-eight, thirty-nine, sixty-six, and sixty-seven,  
article one, chapter thirty-one thereof, and sections two  
and nine, article seven, chapter thirty-one thereof, and  
sections three and five, article five, chapter thirty-three  
thereof, relating to corporate stock and voting classes  
thereof and the rights of stockholders of corporations to  
vote for directors or managers.

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[Passed February 17, 1959; in effect from passage. Approved by the Governor.]



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

That chapters thirty-one and thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections six, eleven, twelve, thirteen, twenty-one, twenty-two, thirty-seven, thirty-eight, thirty-nine, sixty-six, and sixty-seven, article one, chapter thirty-one thereof, and sections two and nine, article seven, chapter thirty-one thereof, and sections three and five, article five, chapter thirty-three thereof, to read as follows:

## CHAPTER 31. CORPORATIONS

### Article

1. Provisions Relating to Corporations Generally.
7. Industrial Loan Companies.

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

#### Section

6. Agreement of incorporation.
11. Amendment of charter.
12. Same; how made.
13. Same; increase or reduction of authorized stock.
21. Corporate meetings; time; place; notice; quorum.
22. Classes of stock; certificates filed and recorded in certain cases.
37. Certificate for stock; lost or destroyed certificate.
38. Ownership of capital stock; who may vote; transfer books.
39. Corporation may purchase, hold, sell and transfer its own stock; not to be voted while held.
66. Voting rights; cumulative voting.
67. Same; fractional shares; duration of proxy; death of giver of proxy.

Section 6. *Agreement of Incorporation.*—The persons  
2 desiring to form a corporation as provided in section four  
3 hereof, shall sign, acknowledge and file with the secretary  
4 of state an agreement, in the general form prescribed by  
5 the secretary of state, in which shall be set forth:  
6 (a) The name of the corporation, which name shall  
7 contain one of the words "association," "company," "cor-  
8 poration," "club," "incorporated," "society," "union," or  
9 "syndicate," or one of the abbreviations, "co." or "inc.;"  
10 but no name shall be assumed already in use by another  
11 existing corporation of this state, or by a foreign corpora-  
12 tion lawfully doing business in this state, or so similar  
13 thereto, in the opinion of the secretary of state, as to lead  
14 to confusion.

15 (b) The post-office address of its principal office or  
16 place of business.

17 (c) The object or objects for which the corporation is  
18 formed and the location of its chief works, if it proposes  
19 to have any.

20 (d) If the corporation is to be authorized to issue only  
21 one class of stock, the total number of shares of stock  
22 which the corporation shall have authority to issue and  
23 (1) the par value of each of such shares, or (2) a state-  
24 ment that all such shares are to be without par value; or,  
25 if the corporation is to be authorized to issue more than  
26 one class of stock, the total number of shares of all classes  
27 of stock which the corporation shall have authority to  
28 issue and (1) the number of the shares of each class there-  
29 of that are to have a par value and the par value of each  
30 share of each such class, and/or (2) the number of such  
31 shares that are to be without par value, and (3) a state-  
32 ment of all or any of the designations and the powers,  
33 preferences and rights, and the qualifications, limitations  
34 or restrictions thereof, which are permitted by the pro-  
35 visions of section twenty-two of this article in respect of  
36 any class or classes of stock of the corporation and the  
37 fixing of which by the agreement of incorporation is de-  
38 sired, and an express grant of such authority as it may  
39 then be desired to grant to the board of directors to fix by  
40 resolution or resolutions any thereof that may be desired  
41 but which shall not be fixed by such agreement. In each  
42 case the agreement of incorporation shall also set forth  
43 the minimum amount of capital with which the corpora-  
44 tion will commence business, which shall not be less than  
45 one thousand dollars. The provisions of this subdivision  
46 (d) shall not apply to corporations which are not organ-  
47 ized for profit and which are not to have authority to  
48 issue capital stock. In the case of such corporations, the  
49 fact that they are not to have authority to issue capital  
50 stock shall be stated in the agreement of incorporation,  
51 and the conditions of membership shall be stated therein.

52 (e) The names and post office addresses of the incor-  
53 porators, and, if a stock corporation, the number of shares  
54 subscribed by each.

55 (f) Whether or not the corporation is to have perpetual  
56 existence; if not, the time when its existence is to com-  
57 mence and the time when its existence is to cease.

58 (g) The agreement may also contain any provision  
59 which the incorporators may choose to insert for the  
60 management of the business and for the conduct of the  
61 affairs of the corporation, and any provisions creating, de-  
62 fining, limiting and regulating the powers of the corpora-  
63 tion, the directors and the stockholders, or any class of  
64 the stockholders, or, in the case of a corporation which is  
65 to have no capital stock, of the members of such corpora-  
66 tion: *Provided*, Such provisions are not contrary to the  
67 laws of this state.

68 (h) The agreement may also contain the following  
69 provision in haec verba, viz.:

70 "Whenever a compromise or arrangement is proposed  
71 between this corporation and its creditors or any class of  
72 them and/or between this corporation and its stockhold-  
73 ers or any class of them, any court of equitable jurisdic-  
74 tion within the state of West Virginia may, on the appli-  
75 cation in a summary way of this corporation or of any  
76 creditor or stockholder thereof, or on the application of  
77 trustees in dissolution or of any receiver or receivers  
78 appointed for this corporation under the laws of the state  
79 of West Virginia, order a meeting of the creditors or class  
80 of creditors, and/or of the stockholders or class of stock-  
81 holders of this corporation, as the case may be, to be sum-  
82 moned in such manner as the court directs. If a majority  
83 in number representing three-fourths in value of the  
84 creditors or class of creditors, and/or of the stockholders  
85 or class of stockholders of this corporation, as the case  
86 may be, agree to any compromise or arrangement and to  
87 any reorganization of this corporation as consequence of  
88 such compromise or arrangement, such compromise or  
89 arrangement and such reorganization shall, if sanctioned  
90 by the court to which such application has been made, be  
91 binding on all the creditors or class of creditors, and/or  
92 on all the stockholders or class of stockholders of this  
93 corporation, as the case may be, and also on this corpora-  
94 tion."

95 (i) The agreement may also contain such provisions  
96 as may be desired limiting or denying to the stockholders  
97 the preemptive right to subscribe to any or all additional  
98 issues of stock of the corporation of any or all classes.

99 (j) The agreement may also contain provisions requir-  
100 ing for any corporate action the vote of a larger propor-  
101 tion of the stock or any class thereof than is required by  
102 this chapter.

103 The agreement shall be acknowledged by the incorpora-  
104 tors and transmitted with the proper fees to, and shall be  
105 filed with, the secretary of state.

Sec. 11. *Amendment of Charter.*—Every corporation of  
2 this state heretofore or hereafter incorporated may, from  
3 time to time and in the manner herein provided, when and  
4 as desired, amend its charter by addition to its corporate  
5 powers and purposes, or diminution thereof, or both; or  
6 by substitution of other powers and purposes, in whole or  
7 in part, for those set forth in its charter; or by increasing  
8 or decreasing its authorized capital stock or classifying or  
9 reclassifying the same, by changing the number, par value,  
10 designations, preferences, or relative, participating, option-  
11 al, or other special rights of the shares, or the qualifica-  
12 tions, limitations or restrictions of such rights, or by  
13 changing shares with par value into shares without par  
14 value or shares without par value into shares with par  
15 value either with or without increasing or decreasing the  
16 number of shares; or by changing its corporate name, or  
17 by making any other change or alteration in its charter  
18 that may be desired; and any or all such changes or altera-  
19 tions may be effected by one amendment: *Provided*, That  
20 every charter as so amended, changed or altered, shall  
21 contain only such provisions as it would be lawful and  
22 proper to have in an original agreement of incorporation  
23 made at the time of making such amendment.

24 Whenever issued shares having par value are changed  
25 into the same or a greater or less number of shares with-  
26 out par value, whether of the same or of a different class  
27 or classes of stock, the aggregate amount of the capital of  
28 the corporation represented by such shares without par  
29 value shall be the same as the aggregate amount of capital

30 represented by the shares so changed; and whenever  
31 issued shares without par value are changed into other  
32 shares without par value to a greater or lesser number,  
33 whether of the same or of a different class or classes, the  
34 amount of capital represented by the new shares in the  
35 aggregate shall be the same as the aggregate amount of  
36 capital represented by the shares so changed; and the  
37 amendment of the charter of the corporation effecting any  
38 such change shall set forth that the capital of the corpora-  
39 tion will not be reduced under or by reason of such amend-  
40 ment.

Sec. 12. *Same; How Made.*—Except as hereinafter in  
2 this section provided, a resolution or resolutions specific-  
3 ally stating the proposed amendment or amendments shall  
4 be adopted by a majority vote of all of the shares of  
5 capital stock of the company entitled to vote at a regular  
6 or special meeting of the stockholders, and notice of such  
7 meeting shall be given as provided by the by-laws of the  
8 corporation, or, in the absence of a provision in the by-  
9 laws for such notice, in the manner provided in this  
10 article. The notice to stockholders shall inform them of  
11 the amendments of the charter proposed to be made and  
12 that the stockholders at the meeting will vote upon the  
13 question or questions of making such amendments: *Pro-*  
14 *vided, however,* That if the corporation have only one class  
15 of stock, and any such amendment would increase or de-  
16 crease the amount of the authorized capital stock, or would  
17 increase or decrease the par value thereof, then the affirm-  
18 ative vote of two-thirds of all the stockholders shall be  
19 necessary to the adoption thereof: *Provided further,* That  
20 if the corporation have more than one class of stock, and  
21 if any such proposed amendment would alter or change  
22 the preferences given to any one or more classes of stock,  
23 by the charter, or would increase or decrease the amount  
24 of the authorized stock of such class or classes of stock,  
25 or would increase or decrease the par value thereof, then  
26 the holders of the stock of each class of stock affected by  
27 the amendment shall be entitled to vote as a class upon  
28 such amendment, whether by the terms of the charter  
29 such class be entitled to vote or not, and the affirmative

30 vote of two-thirds in interest of each such class of stock  
31 affected by the amendment shall be necessary to the adop-  
32 tion thereof, in addition to the affirmative vote of a ma-  
33 jority of every other class of stock entitled to vote there-  
34 on: *Provided further*, That the amount of the authorized  
35 stock of any such class or classes of stock if more than one  
36 class exists, or if only one class that class of stock, may be  
37 increased or decreased by the affirmative vote of the hold-  
38 ers of a majority of the stock of the corporation entitled  
39 to vote, if so provided in the original charter or in any  
40 amendment thereto which created such stock, or class or  
41 classes of stock, or in any amendment thereto which was  
42 authorized by a resolution or resolutions adopted by the  
43 affirmative vote of the holders of two-thirds of such stock,  
44 or class or classes of stock: *And provided further*, That any  
45 amendment to the charter under a right reserved therein  
46 to make such amendment may be made in the manner  
47 specified in the charter and by a vote of the proportion  
48 of the shares of outstanding stock and of the class or  
49 classes of stock authorized to amend, as set out in the  
50 charter.

51 The president or a vice president of the corporation,  
52 under his signature and the seal of the corporation, shall  
53 certify the resolution or resolutions and the fact and the  
54 manner of the adoption of the same, and of the assenting  
55 of all stockholders, the consent of whom is required under  
56 this article to the making of such amendment, or amend-  
57 ments, to the secretary of state, who shall issue his certifi-  
58 cate reciting such resolution, corporate action and facts  
59 certified in like manner and with like effect as an original  
60 certificate of incorporation and transmit the same to the  
61 corporation. Such certificate or a certified copy thereof  
62 shall be recorded and received in evidence as provided  
63 for the recordation and admission in evidence of an orig-  
64 inal certificate of incorporation or a certified copy of such  
65 original. Such certificate shall declare the changes or  
66 amendments as in effect from the date thereof.

Sec. 13. *Same; Increase or Reduction of Authorized*  
2 *Stock.*—If an increase of the authorized capital stock of  
3 any corporation shall have been duly authorized as pro-

4 vided in section eleven of this article, the amendment  
5 shall set forth:

6 (a) The amount of capital stock theretofore author-  
7 ized;

8 (b) The amount of additional stock authorized;

9 (c) The classes, if any, into which the additional stock  
10 is to be divided, with the preferences, voting powers, re-  
11 strictions and qualifications of the newly authorized  
12 shares; and

13 (d) The number and par value of the shares of the  
14 newly authorized stock, and, if more than one class, the  
15 number and par value of the shares of each class, and if  
16 any new or authorized stock is of nominal or without par  
17 value that fact and the number of shares of such stock  
18 shall be stated.

19 If a reduction of the authorized but unissued capital  
20 stock of any corporation shall have been duly authorized  
21 as provided in section eleven of this article, the amend-  
22 ment shall set forth:

23 (a) The amount of capital stock theretofore authorized  
24 and the number and par value of the shares, and if more  
25 than one class, the amounts of each class and the number  
26 and par value of the shares of each class;

27 (b) The amount of capital stock issued and, if more  
28 than one class, the amount of each class;

29 (c) The amount of the reduction of authorized but un-  
30 issued stock, specifying in which class or classes, if more  
31 than one class, the reduction is to be effected and the  
32 amount of the reduction of each class; and

33 (d) The number and par value of the shares of each  
34 class as reduced and the number of shares of stock of  
35 nominal or without par value theretofore authorized and  
36 the number of such shares of stock as reduced.

Sec. 21. *Corporate Meetings; Time; Place; Notice;*  
2 *Quorum.*—The stockholders and/or directors of any cor-  
3 poration created under the laws of this state may hold all  
4 regular, annual and special meetings for the transaction  
5 of the lawful business of the corporation, including the  
6 first general meeting for purposes of organization, and  
7 keep the principal office of such corporation, either in or

8 out of this state. Regular meetings of the stockholders  
9 shall be held at such time and place as the by-laws may  
10 prescribe, or if there be no such by-laws, then annually  
11 on the fourth Tuesday of January, at eleven o'clock in  
12 the forenoon, at the principal office of the company. Notice  
13 of regular and special meetings shall be given as required  
14 by the by-laws, and if none is prescribed therein, then by  
15 mailing to each stockholder, at least ten days prior to the  
16 date of meeting, a written notice thereof; or by publica-  
17 tion once a week for two weeks in some newspaper pub-  
18 lished and of general circulation, in the county of the  
19 principal office or place of business of the corporation.  
20 Special meetings may be held at such places and after  
21 such notice as the by-laws prescribe, or, if none, then at  
22 the same place and after the same notice as a regular  
23 meeting. Special meetings of the stockholders may be  
24 called by the board of directors, the president and secre-  
25 tary, or any number of stockholders owning in the aggre-  
26 gate at least one tenth of the number of shares outstand-  
27 ing. The notice of special meetings shall state the business  
28 to be transacted, and no business other than that included  
29 in the notice or incidental thereto shall be transacted at  
30 such meeting.

31 Regular meetings of the board of directors may be held  
32 at such time and place as the by-laws may prescribe, or  
33 the board may from time to time designate by resolution.

34 Special meetings of the board of directors may be called  
35 by the president, vice president, any two directors of a  
36 stock or nonstock corporation, or by any two members of  
37 a nonstock corporation. Notice of such meetings shall be  
38 given as required by the by-laws, and if none is pre-  
39 scribed therein, then by mailing a written notice to each  
40 director at his last known postoffice address at least five  
41 days before the time of the meeting.

42 A quorum of the stockholders shall consist of at least a  
43 majority of all of the shares of stock entitled to vote.  
44 Unless otherwise prescribed in the by-laws, or provided  
45 in the charter, a quorum of the directors shall consist of  
46 a majority of the board of directors. Any number less  
47 than a quorum present may adjourn any stockholders' or  
48 directors' meeting until a quorum is present: *Provided,*



49 however, That a quorum of the stockholders or members  
50 of a cooperative association organized under the provi-  
51 sions of this chapter shall consist of at least fifteen per  
52 cent of such stockholders or members.

Sec. 22. *Classes of Stock; Certificates Filed and Re-*  
2 *corded in Certain Cases.*—Every corporation, other than  
3 a banking institution, shall have power to issue one or  
4 more classes of stock or one or more series of stock within  
5 any class thereof, any or all of which classes may be of  
6 stock with par value or stock without par value, with  
7 such voting powers, full or limited, or without voting  
8 powers and in such series and with such designations,  
9 preferences and relative, participating, optional or other  
10 special rights, and qualifications, limitations or restric-  
11 tions thereof, as shall be stated and expressed in the char-  
12 ter, or in any amendment thereto, or in the resolution or  
13 resolutions providing for the issue of such stock adopted  
14 by the board of directors pursuant to authority expressly  
15 vested in it by the provisions of the charter or of any  
16 amendment thereto. The power to increase or decrease  
17 or otherwise adjust the capital stock as in this chapter  
18 elsewhere provided shall apply to all or any of such  
19 classes of stock. Any preferred or special stock may be  
20 made subject to redemption at such time or times and at  
21 such price or prices and may be issued in such series,  
22 with such designations, preferences and relative, partici-  
23 pating, optional or other special rights, and qualifications,  
24 limitations or restrictions thereof as shall be stated and  
25 expressed in the charter, or in any amendment thereto,  
26 or in the resolution or resolutions providing for the issue  
27 of such stock adopted by the board of directors as herein-  
28 above provided. The holders of preferred or special stock  
29 of any class or of any series thereof shall be entitled to  
30 receive dividends at such rates, on such conditions and at  
31 such times as shall be stated and expressed in the charter,  
32 or in any amendment thereto, or in the resolution or res-  
33 olutions providing for the issue of such stock adopted by  
34 the board of directors as hereinabove provided, payable in  
35 preference to, or in such relation to, the dividends payable  
36 on any other class or classes of stock, and cumulative or  
37 noncumulative as shall be so stated and expressed. When

38 dividends upon the preferred and special stocks, if any,  
39 to the extent of the preference to which such stocks are  
40 entitled, shall have been paid or declared and set apart  
41 for payment, a dividend on the remaining class or classes  
42 of stock may then be paid out of the remaining assets of  
43 the corporation available for dividends as elsewhere in  
44 this article provided. The holders of the preferred or  
45 special stock of any class or of any series thereof shall be  
46 entitled to such rights upon the dissolution of, or upon  
47 any distribution of the assets of, the corporation as shall  
48 be stated and expressed in the charter, or in any amend-  
49 ment thereto, or in the resolution or resolutions providing  
50 for the issue of such stock adopted by the board of direc-  
51 tors as hereinabove provided; and any preferred or special  
52 stock of any class or of any series thereof may be made  
53 convertible into, or exchangeable for, shares of any other  
54 class or classes or of any other series of the same or any  
55 other class or classes of stock of the corporation at such  
56 price or prices or at such rates of exchange and with such  
57 adjustments as shall be stated and expressed or provided  
58 for in the charter, or in any amendment thereto, or in the  
59 resolution or resolutions providing for the issue of such  
60 stocks adopted by the board of directors as hereinabove  
61 provided. If any corporation shall be authorized to issue  
62 more than one class of stock or more than one series of  
63 any class, the designations, preferences and relative, par-  
64 ticipating, optional or other special rights of each class  
65 of stock or series thereof and the qualifications, limita-  
66 tions or restrictions of such preferences and/or rights  
67 shall be set forth in full or summarized on the face or back  
68 of the certificate which the corporation shall issue to rep-  
69 resent such class or series of stock. Before any corpora-  
70 tion shall issue any shares of stock of any class or of any  
71 series of any class of which the voting powers, designa-  
72 tions, preferences and relative, participating, optional or  
73 other rights, if any, or the qualifications, limitations or  
74 restrictions thereof, if any, shall not have been set forth  
75 in the charter, or in any amendment thereto, but shall be  
76 provided for in a resolution or resolutions adopted by the  
77 board of directors pursuant to authority expressly vested  
78 in it by the provisions of the charter or an amendment

79 thereto, a certificate setting forth a copy of such resolution  
80 or resolutions and the number of shares of stock of such  
81 class or series shall be made under the seal of the cor-  
82 poration and signed by the president or a vice president  
83 and by the secretary or an assistant secretary of the cor-  
84 poration and acknowledged by such president or vice  
85 president before an officer authorized by the laws of West  
86 Virginia to take acknowledgments of deeds, and shall be  
87 filed and a copy thereof shall be recorded in the same  
88 manner as agreements and certificates of incorporation are  
89 required to be filed and recorded by the provisions of sec-  
90 tions six and ten of this article. Unless otherwise provided  
91 in any such resolution or resolutions, the number of shares  
92 of stock of any such class or series so set forth in such  
93 resolution or resolutions may be increased or decreased  
94 (but not below the number of shares thereof then out-  
95 standing) by a certificate likewise made, signed, filed and  
96 recorded setting forth a statement that a specified increase  
97 or decrease therein had been authorized and directed by  
98 a resolution or resolutions likewise adopted by the board  
99 of directors; and in case the number of such shares shall  
100 be so decreased, the number of shares so specified in such  
101 certificate shall resume the status which they had prior  
102 to the adoption of the first resolution or resolutions.

103 In any case in which stock having a par value shall  
104 have been issued together with stock without par value  
105 for a particular consideration, in determining the amount  
106 of the stock without par value issued therefor, the par  
107 value of such stock having a par value shall first be de-  
108 ducted from the amount of money or actual value of the  
109 consideration determined as aforesaid, and the excess  
110 thereof, if any, shall be taken to be the amount of stock  
111 without par value so issued.

2 *Sec. 37. Certificate for Stock; Lost or Destroyed Cer-*  
3 *tificate.*—Every holder of stock in a corporation shall be  
4 entitled to have a certificate, signed by, or in the name of  
5 the corporation by, the president or a vice president and  
6 the treasurer or an assistant treasurer, or the secretary  
7 or an assistant secretary of such corporation, certifying  
8 the number of shares owned by him in such corporation:  
9 *Provided, however, That, where such certificate is signed*

9 by a transfer agent or an assistant transfer agent or by  
10 a transfer clerk acting on behalf of such corporation  
11 and a registrar, the signature of any such president, vice  
12 president, treasurer, assistant treasurer, secretary or as-  
13 sistant secretary may be facsimile. In case any officer  
14 or officers who shall have signed, or whose facsimile sig-  
15 nature or signatures shall have been used on, any such  
16 certificate or certificates shall cease to be such officer  
17 or officers of such corporation, whether because of death,  
18 resignation or otherwise, before such certificate or cer-  
19 tificates shall have been delivered by such corporation,  
20 such certificate or certificates may nevertheless be  
21 adopted by such corporation and be issued and de-  
22 livered as though the person or persons who signed such  
23 certificate or certificates or whose facsimile signature  
24 shall have been used thereon had not ceased to be such  
25 officer or officers of such corporation.

26 All certificates for stock which is given any preference,  
27 priority or preferred rights over any other shares as to  
28 dividends or otherwise, or which contains any limita-  
29 tion or restriction of voting or other rights, shall con-  
30 tain an accurate statement of all such preferences, priori-  
31 ties or preferred rights, restrictions and limitations. No  
32 certificate for any share of stock shall be issued or de-  
33 livered to the stockholder until his subscription or sale  
34 price for such share is paid in full.

35 A certificate may be issued in lieu of a certificate lost  
36 or destroyed upon such terms and conditions as may be  
37 prescribed by the by-laws of the corporation, upon com-  
38 pliance with such terms and conditions by the person  
39 who appears by the books of the corporation to be the  
40 owner of the lost or destroyed certificate; and the owner  
41 may require the officers of the corporation to issue a  
42 certificate in the place and stead of one lost or destroyed  
43 upon the following conditions: (a) He shall file with  
44 the officers of the corporation, first, an affidavit setting  
45 forth the time, place and circumstances of the loss to the  
46 best of his knowledge and belief; second, proof of his  
47 having advertised the loss in a newspaper of general  
48 circulation published near the principal office of the

49 corporation, once a week for two weeks; (b) he shall  
50 execute and deliver to the corporation a bond with good  
51 security in a penalty of at least the value of the shares  
52 of stock represented by the lost or destroyed certificate,  
53 conditioned to indemnify the corporation and all per-  
54 sons whose rights may be affected by the issuance of  
55 the new certificate against any loss in consequence of  
56 the new certificate being issued: *Provided, however,*  
57 That a new certificate may be issued in lieu of the one  
58 lost, in the discretion of the board of directors, without  
59 requiring the publication of the above notice or the giv-  
60 ing of a bond.

61 Whenever a certificate for shares of the capital stock  
62 of a corporation of this state which has heretofore been  
63 or may hereafter be issued to a person as agent or  
64 trustee, and as to which the stock ledger of such cor-  
65 poration does not disclose the principal or cestui que  
66 trust, is lost or destroyed, and no person, except the  
67 administrator of the person to whom such certificate was  
68 issued as agent or trustee, has made claim to it against  
69 the corporation for more than twenty-five years, and  
70 such corporation has been a going concern for more  
71 than ten years during such period of twenty-five years,  
72 and has declared five or more dividends upon its capital  
73 stock during the last twenty-five years, and such divi-  
74 dends declared upon the shares of stock alleged to be lost  
75 or destroyed have not been paid to any person, and such  
76 agent or trustee, the holder of such certificate, is dead,  
77 then, and in such case, the administrator of the person  
78 to whom the alleged lost or destroyed certificate was  
79 issued as agent or trustee aforesaid, and who is still  
80 the owner of record of such certificate, shall, after ten  
81 days' written notice to such corporation demanding the  
82 issuance of a new certificate of stock to him as such ad-  
83 ministrator, be entitled to receive, in his name as ad-  
84 ministrator, such new certificate in place of the one  
85 alleged to be lost or destroyed, and such administrator  
86 shall be entitled to receive all dividends that may have  
87 been declared upon such certificate or number of shares  
88 of stock alleged to be lost or destroyed and remaining

89 unpaid, under and upon the following conditions: (a)  
90 If such administrator of such holder of record as agent  
91 or trustee of such certificate of stock has given the afore-  
92 said ten days' notice in writing to the corporation, he  
93 shall cause to be advertised in a newspaper of general  
94 circulation published in the county wherein he was  
95 granted his letters of administration, once a week for  
96 four successive weeks, the fact that he gave to such cor-  
97 poration the required ten days' notice in writing; that  
98 more than twenty-five years prior thereto a certificate  
99 for the number of shares of the capital stock of such  
100 corporation was issued to his intestate as agent or trustee;  
101 that it is unknown to him who such principal or cestui  
102 que trust may be; that no person except the adminis-  
103 trator of such agent or trustee has made claim to such  
104 certificate for more than twenty-five years; that such  
105 certificate has been lost or destroyed; that such stock  
106 represented by the certificate lost or destroyed and all  
107 dividends payable in respect thereto are claimed by such  
108 administrator for the purpose of distributing and ac-  
109 counting for the same to the person or persons entitled  
110 thereto; that at least two weeks after the last publica-  
111 tion thereof such administrator, unless such corporation  
112 issues and delivers unto him such new certificate in  
113 the place of the one lost or destroyed and pays over  
114 and delivers to him as such administrator all dividends  
115 payable in respect thereto, will institute suit for the  
116 same; and such notice shall warn any and all persons,  
117 except such administrator, to produce to such corporation,  
118 on or before the expiration of two weeks after the last  
119 publication thereof as aforesaid, a statement in writing  
120 under oath of such claimant or his administrator, of  
121 the origin, circumstances and grounds upon which his  
122 claim as principal or cestui que trust to such stock and  
123 dividends is asserted, as well as the reasons for his  
124 delay in asserting title thereto; (b) if within such period  
125 of time for producing such certificate to such corpora-  
126 tion such statement, satisfactory to such corporation, be  
127 not forthcoming, such corporation shall issue and de-  
128 liver to such administrator a new certificate of stock

129 in the place and stead of that alleged to be lost or de-  
130 stroyed and also deliver and pay over to him all dividends  
131 payable in respect thereto.

132 Such issuance and delivery of a new certificate and  
133 the payment of such dividends by the corporation to  
134 such administrator shall relieve such corporation from  
135 any and all liability whatsoever to any person claiming  
136 in any capacity such shares of stock represented by the  
137 certificates lost or destroyed or such dividends in respect  
138 thereto.

139 The procedure provided in this section is cumulative  
140 and not exclusive, and nothing herein contained shall  
141 be taken or construed as limiting in any way the right  
142 of any party who claims to be entitled to a new certifi-  
143 cate of stock in the place of a lost or destroyed certifi-  
144 cate, or the accumulated dividends thereon, which was  
145 issued in the manner hereinbefore provided, to have his  
146 or its rights to such new certificate and dividends de-  
147 termined and adjudicated without regard to this section  
148 by resort to any court of law or equity having jurisdic-  
149 tion to determine and adjudicate such rights, before  
150 the corporation shall have paid such dividends and is-  
151 sued a new certificate under the requirements of this  
152 section. The right to prosecute any suit pending at the  
153 time this article takes effect and growing out of the loss  
154 of a certificate of stock issued in the name of the trustee  
155 or agent shall not be impaired by anything herein con-  
156 tained.

Sec. 38. *Ownership of Capital Stock; Who May Vote;*  
2 *Transfer Books.*—The person in whose name shares of  
3 stock stand on the books of the corporation shall be  
4 deemed the owner thereof so far as the corporation is  
5 concerned. The words "trustee," "agent," or other like  
6 term, after the name of a person in whose name stock  
7 stands on the books of the company, without other words  
8 disclosing a trust, beneficiary or principal or other fidu-  
9 ciary relationship, shall be deemed descriptive of the  
10 person and shall in no way restrict the right of such  
11 person to vote the shares of stock for any purpose. The  
12 personal representative of a deceased stockholder shall

13 be entitled to vote the shares of stock of his decedent  
14 without having such shares transferred to him. The  
15 pledgor shall have the sole right to vote shares of stock  
16 pledged for any purpose unless the agreement pledging  
17 such shares confers that right upon the pledgee or his  
18 or its agent, in which event the person so authorized  
19 shall have such voting rights. No voting right shall be  
20 given to any stock while owned by the corporation, nor  
21 shall any stock so held be entitled to any dividend.  
22 Shares of its own stock held by a corporation in any  
23 fiduciary capacity may be voted by it in any case in  
24 which such shares could be voted by the owner. Stock  
25 transfer books shall be kept by the corporation, or by  
26 one or more transfer agents appointed by it, in which  
27 the shares shall be transferred under such regulations as  
28 may be prescribed by the by-laws or board of directors.

Sec. 39. *Corporation May Purchase, Hold, Sell and  
2 Transfer Its Own Stock; Not to be Voted While Held.—*  
3 Every corporation organized under this chapter, or exist-  
4 ing under the laws of this state, shall have the power  
5 to purchase, hold, sell and transfer shares of its own  
6 capital stock: *Provided*, That no such corporation shall  
7 use its funds or property for the purchase of its own  
8 shares of capital stock when such use would cause any  
9 impairment of the capital of the corporation: *Provided*  
10 *further*, That shares of its own capital stock belonging  
11 to the corporation shall not be voted upon, directly or  
12 indirectly: *And provided further*, That nothing in this  
13 section shall be construed as limiting the exercise of the  
14 rights given by the next succeeding section of this  
15 article. This section shall not apply to, or authorize the  
16 purchase of its shares by, any banking institution in  
17 this state.

Sec. 66. *Voting Rights; Cumulative Voting.—*In all  
2 elections of directors of corporations each stockholder  
3 shall have the right to cast one vote for each share of  
4 stock owned by him and entitled to a vote, and he may  
5 cast the same in person or by proxy, for as many persons  
6 as there are directors to be elected, or he may cumulate



7 such votes and give one candidate as many votes as the  
8 number of directors to be elected multiplied by the  
9 number of his shares of stock shall equal; or he may  
10 distribute them on the same principle among as many  
11 candidates and in such manner as he shall desire, and the  
12 directors shall not be elected in any other manner; and  
13 on any other question to be determined by a vote of shares  
14 at any meeting of stockholders each stockholder shall  
15 be entitled to one vote for each share of stock owned  
16 by him and entitled to a vote, and he may exercise this  
17 right in person or by proxy.

Sec. 67. *Same; Fractional Shares; Duration of Proxy; Death of Giver of Proxy.*—No voting rights shall attach  
2 to any fractional part of a share of stock, and no person  
3 shall vote on any proxy after three years from the date  
4 thereof unless the proxy specifically confers the right  
5 to vote for a longer period, and then only within the  
6 period specified. The acts of the holder of any proxy  
7 heretofore or hereafter done in good faith without fraud  
8 after the death of the stockholder and without knowledge  
9 on the part of the person exercising the proxy after such  
10 death shall not be invalidated because of the death of  
11 such stockholder.  
12

## Article 7. Industrial Loan Companies.

### Section

2. Incorporators; name; capital stock.

9. Annual and special meeting of stockholders; voting; proxy; fiscal year.

Section 2. *Incorporators; Name; Capital Stock.*—Any  
2 number of persons, not fewer than thirteen, citizens of  
3 this state, may become an industrial loan company on  
4 the terms and conditions and subject to the liabilities  
5 prescribed by this article. The name of any corporation  
6 formed under this article may contain the words "in-  
7 dustrial loan company," but such name shall not be that  
8 of any other existing corporation of this state. The  
9 capital stock of any such corporation shall not be less than  
10 twenty-five thousand dollars, and shall consist of shares  
11 of common stock. The voting power and control of the  
12 corporation during its life shall be vested in the common

13 stock only if more than one class of stock is to be issued.  
14 Such common stock, with which it will commence busi-  
15 ness, shall be paid in before such corporation shall be  
16 authorized to engage in business, except such business  
17 as is incidental and necessarily preliminary to its or-  
18 ganization.

Sec. 9. *Annual and Special Meeting of Stockholders;*  
2 *Voting; Proxy; Fiscal Year.*—The stockholders of each in-  
3 dustrial loan company shall meet annually in the month  
4 of January, a majority of the outstanding voting stock to  
5 constitute a quorum; and it shall be the duty of the sec-  
6 retary to prepare and submit to the stockholders a clear  
7 and concise statement of the financial condition of the  
8 corporation as of the close of business on the first day of  
9 the month next preceding. At such meeting the stock-  
10 holders shall elect a board of directors of not less than  
11 five, a majority of which shall be bona fide residents of  
12 the state of West Virginia. Special meetings may be called  
13 by order of the board of directors or by request in writing  
14 of ten per centum of the stockholders.

15 In all elections of directors of the corporation each  
16 stockholder shall have the right to cast one vote for each  
17 share of stock owned by him and entitled to vote, and he  
18 may cast the same in person or by proxy, for as many  
19 persons as there are directors to be elected, or he may  
20 cumulate such votes and give one candidate as many votes  
21 as the number of directors to be elected multiplied by  
22 the number of his shares of stock shall equal; or he may  
23 distribute them on the same principle among as many  
24 candidates and in such manner as he may desire, and the  
25 directors shall not be elected in any other manner, and  
26 on any other question to be determined by a vote of shares  
27 at any meeting of stockholders each stockholder shall be  
28 entitled to one vote for each share of stock owned by him  
29 and entitled to vote, and he may exercise this right in  
30 person or by proxy, but if by proxy, in no instance can  
31 it be voted in any meeting other than which it was first  
32 intended.

## CHAPTER 33. INSURANCE

### Article 5. Organization and Procedures of Domestic Stock and Mutual Insurers.

#### Section

3. Articles of incorporation.
5. Amendment of articles of incorporation.

Section 3. *Articles of Incorporation.*—In addition to the matters and things required generally in articles of incorporation, those of a domestic stock or mutual insurer shall state:

- (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. 5. *Amendment of Articles of Incorporation.*—

- (a) A stock insurer may amend its articles of incor-

3 poration in the same manner as other corporations, but  
4 no such amendment shall reduce authorized capital below  
5 the amount required by this chapter for the kinds of  
6 insurance thereafter to be transacted and except that no  
7 such amendment shall be filed with or accepted by the  
8 secretary of state unless approved in writing by the com-  
9 missioner.

10 (b) A mutual insurer may amend its articles of incor-  
11 poration by the affirmative vote of two-thirds of its mem-  
12 bers present in person or by proxy at a regular or special  
13 meeting of members of which notice in writing setting  
14 forth the proposed amendment was mailed to all members  
15 at least thirty days in advance, except that no such amend-  
16 ment shall reduce the surplus below the amount required  
17 by this chapter for the kinds of insurance thereafter to be  
18 transacted and except that no such amendment shall be  
19 filed with or accepted by the secretary of state unless ap-  
20 proved in writing by the commissioner.

## CHAPTER 21

(Senate Bill No. 150—By Mr. Martin)

AN ACT to amend and reenact section seventy-nine-a, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, providing for special conditions to be met by foreign corporations whose sole activity within this state is 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 24, 1959; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

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

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

That section seventy-nine-a, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, be amended and reenacted 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 effect, 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 insurer 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 sale, or the operating, maintaining, renting or otherwise dealing with, selling or disposing of real property acquired under foreclosure sale or by agreement in lieu thereof; and (i) the physical inspection and appraisal of property

35 in West Virginia as security for deeds of trust or mort-  
36 gages and negotiations for the purchase of such loans:  
37 *Provided, however,* That if property acquired in or by  
38 reason of any of the activities defined in the provisions of  
39 (f), (g) and (h) hereof shall be held longer than a period  
40 of five years, the provisions of this section shall be inap-  
41 plicable. Such foreign corporations shall file with the sec-  
42 retary of state a certificate showing the name and address  
43 of the corporation, the name of the state wherein the cor-  
44 poration was chartered and including therewith a certi-  
45 fied copy of its articles of association or incorporation, in-  
46 cluding all amendments thereto, and shall pay a filing fee  
47 of fifty dollars. The corporation shall likewise file with the  
48 secretary of state a certified copy of all amendments sub-  
49 sequently made to its articles of association or incorpora-  
50 tion within six months from the date of any such amend-  
51 ment, and failure to file any such amendment shall sub-  
52 ject such corporation to a fine of not more than one thou-  
53 sand dollars. The provisions of section seventy-one of this  
54 article relating to service of process on foreign corpora-  
55 tions shall be applicable to the foreign corporations men-  
56 tioned in this section.

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## CHAPTER 22

(House Bill No. 197—By Mr. Garrett and Mrs. Walker)

AN ACT to amend and reenact section four, article four, chap-  
ter thirty-one of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to minimum  
capital stock of banks and the par value thereof.

[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### Article 4. Banking Institutions.

#### Section

4. Minimum capital stock; par value.

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

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

Section- 4. *Minimum Capital Stock; Par Value.*—No  
2 banking institution shall hereafter be incorporated unless  
3 it shall have a bona fide subscribed capital stock of at  
4 least twenty-five thousand dollars if the population of  
5 the town or city be not more than three thousand; fifty  
6 thousand dollars if the population of the town or city  
7 be not more than six thousand; one hundred thousand  
8 dollars if the population of the town or city be not more  
9 than fifty thousand; and one hundred and fifty thousand  
10 dollars if the population of the town or city be more  
11 than fifty thousand, said population to be that shown by  
12 the last available United States census: *Provided, That*  
13 no banking institution engaged in the business of a trust  
14 company shall be incorporated unless it shall have a  
15 bona fide subscribed capital stock of at least one hundred  
16 thousand dollars.

17 In all cases the actual capital stock and the authorized  
18 capital stock of a banking institution shall be the same.

19 A banking institution shall issue but one class of stock  
20 and the shares shall have a nominal or par value of not  
21 less than ten dollars nor more than one hundred dollars  
22 each, and each share shall be equal in all respects with  
23 any other share.

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## CHAPTER 23

(House Bill No. 58—By Mr. Garrett and Mr. Seibert)

AN ACT to amend and reenact section six, article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the evidences and certificates of indebtedness of industrial loan companies.

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[Passed February 13, 1959; in effect ninety days from passage. Approved by the Governor.]

**Article 7. Industrial Loan Companies.****Section****6. Powers.**

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

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

Section 6. *Powers.*—In addition to the general powers conferred upon corporations by the laws of this state, each industrial loan company shall have power to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers as shall be necessary to:

(a) Lend money to any person, firm or corporation, secured by the obligation of such person, firm or corporation, or otherwise; and, in addition, to receive and require uniform periodical installments for the repayment of the loan;

(b) Sell or offer for sale its secured or unsecured evidences or certificates of indebtedness, and such secured or unsecured evidences or certificates of indebtedness are hereby defined as money for the purpose of taxation;

(c) Buy and sell bonds or choses in action of any person, firm or corporation;

(d) Impose a charge of five cents for each default in the payment of one dollar, or fraction thereof, at the time at which any periodical installment for the repayment of a loan becomes due;

(e) Demand and receive for loans or for notes, bills of evidences of debt discounted or purchased, such rate of interest as may be agreed upon by the parties, not exceeding the lawful rate of interest, and it shall be lawful to receive such interest in advance;

(f) Charge for a loan made pursuant to this section, one dollar for each fifty dollars, or fraction thereof, loaned, for expenses including any examination or investigation of the character and circumstances of the borrower, co-maker or surety, and the drawing and taking the acknowledgment of necessary papers, or other expenses, incurred



33 in making the loan. No additional charge shall be made  
34 except to reimburse the corporation for money actually  
35 expended for additional service actually rendered the  
36 borrower. No charge shall be collected unless a loan shall  
37 have been made as the result of such examination or  
38 investigation;

39 (g) Purchase, hold and convey real estate as follows:

40 (1) Such as shall be necessary for the convenient  
41 transaction of its business, including with its office other  
42 apartments or offices to rent as a source of income, which  
43 investment shall not exceed twenty-five per cent of its  
44 paid-in capital stock and surplus;

45 (2) Such as is mortgaged to it in good faith by way  
46 of security for loans made by or money due to such indus-  
47 trial loan company;

48 (3) Such as is conveyed to it in satisfaction of debts  
49 previously contracted in the course of its dealings;

50 (4) Such as it acquired by sale on execution or judg-  
51 ment or decree of any court in its favor.

52 Industrial loan companies shall not purchase, hold or  
53 convey any real estate in any other case or for any other  
54 purpose whatever. Real estate shall be conveyed only  
55 by authority of the board of directors of such industrial  
56 loan company. No real estate acquired in the cases con-  
57 templated in the second, third and fourth paragraphs of  
58 subdivision (g) shall be held for a longer time than five  
59 years, unless such period shall be extended by the com-  
60 missioner of banking.

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## CHAPTER 24

(Senate Bill No. 231—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to limitations of loans by a banking institution, the authorization of loans to officers and employees of a bank and banking department, the valuation of securities, and making provisions as to loans secured by certain bonds, notes, certifi-

cates of indebtedness, treasury bills of the United States or obligations guaranteed by the United States.

[Passed March 14, 1959; 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**

18. Limitation on loans; authorization of loans to officers and employees of banks and banking department; valuation of securities.

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

That section eighteen, article eight, 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 18. *Limitation on Loans; Authorization of Loans to Officers and Employees of Banks and Banking Department; Valuation of Securities.*—The total liabilities to any banking institution of any persons, firm or corporation, for money borrowed by note, bond, certificate of indebtedness, or other device, including, in the liabilities of the firm, the liabilities of the several members thereof, including in the liabilities of any corporation an investment by such banking institution in the stock of such corporation, shall at no time exceed ten per cent of the unimpaired capital stock, including debentures and surplus fund of such banking institution: *Provided, however,* That the foregoing limitation of ten per cent shall be subject to the following exception, that is to say—obligations of any person, copartnership, association, or corporation in the form of notes secured by not less than a like amount of bonds or notes of the United States issued since April twenty-fourth, one thousand nine hundred seventeen, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, shall be subject under this section to a limitation of fif-

23   teen per cent of such unimpaired capital stock, including  
24   debentures and surplus fund, in addition to such ten per  
25   cent of such capital stock and surplus. But the discount of  
26   commercial or business paper actually owned by the per-  
27   son, firm or corporation negotiating the same shall not  
28   be considered as money borrowed within the limitation  
29   of this section; and the obligations of any person, firm or  
30   corporation, in the form of notes or drafts secured by  
31   shipping documents, warehouse receipts or other such  
32   documents transferring or securing titles covering readily  
33   marketable, nonperishable staples when such property  
34   is fully covered by insurance, if it is customary to insure  
35   such staples, shall be considered money borrowed within  
36   the meaning of this section, but shall be subject to the  
37   exception that with respect thereto the limitation of ten  
38   per cent of the unimpaired capital stock, including deben-  
39   tures and surplus fund, to which reference has herein-  
40   before been made, may be increased to twenty-five per  
41   cent when the market value of such staples securing  
42   such obligations is not at any time less than one hundred  
43   fifteen per cent of the face amount of such obligations,  
44   and may be increased up to fifty per cent of such un-  
45   impaired capital stock, including debentures and surplus  
46   fund, with a corresponding increase in market value of  
47   such staples securing such obligation up to not less than  
48   one hundred forty per cent of the face amount of such ad-  
49   ditional obligation, but this exception shall not apply  
50   to obligations of any one person, firm or corporation  
51   arising from the same transaction or secured upon the  
52   identical staples for more than ten months. This section  
53   shall not apply to the obligations of the United States or  
54   general obligations of any state or political subdivision  
55   thereof (when there has been no default in the payment  
56   of interest or principal in respect of the general obliga-  
57   tions of any state or political subdivision thereof within  
58   ten years prior to the purchase of such obligations), bonds  
59   or obligations issued under the authority of the West  
60   Virginia bridge commission or the state road commission,  
61   commonly known as bridge revenue bonds, or obligations  
62   issued under authority of the "Federal Farm Loan Act," as  
63   amended, or under the authority of the "Farm Credit

64 Act of 1933", as amended, or issued by the federal national  
65 mortgage association, or the federal home loan bank or the  
66 home owners' loan corporation, or any loans or obligations  
67 to the extent that they are secured or covered by guaran-  
68 ties, or by commitments or agreements to take over or to  
69 purchase the same, made by any federal reserve bank or by  
70 the United States or any department, board, bureau, com-  
71 mission or establishment of the United States, including  
72 any corporation wholly owned directly or indirectly by the  
73 United States. Neither shall this section apply to the obli-  
74 gations of a corporation owning the building in which the  
75 banking institution is located when such banking institu-  
76 tion has an unimpaired capital and surplus of not less than  
77 one million dollars, or when approved in writing by the  
78 commissioner of banking. Nothing herein shall be constru-  
79 ed to forbid the sale upon credit of a bank building owned  
80 by a banking institution at the time this section takes ef-  
81 fect.

82 No officer, director, clerk or other employee of any  
83 banking institution or the commissioner of banking or  
84 any employee of the department of banking shall borrow,  
85 directly or indirectly, from the banking institution with  
86 which he is connected, or is subject to his examination,  
87 any sum of money without the written approval of a  
88 majority of the board of directors or discount committee  
89 thereof filed in its office, or embodied in a resolution  
90 adopted by a majority vote of such board, exclusive of  
91 the director to whom the loan is made. If an officer, clerk  
92 or other employee of any bank shall own or control a  
93 majority of the stock of any other corporation, a loan to  
94 such corporation shall, for the purpose of this section,  
95 constitute a loan to such officer, clerk or other employee.

96 Securities purchased by a banking institution shall be  
97 entered upon the books of the bank at actual cost, but  
98 may be carried thereafter at market value. For the pur-  
99 pose of calculating the undivided profits applicable to the  
100 payment of dividends, securities shall not be estimated at  
101 a valuation exceeding their present cost as determined  
102 by amortization; that is, by deducting from the cost of a  
103 security purchased at a premium, and charging to profit  
104 and loss a sum sufficient to bring it to par at maturity.

## CHAPTER 25

(Senate Bill No. 273—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, authorizing the incorporation of business development corporations to promote, develop and advance the business prosperity and economic welfare of the state of West Virginia and its citizens; to encourage and assist through loans, investments or other business transactions in the locating of new business and industry within the state and to rehabilitate and assist existing businesses and industries; to stimulate and promote the expansion of all kinds of business and industrial activity which will tend to advance business and industrial development and maintain the economic stability of the state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of the state; to cooperate and act in conjunction with the West Virginia industrial and publicity commission and with other organizations, federal, state or local, in the promotion and advancement of industrial, commercial, agricultural and recreational developments; to provide financing for the promotion, development and conduct of all kinds of business activity within the state, and exempting such corporations from payment of license and business and occupation taxes.

[Passed March 10, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 14. West Virginia Business Development Corporations.

#### Section

1. Short title; definitions.
2. Agreement of incorporation.
3. Authorized capital stock.
4. Issuance of charter; exemption from license tax.
5. Corporate powers.
6. Board of directors; officers.
7. Financial institutions as members of corporation; loans to corporation by members.

8. Stockholders and members; voting.
- 8-a. Corporations for areas less than state wide; economic regions created; loan companies.
9. Purchase of securities and stock by other corporations and financial institutions.
10. Creation of surplus from annual net earnings.
11. Corporation not to receive deposits; designation of depository bank.
12. Examination by and reports to banking commissioner.
13. Exemption from payment of business and occupation taxes.
14. Amendment of charter.
15. Applicability of general corporation law.
16. Severability of provisions.

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

That chapter thirty-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 fourteen, to read as follows:

Section 1. *Short Title; Definitions.*—This article shall be known and may be cited as the “West Virginia Business Development Corporation Act”.

As used in this article, the following words and phrases, unless definitely defined or described, shall have the meanings and references as follows:

(1) “Business Development Corporation”: A West Virginia business development corporation created and organized under the provisions of this article.

(2) “Financial Institution”: Any banking corporation or trust company, savings bank, building and loan association, industrial loan company, insurance company, or similar corporation, partnership, foundation, or other institution, either domestic or foreign, which is engaged in lending or investing funds.

(3) “Member”: Any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this article, upon its call, and in accordance with the provisions of this article.

(4) “Board of Directors”: The board of directors created under this article.

(5) “Loan Limit”: For any member, the maximum amount permitted to be outstanding at one time on loans made by such member to the corporation, as determined under the provisions of this article.

Sec. 2. *Agreement of Incorporation.*—Any number of  
2 persons, not fewer than ten, a majority of whom shall be  
3 bona fide residents of this state, may associate to create  
4 a business development corporation under the provisions  
5 of this article for the purpose of promoting, developing  
6 and advancing business and industrial development within  
7 the state and, to that end, may exercise the powers, rights  
8 and privileges hereinafter provided. The persons desiring  
9 to form such corporation shall sign, acknowledge and file  
10 with the secretary of state an agreement in the general  
11 form prescribed by the secretary of state, in which shall  
12 be set forth:

13 (1) The name of the corporation, which shall contain the  
14 words "Business Development Corporation", together  
15 with a designation of the area or locality within the state  
16 in which said corporation is intended to operate.

17 (2) The post office address of its principal office or  
18 place of business.

19 (3) The object or objects for which the corporation is  
20 formed, which shall include the following:

21 To promote, develop and advance the business prosper-  
22 ity and economic welfare of the state of West Virginia  
23 and its citizens; to encourage and assist through loans,  
24 investments or other business transactions in the locating  
25 of new business and industry within the state and to re-  
26 habilitate and assist existing businesses and industries;  
27 to stimulate and promote the expansion of all kinds of  
28 business and industrial activity which will tend to ad-  
29 vance business and industrial development and maintain  
30 the economic stability of the state, provide maximum op-  
31 portunities for employment, encourage thrift, and im-  
32 prove the standard of living of the citizens of the state;  
33 to cooperate and act in conjunction with the West Vir-  
34 ginia industrial and publicity commission and with other  
35 organizations, federal, state or local, in the promotion and  
36 advancement of industrial, commercial, agricultural and  
37 recreational developments within the state; and to fur-  
38 nish money and credit, land and industrial sites, technical  
39 assistance and such other aid as may be deemed requisite  
40 to approved and deserving applicants for the promotion,

41 development and conduct of all kinds of business activity  
42 within the state.

43 (4) The names and post office addresses of the in-  
44 corporators, and the number of shares of stock subscribed  
45 by each.

46 (5) Whether or not the corporation is to have per-  
47 petual existence; if not, the time when its existence is to  
48 commence and the time when its existence is to cease.

49 (6) Any provision in which the incorporators may  
50 choose to insert for the management of the business and  
51 for the conduct of the affairs of the corporation, and any  
52 provisions creating, defining, limiting and regulating the  
53 powers of the corporation, the directors and the stock-  
54 holders and members thereof: *Provided, however,* That  
55 such provisions are not contrary to the provisions of this  
56 article.

57 (7) The agreement may also contain the following  
58 provision in *haec verba*, viz.:

59 "Whenever a compromise or arrangement is proposed  
60 between this corporation and its creditors or any class of  
61 them and/or between this corporation and its stockholders  
62 or any class of them, any court of equitable jurisdiction  
63 within the state of West Virginia may, on the application  
64 in a summary way of this corporation or of any creditor  
65 or stockholder thereof, or on the application of trustees in  
66 dissolution or of any receiver or receivers appointed for  
67 this corporation under the laws of the state of West Vir-  
68 ginia, order a meeting of the creditors or class of creditors,  
69 and/or of the stockholders or class of stockholders of this  
70 corporation, as the case may be, to be summoned in such  
71 manner as the court directs. If a majority in number  
72 representing three fourths in value of the creditors or  
73 class of creditors, and/or of the stockholders of this cor-  
74 poration, as the case may be, agree to any compromise or  
75 arrangement and to any reorganization of this corporation  
76 as consequence of such compromise or arrangement, such  
77 compromise or arrangement and such reorganization  
78 shall, if sanctioned by the court to which such application  
79 has been made, be binding on all the creditors or class of  
80 creditors, and/or on all the stockholders or class of stock-



81 holders of this corporation, as the case may be, and also  
82 on this corporation."

Sec. 3. *Authorized Capital Stock.*—The agreement of  
2 incorporation shall set forth the total amount of authorized  
3 capital stock, the number of shares in which it is divided,  
4 the par value of each of such shares and the amount of  
5 capital stock with which it will commence business and,  
6 if there be more than one class of stock, the total number  
7 of shares of all classes of stock which the corporation shall  
8 have authority to issue, with a description of the different  
9 classes and all other information with respect thereto  
10 required by section six, article one, of this chapter. In all  
11 cases, the actual capital stock and the authorized capital  
12 stock of a corporation organized under the provisions of  
13 this article shall be the same. No corporation organized  
14 hereunder shall sell its shares for any consideration other  
15 than money.

Sec. 4. *Issuance of Charter; Exemption from License*  
2 *Tax.*—Upon the filing in the office of the secretary of state  
3 of the agreement provided for in section two of this ar-  
4 ticle, the secretary of state shall issue his certificate as  
5 provided in section seven, article one of this chapter, ex-  
6 cept that the secretary of state shall not require the pay-  
7 ment of the license tax provided for in sections seventy-  
8 eight and seventy-nine, article twelve, chapter eleven of  
9 the code of West Virginia, one thousand nine hundred  
10 thirty-one, as amended. A corporation organized under  
11 the provisions of this article shall be exempt from such  
12 license tax.

Sec. 5. *Corporate Powers.*—In furtherance of the pur-  
2 poses set out in section two of this article, and in addition  
3 to the powers conferred on business corporations by the  
4 provisions of this chapter, such corporation shall, subject  
5 to the restrictions and limitations herein contained, have  
6 the following powers:  
7 (a) To enter into contracts and incur liabilities for any  
8 purposes of the corporation; except that the corporation  
9 shall not incur any secondary liability by way of guaranty  
10 or endorsement of the obligations of any person, firm, cor-  
11 poration, joint-stock company, association or trust, or in  
12 any other manner.

13 (b) To borrow money for any of the purposes of the  
14 corporation, including, but without implied limitation,  
15 the right to obtain loans under the provisions of "Title V  
16 of the Small Business Investment Act of 1958", as amend-  
17 ed, or from any other similar governmental agency; to  
18 issue therefor its bonds, debentures, notes or other evi-  
19 dences of indebtedness, whether secured or unsecured,  
20 and to secure the same by mortgage, pledge, deed of trust  
21 or other lien on its property, franchises, rights and privi-  
22 leges of every kind and nature or any part thereof or in-  
23 terest therein, without securing stockholder or member  
24 approval: *Provided*, That no loan to the corporation shall  
25 be secured in any manner unless all outstanding loans to  
26 the corporation shall be secured equally and ratably in  
27 proportion to the unpaid balance of such loans and in the  
28 same manner.

29 (c) To make loans to any person, firm, corporation,  
30 joint-stock company, association or trust, and to establish  
31 and regulate the terms and conditions with respect to any  
32 such loans and the charges for interest and services con-  
33 nected therewith; upon condition, however, that the cor-  
34 poration shall not approve any application for or make any  
35 loan unless and until the applicant shall show that it has  
36 applied for the loan through ordinary banking channels  
37 and that the loan has been refused by at least one bank.

38 (d) To purchase, receive, hold, lease, or otherwise ac-  
39 quire and to sell, convey, transfer, lease, or otherwise dis-  
40 pose of real and personal property, together with such  
41 rights and privileges as may be incidental and appurtenant  
42 thereto and the use thereof, including, but not restricted  
43 to, any real or personal property acquired by the corpora-  
44 tion from time to time in the satisfaction of debts or en-  
45 forcement of obligations.

46 (e) To acquire the good will, business, rights, real and  
47 personal property, and other assets, or any part thereof,  
48 or interest therein, of any persons, firms, corporations,  
49 joint-stock companies, associations or trusts, and to as-  
50 sume, undertake or pay the obligations, debts and liabili-  
51 ties of any such person, firm, corporation, joint-stock com-  
52 pany, association or trust; to acquire improved or un-  
53 improved real estate for the purpose of constructing in-

54 dustrial plants or other business establishment thereon  
55 or for the purpose of disposing of such real estate to others  
56 for the construction of industrial plants or other business  
57 establishments; and to acquire, construct or reconstruct,  
58 alter, repair, maintain, operate, sell, convey, transfer, lease  
59 or otherwise dispose of industrial plants or business es-  
60 tablishments.

61 (f) To acquire, subscribe for, own, hold, sell, assign,  
62 transfer, mortgage, pledge or otherwise dispose of the  
63 stock, shares, bonds, debentures, notes or other securities  
64 and evidences of interest in, or indebtedness of, any per-  
65 son, firm, corporation, joint-stock company, association or  
66 trust, and while the owner or holder thereof to exercise  
67 all the rights, powers and privileges of ownership, in-  
68 cluding the right to vote any such shares of stock.

69 (g) To mortgage, pledge, or otherwise encumber any  
70 property, right or thing of value, acquired pursuant to  
71 the powers contained in paragraphs (d), (e), or (f), as  
72 security for the payment of any part of the purchase price  
73 thereof.

74 (h) To cooperate with and avail itself of the facilities  
75 of the industrial and publicity commission of this state  
76 and any similar governmental agency; and to cooperate  
77 with and assist, and otherwise encourage organizations in  
78 the various communities of the state in the promotion,  
79 assistance, and development of the business prosperity  
80 and economic welfare of such communities or of this state  
81 or any part thereof.

82 (i) To do all acts and things necessary or convenient  
83 to carry out the powers expressly granted in this article.

Sec. 6. *Board of Directors; Officers.*—The business and  
2 affairs of the corporation shall be managed and conducted  
3 by a board of directors, a president and treasurer, and such  
4 other officers and such agents as the corporation by its  
5 by-laws shall authorize. The board of directors shall be de-  
6 termined by the incorporators and, thereafter, by the  
7 stockholders and the members of the corporation, but the  
8 number of directors shall be a multiple of three.

9 The board of directors may exercise all the powers of  
10 the corporation except such as are conferred by law or by

11 the by-laws of the corporation upon the stockholders or  
12 members and shall choose and appoint all the agents and  
13 officers of the corporation and fill all vacancies except va-  
14 cancies in the office of director which shall be filled as  
15 hereinafter provided.

16 The board of directors shall be elected in the first in-  
17 stance by the incorporators and thereafter at each annual  
18 meeting of the corporation, or, if no annual meeting shall  
19 be held in any year at the time fixed by the by-laws, at a  
20 special meeting held in lieu thereof, the members of the  
21 corporation shall elect two thirds of the board of directors  
22 and the stockholders shall elect the remaining directors.  
23 The directors shall hold office until the next annual meet-  
24 ing of the corporation or special meeting held in lieu of  
25 the annual meeting after their election, and until their  
26 successors are elected and qualified unless sooner removed  
27 in accordance with the provisions of the by-laws.

28 Any vacancy in the office of a director elected by the  
29 members shall be filled by the directors elected by the  
30 members, and any vacancy in the office of a director elect-  
31 ed by the stockholders shall be filled by the directors  
32 elected by the stockholders.

33 Directors and officers shall not be responsible for losses  
34 unless the same shall have been occasioned by the wilful  
35 misconduct of such directors and officers.

Sec. 7. *Financial Institutions as Members of Corpora-  
2 tion; Loans to Corporation by Members.*—Any financial  
3 institution as defined in section one of this article is  
4 authorized to become a member of a corporation organ-  
5 ized under the provisions of this article by making appli-  
6 cation to the board of directors on such form and in such  
7 manner as the board of directors may require and mem-  
8 bership shall become effective upon acceptance of such  
9 application by said board. Membership in the corporation  
10 shall be for the duration of the corporation: *Provided,*  
11 *however,* That upon written notice given to the corpora-  
12 tion one year in advance, a member may withdraw from  
13 membership in the corporation at the expiration date of  
14 such notice and shall not thereafter be obligated to make  
15 any loans to the corporation.

16 Each member of the corporation shall make loans to

17 the corporation as and when called upon by it to do so  
18 on such terms and other conditions as shall be mutually  
19 approved from time to time by the board of directors of  
20 the corporation and such members, subject to the follow-  
21 ing conditions:

22 (1) All loan limits shall be established at the thousand-  
23 dollar amount nearest to the amount computed in ac-  
24 cordance with the provisions of this section.

25 (2) No loans to the corporation shall be made if im-  
26 mediately thereafter, the total amount of the obligations  
27 of the corporation would exceed ten times the amount  
28 then paid in on the outstanding capital stock of the cor-  
29 poration.

30 (3) The total amount outstanding on loans to the cor-  
31 poration made by any member at any one time, when  
32 added to the amount of the investment in the capital  
33 stock of the corporation then held by such member, shall  
34 not exceed:

35 (a) Twenty per cent of the total amount then out-  
36 standing on loans to the corporation by all members, in-  
37 cluding in said total amount outstanding, amounts validly  
38 called for loans but not yet loaned.

39 (b) The following limit, to be determined as of the  
40 time such member becomes a member on the basis of the  
41 audited balance sheet of such member at the close of its  
42 fiscal year immediately preceding its application for mem-  
43 bership, or, in the case of an insurance company, its last  
44 annual statement to the commissioner of insurance; two  
45 per cent of the capital and surplus of commercial banks  
46 and trust companies; one per cent of the total outstanding  
47 loans made by a building and loan association or industrial  
48 loan company; one per cent of the capital and unassigned  
49 surplus of stock insurance companies, except fire insur-  
50 ance companies; one per cent of the unassigned surplus of  
51 mutual insurance companies, except fire insurance com-  
52 panies; one tenth of one per cent of the assets of fire in-  
53 surance companies; and such limits as may be approved  
54 by the board of directors of the corporation for other fi-  
55 nancial institutions.

56 Subject to paragraph three (a) of this section, each call  
57 made by the corporation shall be prorated among the

58 members of the corporation in substantially the same  
59 proportion that the adjusted loan limit of each member  
60 bears to the aggregate of the adjusted loan limit of all  
61 members. The adjusted loan limit of a member shall be  
62 the amount of such member's loan limit, reduced by the  
63 balance of outstanding loans by such member to the cor-  
64 poration and the investment in capital stock of the cor-  
65 poration held by such member at the time of such call.

66 All loans to the corporation by members shall be evi-  
67 denced by bonds, debentures, notes or other evidences of  
68 indebtedness of the corporation, which shall be freely  
69 transferable at all times, and which shall bear interest at  
70 a rate of not less than one quarter of one per cent in excess  
71 of the rate of interest determined by the board of directors  
72 to be the prime rate prevailing at the date of issuance  
73 thereof on unsecured commercial loans.

Sec. 8. *Stockholders and Members; Voting.*—The stock-  
2 holders and the members of the corporation shall have the  
3 power to determine the number of and to elect directors  
4 as provided heretofore, to make, amend and repeal by-  
5 laws, to amend the corporate charter in the manner here-  
6 inafter provided, and to exercise such other of the powers  
7 of the corporation as may be conferred on the stockholders  
8 and the members by the by-laws. As to all matters requir-  
9 ing action by the stockholders and the members of the  
10 corporation, said stockholders and said members shall vote  
11 separately thereon by classes, and, except as otherwise  
12 herein provided, such matters shall require the affirma-  
13 tive vote of a majority of the votes to which the stock-  
14 holders present or represented at the meeting shall be en-  
15 titled and the affirmative vote of a majority of the votes  
16 to which the members present or represented at the meet-  
17 ing shall be entitled. Each stockholder shall have one vote,  
18 in person or by proxy, for each share of capital stock held  
19 by him, and each member shall have one vote, in person  
20 or by proxy, except that any member having a loan limit  
21 of more than one thousand dollars shall have one addi-  
22 tional vote, in person or by proxy, for each additional one  
23 thousand dollars which such member is authorized to have  
24 outstanding on loans to the corporation at any one time.

Sec. 8-a. *Corporations for Areas Less Than State Wide; Economic Regions Created; Loan Companies.*—1. Without limitation upon the power created by this article for the formation of business development corporations restricted in activity or in membership to areas or regions less than state wide, there may be created under the provision hereof a business development corporation co-extensive, in the area to be served and from which membership may be drawn, with the state of West Virginia.

2. In the event of organization of such state-wide business development corporation, and for the purpose of this section the state is hereby divided into ten economic regions as follows:

(1) Wheeling region: The counties of Hancock, Brooke, Ohio, Marshall, Wetzel and Tyler.

(2) Parkersburg region: The counties of Pleasants, Wood, Ritchie, Wirt, Calhoun, Roane and Jackson.

(3) Clarksburg region: The counties of Harrison, Doddridge, Taylor, Marion, Monongalia and Preston.

(4) Keyser region: The counties of Grant, Hardy, Mineral, Hampshire, Berkeley, Morgan and Jefferson.

(5) Elkins region: The counties of Barbour, Randolph, Pocahontas, Tucker and Pendleton.

(6) Weston region: The counties of Lewis, Gilmer, Braxton, Webster and Upshur.

(7) Lewisburg region: The counties of Greenbrier, Nicholas, Fayette, Summers and Monroe.

(8) Charleston region: The counties of Kanawha, Clay, Putnam, Mason and Boone.

(9) Huntington region: The counties of Cabell, Wayne, Lincoln, Mingo and Logan.

(10) Bluefield region: The counties of Raleigh, Wyoming, McDowell and Mercer.

3. Loan Committees: (a) There shall be a loan committee of such corporation for each of the ten economic regions as defined in this section. The members of the board of directors elected from such regions shall serve as members and chairman of each such loan committee for their respective regions. Each such loan committee shall have four additional members who shall be elected by the

41 members of such corporation from such region and each  
42 of whom shall be of full age and a citizen of the United  
43 States and shall be a resident of such region or maintain  
44 a regular place of business therein.

45 In such elections, members of the corporation from each  
46 such region shall have one vote each, and each member  
47 having a loan limit, as defined by section seven of this ar-  
48 ticle, of more than than fifty thousand dollars, shall have  
49 one additional vote. The elected members of each such  
50 loan committee shall be elected at the annual meetings of  
51 such corporation and shall serve for terms of one year.

52 (b) If a vacancy occurs in the elected membership of  
53 any such loan committee, the remaining members of such  
54 committee shall elect a person from its economic region  
55 to fill such vacancy for the unexpired term. Upon the  
56 expiration of their terms the elected members of each such  
57 loan committee shall continue as such until their suc-  
58 cessors have been elected and have qualified.

59 (c) The board of directors of such corporation may  
60 establish an office for any such loan committee, within  
61 such committee's economic region.

62 (d) Every application to such corporation for a loan  
63 or financial assistance shall be made through the loan  
64 committee for the economic region wherein the applicant  
65 resides or maintains a regular place of business, and such  
66 application shall thereupon be reviewed by such loan  
67 committee and promptly transmitted by it to the board of  
68 directors for consideration, along with the recommenda-  
69 tion of such loan committee with respect thereto: *Pro-*  
70 *vided, however,* That where there is no member of such  
71 corporation from the economic region wherein the appli-  
72 cant resides or maintains a regular place of business, such  
73 applicant may make his application through the loan com-  
74 mittee for any other economic region.

2 *Sec. 9. Purchase of Securities and Stock by Other Cor-*  
3 *porations and Financial Institutions.*—Notwithstanding  
4 any other provision of law or any provision in their re-  
5 spective charters or trust indentures, any domestic corpo-  
6 ration, including without implied limitation, any public  
utility company or insurance or casualty company; all



7 foreign corporations licensed to do business in this state;  
8 all trusts or other fiduciaries and any financial institution  
9 as defined in section one of this article are hereby author-  
10 ized and empowered to acquire, purchase, hold, sell, as-  
11 sign, transfer, mortgage, pledge or otherwise dispose of  
12 any bonds, notes, debentures, securities or other evidences  
13 of indebtedness created by, or the shares of the capital  
14 stock of any corporation organized under the provisions  
15 of this article and, while owners of such stock, to exercise  
16 all of the rights, powers and privileges of owners, includ-  
17 ing the right to vote said stock, all without the approval  
18 of any regulatory authority of the state; except, however,  
19 that the amount of the capital stock of such corporation  
20 which may be acquired by any member pursuant to the  
21 authority granted herein shall not exceed ten per cent  
22 of the loan limit of such member. A financial institution  
23 which does not become a member of the corporation shall  
24 not be permitted to acquire any shares of the capital stock  
25 of the corporation. The amount of capital stock of such  
26 corporation which any member is authorized to acquire  
27 pursuant to the authority granted herein is in addition to  
28 the amount of capital stock in corporations which such  
29 member may otherwise be authorized to acquire.

Sec. 10. *Creation of Surplus from Annual Net Earnings.*

2 —Each year the corporation shall set apart as earned sur-  
3 plus not less than ten per cent of its net earnings for the  
4 preceding fiscal year until such surplus shall be equal in  
5 value to one half of the amount paid in on the capital  
6 stock then outstanding. Whenever the amount of surplus  
7 established herein shall become impaired, it shall be built  
8 up again to the required amount in the manner provided  
9 for its original accumulation. Net earnings and surplus  
10 shall be determined by the board of directors, after pro-  
11 viding for such reserves as said directors deem desirable,  
12 and the determination of the directors, made in good faith,  
13 shall be conclusive on all persons.

Sec. 11. *Corporation not to Receive Deposits; Designa-  
2 tion of Depository Bank.*—No corporation organized under  
3 the provisions hereof shall at any time be authorized to  
4 receive money on deposit. The corporation shall not de-

5 posit any of its funds in any banking institution unless  
6 such institution has been designated as a depository by a  
7 vote of a majority of the directors present at an authorized  
8 meeting of the board of directors, exclusive of any di-  
9 rector who is an officer or director of the depository so  
10 designated.

Sec. 12. *Examination by and Reports to Banking Com-*  
2 *missioner.*—Every corporation organized under the pro-  
3 visions of this article shall be subject to the examination  
4 and supervision of the commissioner of banking of this  
5 state, and shall make a report annually of its condition in  
6 such form and containing such information as the commis-  
7 sioner may require, who shall transmit a copy of such an-  
8 nual report to the insurance commissioner of the state.

Sec. 13. *Exemption from Payment of Business and Occu-*  
2 *pation Taxes.*—Every corporation organized under the  
3 provisions of this article shall be exempt from payment  
4 or collection of the business and occupation tax as pro-  
5 vided for by chapter eleven, article thirteen of the code  
6 of West Virginia, one thousand nine hundred thirty-one,  
7 as amended, upon the business done by it. Upon certifica-  
8 tion by the corporation to the state tax commissioner that  
9 it is a corporation organized under and pursuant to the  
10 provisions of this article, such corporation shall not be re-  
11 quired to file annual or other returns under the require-  
12 ments of said chapter and article.

Sec. 14. *Amendment of Charter.*—The charter of any  
2 corporation organized under the provisions of this article  
3 may be amended by the vote of the stockholders and the  
4 members of the corporation, voting separately by classes,  
5 and such amendments shall require approval by the  
6 affirmative vote of two thirds of the votes to which the  
7 stockholders shall be entitled and two thirds of the votes  
8 to which the members shall be entitled, except that no  
9 amendment which affects or limits the right of the com-  
10 missioner of banking to examine the corporation or the  
11 obligation of the corporation to make annual reports to  
12 the commissioner as provided in section twelve shall be  
13 made without amendment of this article; and except, fur-

14 ther, that no amendment to the charter of the corporation  
15 which increases the obligation of a member to make loans  
16 to the corporation, or makes any change in the principal  
17 amount, maturity date or in the security or credit posi-  
18 tion of any outstanding loan of a member to the corpora-  
19 tion, or affects a member's right to withdraw from mem-  
20 bership, or its voting rights as provided in sections seven  
21 and eight, shall be made without the consent of each mem-  
22 ber affected by such amendment.

23 Within thirty days after any meeting at which amend-  
24 ment of the charter has been adopted, certification thereof  
25 shall be made by the corporation to the secretary of state  
26 in the manner provided for by section twelve, article one  
27 of this chapter, whereupon the secretary of state shall  
28 issue his certificate as therein provided for.

Sec. 15. *Applicability of General Corporation Law.*—

2 Every corporation organized under the provisions of this  
3 article shall be governed by the provisions of chapter  
4 thirty-one of the code of West Virginia, one thousand  
5 nine hundred thirty-one, as amended, except insofar as  
6 the provisions of that chapter are in conflict with the pro-  
7 visions of this article, in which case the provisions of this  
8 article shall prevail.

Sec. 16. *Severability of Provisions.*—The provisions of  
2 this article are severable, and if any of its provisions shall  
3 be held unconstitutional by any court of competent juris-  
4 diction, the decision of such court with respect thereto  
5 shall not affect or impair any of the remaining provisions  
6 hereof.

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## CHAPTER 26

(Senate Bill No. 275—By Mr. Parker)

AN ACT to establish and provide for the marking of the bound-  
ary line between Monroe county, West Virginia, and Al-  
legany county, Virginia; to provide for the effect of this  
act as to certain rights and certain prosecutions; and to pro-  
vide for transmission of this act to members of the Congress  
of the United States.

WHEREAS, The commissions duly appointed on behalf of the state of West Virginia and the commonwealth of Virginia to study and make a report on the true and correct boundary between Monroe county, West Virginia, and Alleghany county, Virginia, have completed their investigations and have agreed upon the boundary line hereinafter described; now, therefore,

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

**Section**

1. Establishment of boundary line.
2. Prior rights protected; law enforcement to continue.
3. Action by secretary of state required.
4. Permanent markers to be erected.
5. Effective date.

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

Section 1. *Establishment of Boundary Line.*—The boundary line between Monroe county, West Virginia, and Alleghany county, Virginia, is hereby established and declared to be as follows: Beginning at the top of Peters mountain, where the road crosses, corner common to Monroe county, West Virginia, and Craig county, Virginia, and on the Alleghany county, Virginia, line where the Sweet Springs-Fincastle road crosses Peters mountain, thence in a straight line to the present state line concrete marker on highway route number three hundred eleven; thence in a straight line to the present state line highway marker on Virginia state route number six hundred three (Cove creek); thence in a straight line to the present state line highway marker on upper highway route number six hundred three (Slaty road or Big Ridge road); thence in a straight line to the Greenbrier county line on top of Alleghany mountain at a point on Fletchers Knob previously established by the West Virginia-Virginia boundary commission being approximately longitude eighty degrees eighteen and one-half minutes west and latitude thirty-seven degrees forty-one and one-half minutes north, at a scaled elevation of three thousand one hundred fifty feet.

Sec. 2. *Prior Rights Protected; Law Enforcement to Continue.*—No vested right of any individual, partnership or

3 corporation within the territory affected by this act shall  
4 in anywise be impaired, restricted or affected by this act.  
5 This act shall not be retrospective in its operation nor  
6 shall it in any way affect the rights of any individual,  
7 partnership or corporation in any suit now pending in any  
8 of the courts of this state or of the United States wherein  
9 said cause of action arose over, or is in any way based  
10 upon, the territory affected. This act shall in no wise pre-  
11 clude the commonwealth of Virginia from prosecuting any  
12 individual, partnership or corporation for violation of any  
13 of the criminal laws of the commonwealth of Virginia  
14 within said territory until this act shall become effective.

Sec. 3. *Action by Secretary of State Required.*—The sec-  
2 retary of state of West Virginia shall, upon passage, fur-  
3 nish a certified copy of this act to the governor of the com-  
4 monwealth of Virginia and shall also furnish certified  
5 copies of this act to the United States senators from the  
6 state of West Virginia and to the representative from the  
7 fifth congressional district of West Virginia in the House  
8 of Representatives, and shall request said senators and  
9 representative to have the same presented to the Con-  
10 gress of the United States for ratification by the Congress.

Sec. 4. *Permanent Markers to be Erected.*—The county  
2 court of Monroe county is hereby directed, in cooperation  
3 with the appropriate agency of the commonwealth of Vir-  
4 ginia, to erect permanent markers designating the points  
5 at the beginning and end of the boundary line set forth  
6 in section one hereof, such markers to be of such nature  
7 and kind as the said county court shall deem appropriate.

Sec. 5. *Effective Date.*—This act shall take effect upon  
2 the adoption by the Congress of the United States of ap-  
3 propriate legislation ratifying the boundary line set forth  
4 in section one hereof.

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## CHAPTER 27

(Senate Bill No. 81—By Mr. Taylor and Mr. Bowers)

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AN ACT to amend article two, chapter seven of the code of  
West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section, designated section six, relating to the establishment, recognition and preservation of boundary lines between the several counties of the state and requiring the filing of certain maps in connection therewith.

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[Passed February 13, 1959; in effect ninety days from passage. Approved by the Governor.]

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**Article 2. County and District Boundaries; Change of County Seat and Names of Unincorporated Towns and of Districts.**

**Section**

6. Establishment of county boundary lines; filing of maps; changes.

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

That article two, 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 six, to read as follows:

**Section 6. *Establishment of County Boundary Lines;***

2 ***Filing of Maps; Changes.***—The boundary lines between  
3 the several counties of the state shall be established in  
4 the following manner: Topographic quadrangle maps  
5 prepared by the United States geological survey and the  
6 West Virginia geological and economic survey in con-  
7 formance with prior acts of the general assembly of Vir-  
8 ginia, acts of the Legislature of West Virginia and other  
9 applicable provisions of law, shall be filed by the state  
10 geologist with the secretary of state of West Virginia and  
11 shall thereafter constitute the official boundary lines be-  
12 tween the said counties: *Provided, however,* That said  
13 boundary lines shall be located, plotted and delineated  
14 upon said maps together with any other pertinent in-  
15 formation with reference thereto and each of said maps  
16 shall be certified as correct by the director and state  
17 geologist of the West Virginia geological and economic  
18 survey prior to such filing. Certified copies of all such  
19 maps shall be filed with the legislative auditor for use in  
20 the legislative library and a certified copy of each county

21 map shall be filed in the office of the clerk of the county  
22 court of that county and recorded in an appropriate deed  
23 book or plat book.

24 All county boundary lines which are or may be estab-  
25 lished by metes and bounds (by bearings and distances  
26 between monuments) by the Legislature or pursuant to  
27 section one of this article shall constitute an official change  
28 in such boundary line or lines and the director and state  
29 geologist of the West Virginia geological and economic  
30 survey shall promptly locate, plat and delineate such  
31 change upon the applicable map or maps and certify and  
32 file such change as aforesaid.

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## CHAPTER 28

(Senate Bill No. 141—By Mr. Martin)

AN ACT to amend and reenact section fifteen, article five, chap-  
ter seven of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, relating to the auditing  
and payment of claims of justices and constables; annual  
statement of sheriff of fines and costs received from jus-  
tices; payment into state treasury.

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[Passed March 4, 1959; in effect from passage. Approved by the Governor.]

### Article 5. Fiscal Affairs.

#### Section

15. Auditing and payment of claims of justices and constables; annual  
statement of sheriff of fines and costs received from justices;  
payment into state treasury.

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

• That section fifteen, article five, 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 15. *Auditing and Payment of Claims of Justices  
2 and Constables; Annual Statement of Sheriff of Fines and*

3 *Costs Received from Justices; Payment into State Treas-*  
4 *ury.*—All claims by justices and constables for fees due  
5 them in misdemeanor proceedings in the county instituted  
6 before them on and after the effective date of this section,  
7 shall be audited and examined by the county court, and  
8 if found correct and if submitted, as provided in section  
9 fourteen, article seventeen, chapter fifty of this code, the  
10 county court shall cause orders to be issued therefor on  
11 the sheriff to be paid out of the general school fund or out  
12 of the general county fund, as the court may direct. The  
13 sheriff shall annually, during the month of January, ren-  
14 der under oath to the auditor a true statement of the ac-  
15 count of all fines and costs collected by justices and trans-  
16 mitted to him and pay into the treasury of the state, the  
17 net proceeds of such fines and costs as exhibited by such  
18 account, to be appropriated as directed by the fifth section  
19 of article twelve of the constitution; failure so to do shall  
20 be deemed a breach of his official duty. For the purposes  
21 of this section, the net proceeds of such fines and costs  
22 shall be deemed to be the proceeds remaining after de-  
23 ducting therefrom the lawful fees of constables and jus-  
24 tices of the peace; cost of auditing the accounts of justices  
25 of the peace and constables by the chief inspector's office;  
26 and expenses for operation and maintenance of the county  
27 jail.

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## CHAPTER 29

(House Bill No. 272—By Mr. Burnette)

AN ACT to amend article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen, relating to the authority of county officials or employees to become members of voluntary associations and to expend funds for such purpose.

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[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]



**Article 5. Fiscal Affairs.****Section**

17. Authority of county officials or employees to become members of voluntary associations.

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

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

Section 17. *Authority of County Officials or Employees to Become Members of Voluntary Associations.*—Any county official or employee is hereby authorized to become associated and to participate as a member in any voluntary state association or organization, in the discretion of the county court, from which benefits commensurate with the expense will be derived by the county. The county court is authorized to expend funds for such purpose and to reimburse such person or persons for the actual amount expended by him for food and lodging while in attendance at meetings of such associations, within this state, with mileage not to exceed the rate of ten cents per mile, to be computed according to the distance by the nearest practicable route for travel to and from such meeting.

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## CHAPTER 30

(Com. Sub. for House Bill No. 350—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to amend and reenact section one, sections one-(one) through one-(fifty-five), inclusive; section two, sections two-(one) through two-(fifty-two), inclusive; section three, sections three-(one) through three-(fifty-two), inclusive; section four; section five, sections five-(one) through five-(fifty-five), inclusive; and section six, sections six-(one) through six-(fifty-five), inclusive; article seven, chapter seven of the code of West Virginia, one thousand

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

[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

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

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

## **CHAPTER 7. COUNTY COURTS AND COUNTY OFFICERS**

### **Article**

- 1. County Courts Generally.**
- 7. Salaries; Deputies and Assistants and Their Salaries.**

### **Article 1. County Courts Generally.**

#### **Section**

- 5. Duties of county commissioners and payment for services other than services in court.**
- 5-(1) to 5-(54). Salaries of county commissioners of the various counties of the state.**

Section 5. *Duties of County Commissioners and Payment for Services other than Services in Court.*—It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to arrange for the feeding and care of the prisoners therein, and to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control; to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance and operation of airport or airports owned and/or operated by the county court; and to supervise and control the purchase, erection and maintenance of airport facilities; to supervise and control the purchase of furniture, fixtures and equipment, and janitors' and other supplies, for their county; to attend the annual meeting of county assessors, and such district meeting as may be called by the state tax commissioner, on matters pertaining to the work of the county assessors and the county courts as boards of review and equalization; to review and equalize the assessments made by the assessor; to inspect and review the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes, and to point out to the assessor any property, real or personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; to call to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up his lists of property for entry on the land and personal property books; to cooperate with the county public assistance council and supervise the general management of the fiscal affairs and business of each county; and as a fur-

41 ther part of their duties they shall be empowered to pur-  
42 chase, lease, rent, control, supervise, inspect, maintain  
43 and erect public parks, playgrounds, and recreational  
44 facilities, to purchase, lease or rent equipment therefor,  
45 and to employ qualified recreational directors and per-  
46 sonnel; to construct new Four-H camps on county prop-  
47 erty; to operate stone quarries and sand deposits on  
48 county owned or leased property; to construct buildings  
49 for or aid in constructing and/or equipping civilian de-  
50 fense buildings on sites approved by state office of civilian  
51 defense; and to operate dog pounds for county-municipi-  
52 palities; and as a further part of their duties they shall  
53 be empowered to purchase, lease, rent, control, super-  
54 vise, inspect, maintain and erect public markets and to  
55 purchase, rent or lease equipment therefor, and to em-  
56 ploy qualified personnel to operate such public mar-  
57 kets.

58 Compensation shall be allowed and paid out of the  
59 county treasury, in the same manner as salaries are  
60 paid, to each county commissioner of each county (ex-  
61 cept as otherwise provided by law for the county of Ohio),  
62 for services performed for such county concerning the  
63 visiting of the poor, inspection of jails, bridges and bridge  
64 approaches, and for visiting detention homes for chil-  
65 dren; and for providing for and supervising the repair  
66 and maintenance of the county courthouse, jails, houses  
67 for the poor, and other county property; for supervising  
68 and controlling the maintenance and operation of air-  
69 port or airports owned by and/or operated by the county  
70 court, and supervising and controlling the purchase,  
71 erection and maintenance of airport facilities; and for  
72 supervising and controlling the purchase of furniture,  
73 fixtures and equipment and janitors' and other supplies  
74 of their county; and for attending the annual meeting  
75 of assessors and such district meetings as may be called  
76 by the state tax commissioner, on matters pertaining  
77 to the work of assessors and county courts as boards  
78 of review and equalization; for reviewing and equaliz-  
79 ing the assessments made by the assessors; for inspect-  
80 ing and reviewing the lists of property, both real and

81 personal, made up by the assessor and his deputies for  
82 taxable purposes, and for pointing out to the assessor  
83 any property, real or personal, which the said assessors  
84 of their respective counties may have overlooked or  
85 omitted to place on said tax lists; for calling to the at-  
86 tention of the assessor all real estate or personal property  
87 belonging to churches, lodges, schools or other charitable  
88 institutions which may have been overlooked or omitted  
89 by the assessor or his deputies in making up his lists  
90 of property for entry on the land and personal property  
91 books; and for duties of the county commissioners in  
92 cooperating with the county public assistance council;  
93 for purchasing, leasing, renting, controlling, supervising,  
94 inspecting, maintaining and erecting public parks, play-  
95 grounds, and recreational facilities, and the purchasing,  
96 leasing, or renting the equipment therefor, and employ-  
97 ing qualified recreational directors and personnel there-  
98 for; for constructing new Four-H camps on county prop-  
99 erty; operating stone quarries and sand deposits on  
100 county owned or leased property; constructing buildings  
101 for or aiding in construction and/or equipping civilian  
102 defense buildings on sites approved by state office of  
103 civilian defense; operating dog pounds for county-municipalities; and as a further part of their duties they shall  
104 be empowered to purchase, lease, rent, control, super-  
105 vise, inspect, maintain and erect public markets and to  
106 purchase, rent or lease equipment therefor, and to em-  
107 ploy qualified personnel to operate such public markets;  
108 and for supervising the general management of the fiscal  
109 affairs and business of each county, within their counties,  
110 and other business by such commissioners, in addition to  
111 compensation for services in court, the sums of money  
112 hereinafter provided in the following sections five-(one)  
113 to five-(fifty-four), inclusive:

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

Sec. 5-(2). *Same-Berkeley County.*—For the county of  
2 Berkeley, the president of the court one hundred sixty-

3 five dollars and other members of the court one hundred  
4 forty dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2     Sec. 5-(20). *Same-Kanawha County*.—For the county  
2     of Kanawha, six hundred twenty dollars per month.

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

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

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

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

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

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

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

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

2     Sec. 5-(29). *Same-Mineral County*.—For the county of  
2     Mineral, the president of the court one hundred ten dol-  
3     lars and the other members of the court one hundred  
4     dollars per month.

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

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

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

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

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

2     Sec. 5-(35). *Same-Pendleton County*.—For the county of Pendleton, forty-five dollars per month.

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

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

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

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

2     Sec. 5-(40). *Same-Raleigh County*.—For the county of Raleigh, the president of the court two hundred twenty-  
3 five dollars and other members of the court two hund-  
4 red dollars per month.

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

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

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

2     Sec. 5-(44). *Same-Summers County*.—For the county of Summers, seventy-five dollars per month.



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

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

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

2 Sec. 5-(48). *Same-Upshur County*.—For the county of Upshur, seventy-five dollars per month.

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

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

2 Sec. 5-(51). *Same-Wetzel County*.—For the county of Wetzel, one hundred dollars per month.

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

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

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

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

### **Section**

1. Salaries of sheriffs.  
1-(1) to 1-(55). Salaries of sheriffs of the various counties of the state.
2. Salaries of county clerks.  
2-(1) to 2-(52). Salaries of county clerks of the various counties of the state.
3. Salaries of circuit clerks.  
3-(1) to 3-(52). Salaries of circuit clerks of the various counties of the state.
4. Salaries of joint clerks of county and circuit courts.
5. Salaries of prosecuting attorneys.  
5-(1) to 5-(55). Salaries of prosecuting attorneys of the various counties of the state.
6. Assistants, stenographers and clerks for prosecuting attorney; salaries; when court may appoint attorney to prosecute.  
6-(1) to 6-(55). Salaries of assistants, stenographers and clerks for prosecuting attorney of the various counties of the state.

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

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

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

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

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

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

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

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

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

Sec. 1-(9). *Doddridge County*.—For the county of Doddridge, three thousand six hundred dollars.

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

Sec. 1-(11). *Gilmer County*.—For the county of Gilmer, four thousand eight hundred dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2      Sec. 1-(34). *Nicholas County*.—For the county of Nicholas, four thousand eight hundred dollars.

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

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

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

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

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

2      Sec. 1-(40). *Putnam County*.—For the county of Putnam, four thousand two hundred dollars.

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

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

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

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

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

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

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

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

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

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

2      Sec. 1-(51). *Webster County*.—For the county of Web-  
2      ster, four thousand two hundred dollars.

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

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

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

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

2      Sec. 2. *Salaries of County Clerks*.—The annual compen-  
2      sation of the clerk of the county court of each county shall,  
3      on and after January one, one thousand nine hundred  
4      sixty-three, be in the amounts set forth in sections two-  
5      (one) to two-(fifty-two), inclusive, of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2-(14). *Hancock County*.—For the county of Hancock, five thousand dollars.

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

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

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

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

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

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

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

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

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

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

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

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

2       Sec. 2-(27). *Mineral County*.—For the county of Min-  
eral, four thousand five hundred dollars.

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

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

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

2       Sec. 2-(31). *Morgan County*.—For the county of Mor-  
gan, three thousand dollars.

2       Sec. 2-(32). *Nicholas County*.—For the county of Nich-  
olas, four thousand dollars.

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

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

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

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

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

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

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

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

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

2      Sec. 2-(42). *Summers County*.—For the county of Sum-  
2      mers, three thousand three hundred dollars.

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

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

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

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

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

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

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

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

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

2      Sec. 2-(52). *Wyoming County*.—For the county of Wyo-  
2      ming, six thousand dollars.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2     Sec. 3-(27). *Mineral County*.—For the county of Mineral, four thousand five hundred dollars.

2     Sec. 3-(28). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2     Sec. 3-(29). *Monongalia County*.—For the county of Monongalia, five thousand dollars.

2     Sec. 3-(30). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2     Sec. 3-(31). *Morgan County*.—For the county of Morgan, two thousand dollars.

2     Sec. 3-(32). *Nicholas County*.—For the county of Nicholas, four thousand dollars.

2     Sec. 3-(33). *Ohio County*.—For the county of Ohio, seven thousand three hundred dollars.

2      Sec. 3-(34). *Pleasants County*.—For the county of Pleas-  
2      ants, three thousand dollars.

2      Sec. 3-(35). *Pocahontas County*.—For the county of  
2      Pocahontas, two thousand eight hundred dollars.

2      Sec. 3-(36). *Preston County*.—For the county of Pres-  
2      ton, three thousand four hundred dollars.

2      Sec. 3-(37). *Putnam County*.—For the county of Put-  
2      nam, three thousand six hundred dollars.

2      Sec. 3-(38). *Raleigh County*.—For the county of Raleigh,  
2      six thousand dollars.

2      Sec. 3-(39). *Randolph County*.—For the county of Ran-  
2      dolph, six thousand dollars.

2      Sec. 3-(40). *Ritchie County*.—For the county of Ritchie,  
2      three thousand four hundred dollars.

2      Sec. 3-(41). *Roane County*.—For the county of Roane,  
2      three thousand six hundred dollars.

2      Sec. 3-(42). *Summers County*.—For the county of Sum-  
2      mers, three thousand three hundred dollars.

2      Sec. 3-(43). *Taylor County*.—For the county of Taylor,  
2      three thousand two hundred dollars.

2      Sec. 3-(44). *Tucker County*.—For the county of Tucker,  
2      two thousand eight hundred dollars.

2      Sec. 3-(45). *Tyler County*.—For the county of Tyler,  
2      three thousand one hundred dollars.

2      Sec. 3-(46). *Upshur County*.—For the county of Upshur,  
2      three thousand dollars.

2      Sec. 3-(47). *Wayne County*.—For the county of Wayne,  
2      four thousand eight hundred dollars.

2      Sec. 3-(48). *Webster County*.—For the county of Web-  
2      ster, three thousand three hundred dollars.

2      Sec. 3-(49). *Wetzel County*.—For the county of Wetzel,  
2      four thousand four hundred dollars.

2      Sec. 3-(50). *Wirt County*.—For the county of Wirt, one  
2      thousand two hundred dollars.

Sec. 3-(51). *Wood County*.—For the county of Wood,  
2 five thousand four hundred dollars.

Sec. 3-(52). *Wyoming County*.—For the county of  
2 Wyoming, six thousand dollars.

Sec. 4. *Salaries of Joint Clerks of County and Circuit  
2 Courts*.—The annual compensation of the clerks of the  
3 courts in the counties where both the office of the clerk  
4 of the county court and the clerk of the circuit court are  
5 held by the same person shall be as follows: Hardy county,  
6 four thousand dollars; Grant county, three thousand  
7 five hundred dollars; Pendleton county, three thousand  
8 eight hundred dollars.

Sec. 5. *Salaries of Prosecuting Attorneys*.—The annual  
2 compensation of the prosecuting attorney in each county,  
3 including the compensation provided by law for his serv-  
4 ices as attorney for boards of education and other ad-  
5 ministrative boards and officers in the county, shall, on  
6 and after January one, one thousand nine hundred sixty-  
7 one, be in the amounts set forth in sections five-(one) to  
8 five-(fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County*.—For the county of Barb-  
2 our, three thousand two hundred dollars.

Sec. 5-(2). *Berkeley County*.—For the county of Berke-  
2 ley, five thousand dollars.

Sec. 5-(3). *Boone County*.—For the county of Boone,  
2 five thousand two hundred dollars.

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

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

Sec. 5-(6). *Cabell County*.—For the county of Cabell,  
2 seven thousand dollars.

Sec. 5-(7). *Calhoun County*.—For the county of Cal-  
2 houn, one thousand eight hundred dollars.

Sec. 5-(8). *Clay County*.—For the county of Clay, two  
2 thousand dollars.

2      Sec. 5-(9). *Doddridge County*.—For the county of Dodd-  
ridge, two thousand four hundred dollars.

2      Sec. 5-(10). *Fayette County*.—For the county of Fay-  
ette, not less than five thousand four hundred dollars  
3 nor more than six thousand five hundred dollars, to be  
4 fixed by the county court.

2      Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,  
three thousand six hundred dollars.

2      Sec. 5-(12). *Grant County*.—For the county of Grant,  
one thousand five hundred dollars.

2      Sec. 5-(13). *Greenbrier County*.—For the county of  
Greenbrier, four thousand five hundred dollars.

2      Sec. 5-(14). *Hampshire County*.—For the county of  
Hampshire, two thousand two hundred dollars.

2      Sec. 5-(15). *Hancock County*.—For the county of Han-  
cock, five thousand four hundred dollars.

2      Sec. 5-(16). *Hardy County*.—For the county of Hardy,  
one thousand six hundred dollars.

2      Sec. 5-(17). *Harrison County*.—For the county of Har-  
rison, seven thousand eight hundred dollars.

2      Sec. 5-(18). *Jackson County*.—For the county of Jack-  
son, two thousand four hundred dollars.

2      Sec. 5-(19). *Jefferson County*.—For the county of Jef-  
ferson, three thousand nine hundred dollars.

2      Sec. 5-(20). *Kanawha County*.—For the county of Ka-  
nawha, ten thousand dollars.

2      Sec. 5-(21). *Lewis County*.—For the county of Lewis,  
three thousand dollars.

2      Sec. 5-(22). *Lincoln County*.—For the county of Lin-  
coln, four thousand eight hundred dollars.

2      Sec. 5-(23). *Logan County*.—For the county of Logan,  
seven thousand two hundred dollars.

2      Sec. 5-(24). *Marion County*.—For the county of Marion,  
six thousand dollars.

2      Sec. 5-(25). *Marshall County*.—For the county of Marshall, five thousand dollars.

2      Sec. 5-(26). *Mason County*.—For the county of Mason, three thousand dollars.

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

2      Sec. 5-(28). *Mercer County*.—For the county of Mercer, six thousand five hundred dollars.

2      Sec. 5-(29). *Mineral County*.—For the county of Mineral, three thousand five hundred dollars.

2      Sec. 5-(30). *Mingo County*.—For the county of Mingo, five thousand four hundred dollars.

2      Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, five thousand five hundred dollars.

2      Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand two hundred dollars.

2      Sec. 5-(33). *Morgan County*.—For the county of Morgan, two thousand dollars.

2      Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, four thousand four hundred dollars.

2      Sec. 5-(35). *Ohio County*.—For the county of Ohio, seven thousand five hundred dollars.

2      Sec. 5-(36). *Pendleton County*.—For the county of Pendleton, one thousand five hundred dollars.

2      Sec. 5-(37). *Pleasants County*.—For the county of Pleasants, two thousand four hundred dollars.

2      Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, three thousand dollars.

2      Sec. 5-(39). *Preston County*.—For the county of Preston, four thousand dollars.

2      Sec. 5-(40). *Putnam County*.—For the county of Putnam, three thousand six hundred dollars.

2      Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, six thousand dollars.

2      Sec. 5-(42). *Randolph County*.—For the county of Ran-  
dolph, six thousand dollars.

2      Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,  
two thousand four hundred dollars.

2      Sec. 5-(44). *Roane County*.—For the county of Roane,  
three thousand six hundred dollars.

2      Sec. 5-(45). *Summers County*.—For the county of Sum-  
mers, three thousand six hundred dollars.

2      Sec. 5-(46). *Taylor County*.—For the county of Taylor,  
three thousand two hundred dollars.

2      Sec. 5-(47). *Tucker County*.—For the county of Tucker,  
two thousand eight hundred dollars.

2      Sec. 5-(48). *Tyler County*.—For the county of Tyler,  
two thousand three hundred dollars.

2      Sec. 5-(49). *Upshur County*.—For the county of Up-  
shur, three thousand dollars.

2      Sec. 5-(50). *Wayne County*.—For the county of Wayne,  
five thousand nine hundred dollars.

2      Sec. 5-(51). *Webster County*.—For the county of Web-  
ster, three thousand dollars.

2      Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,  
four thousand two hundred dollars.

2      Sec. 5-(53). *Wirt County*.—For the county of Wirt, one  
thousand two hundred dollars.

2      Sec. 5-(54). *Wood County*.—For the county of Wood,  
seven thousand five hundred dollars.

2      Sec. 5-(55). *Wyoming County*.—For the county of Wy-  
oming, six thousand dollars.

2      Sec. 6. *Assistants, Stenographers and Clerks for Prose-*  
3      *cuting Attorney; Salaries; When Court May Appoint At-*  
4      *torney to Prosecute*.—The prosecuting attorneys of the  
5      several counties of the state may, with the assent of the  
6      county courts of their respective counties, entered of rec-  
ord, appoint to assist them in the discharge of their official

7 duties for and during their respective terms of office, the  
8 number of practicing attorneys, stenographers and clerks  
9 set forth in sections six-(one) through six-(fifty-five), in-  
10 clusive, of this article. Each such assistant prosecuting  
11 attorney shall take the same oath and may perform the  
12 same duties as his principal. Each assistant shall serve at  
13 the will and pleasure of his principal and he may be  
14 removed from office by the circuit court of the county in  
15 which he is appointed for any cause for which his prin-  
16 cipal might be removed.

17 If in any case the prosecuting attorney and his assistant  
18 be unable to act, or if in the opinion of the court it would  
19 be improper for him or his assistant to act, the court shall  
20 appoint some competent practicing attorney to act in such  
21 case. The court shall certify to the county court the per-  
22 formance of such service when completed and recommend  
23 to the county court a reasonable allowance for such at-  
24 torney for such service, and such sum, when allowed by  
25 the county court, shall be paid out of the county treasury.  
26 No provision of this section shall be construed to prohibit  
27 the employment by any person of a competent attorney  
28 or attorneys to assist in the prosecution of any person  
29 or corporation charged with crime.

30 The county courts of the several counties shall com-  
31 pensate the assistant prosecuting attorneys, stenographers  
32 and clerks of their respective counties in accordance with  
33 the following annual salary provisions:

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

38 (2) In counties for which minimum and maximum sal-  
39 ary limits are fixed by provisions of sections six-(one)  
40 through six-(fifty-five), inclusive, of this article, the salar-  
41 ies shall be fixed and paid within such limits.

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

46 Such salaries and compensation shall be paid monthly,



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

Sec. 6-(1). *Same-Barbour County.*—For the county of  
2 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). *Same-Berkeley County.*—For the county of  
2 Berkeley, one assistant attorney, not more than two thou-  
3 sand four hundred dollars; one stenographer, not more  
4 than two thousand four hundred dollars.

Sec. 6-(3). *Same-Boone County.*—For the county of  
2 Boone, one assistant attorney, three thousand four hund-  
3 red dollars; one stenographer at two thousand eight hund-  
4 red dollars.

Sec. 6-(4). *Same-Braxton County.*—For the county of  
2 Braxton, one assistant attorney; one stenographer at  
3 one thousand eight hundred dollars.

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

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

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

Sec. 6-(8). *Same-Clay County*.—For the county of Clay  
2 one 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). *Same-Doddridge County*.—For the county of  
2 Doddridge, one assistant attorney; one stenographer, not  
3 more than one thousand eight hundred dollars.

Sec. 6-(10). *Same-Fayette County*.—For the county of  
2 Fayette, first assistant attorney, not less than five thous-  
3 and nor more than five thousand three hundred dollars;  
4 second assistant attorney, not less than four thousand  
5 four hundred nor more than four thousand six hundred  
6 dollars, to be fixed by the county court; one stenographer  
7 at a salary to be fixed by the county court.

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

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

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

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

Sec. 6-(15). *Same-Hancock County*.—For the county of  
2 Hancock, one assistant attorney, not less than one thou-  
3 sand eight hundred nor more than three thousand two  
4 hundred dollars; one stenographer, not more than two  
5 thousand eight hundred dollars.

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

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

Sec. 6-(18). *Same-Jackson County*.—For the county of  
2 Jackson, one assistant attorney, not less than six hundred  
3 nor more than one thousand two hundred dollars; one  
4 stenographer, not less than one thousand six hundred dollars  
5 nor more than two thousand two hundred dollars.

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

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

Sec. 6-(21). *Same-Lewis County*.—For the county of  
2 Lewis, one assistant attorney, not more than one thousand  
3 eight hundred dollars; one stenographer, not less than six  
4 hundred nor more than one thousand eight hundred dollars.  
5

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

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

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

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

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

Sec. 6-(27). *Same-McDowell County*.—For the county  
2 of McDowell, first assistant attorney, not less than three  
3 thousand nor more than five thousand four hundred dol-  
4 lars; second assistant attorney, not less than three thou-  
5 sand nor more than four thousand eight hundred dollars;  
6 one stenographer, not less than one thousand five hundred  
7 nor more than three thousand dollars.

Sec. 6-(28). *Same-Mercer County*.—For the county of  
2 Mercer, one assistant attorney, at five thousand five hund-  
3 red dollars; one stenographer or clerk, not more than  
4 three thousand three hundred dollars.

Sec. 6-(29). *Same-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.

Sec. 6-(30). *Same-Mingo County*.—For the county of  
2 Mingo, one assistant attorney, not more than four thou-  
3 sand five hundred dollars; one stenographer, not more  
4 than four thousand two hundred dollars.

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

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

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

2     Sec. 6-(34). *Same-Nicholas County*.—For the county of  
3     Nicholas, one assistant attorney, not more than one thou-  
4     sand two hundred dollars; one stenographer or clerk, at  
5     a salary to be fixed by the county court.

2     Sec. 6-(35). *Same-Ohio County*.—For the county of  
3     Ohio, first assistant attorney, at four thousand five hund-  
4     red dollars; second assistant attorney, at four thousand  
5     dollars; third assistant attorney, at three thousand five  
6     hundred dollars; one stenographer, not more than two  
7     thousand seven hundred dollars; second stenographer,  
8     not more than one thousand two hundred dollars.

2     Sec. 6-(36). *Same-Pendleton County*.—For the county  
3     of Pendleton, one assistant attorney; one stenographer or  
4     clerk, not more than one thousand four hundred dollars.

2     Sec. 6-(37). *Same-Pleasants County*.—For the county  
3     of Pleasants, one stenographer, not more than one thou-  
4     sand eight hundred dollars.

2     Sec. 6-(38). *Same-Pocahontas County*.—For the county  
3     of Pocahontas, one assistant attorney; one stenographer,  
4     not more than one thousand eight hundred dollars.

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

2     Sec. 6-(40). *Same-Putnam County*.—For the county of  
3     Putnam, one assistant attorney, not more than two thou-  
4     sand dollars; one stenographer, not more than two thou-  
5     sand four hundred dollars.

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

Sec. 6-(42). *Same-Randolph County*.—For the county  
2 of Randolph, one assistant attorney, not more than three  
3 thousand six hundred dollars; one stenographer, not less  
4 than two thousand seven hundred nor more than three  
5 thousand six hundred dollars.

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

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

Sec. 6-(45). *Same-Summers County*.—For the county of  
2 Summers, one assistant attorney, not less than one thou-  
3 sand nor more than two thousand dollars; one stenog-  
4 rapher, not less than one thousand five hundred nor more  
5 than three thousand dollars.

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

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

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

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

Sec. 6-(50). *Same-Wayne County*.—For the county of  
2 Wayne one assistant attorney, at three thousand eight  
3 hundred dollars; one stenographer, three thousand three  
4 hundred dollars.

Sec. 6-(51). *Same-Webster County*.—For the county of  
2 Webster, one assistant attorney, not less than six hundred

3 nor more than nine hundred dollars; one stenographer,  
4 one thousand eight hundred dollars.

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

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

Sec. 6-(54). *Same-Wood County*.—For the county of  
2 Wood, one assistant attorney, at four thousand dollars;  
3 one stenographer, at three thousand six hundred dollars.

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

## CHAPTER 11. TAXATION

### Article 2. Assessors.

#### Section

5. Annual salary of assessors.

5-(1) to 5-(55). Salaries of assessors of the various counties of the state.

Section 5. *Annual Salary of Assessors*.—The annual  
2 salary of the assessor in each county shall, on and after  
3 January one, one thousand nine hundred sixty-one, be in  
4 the amount set forth in sections five-(one) to five-(fifty-  
5 five) inclusive, of this article.

Sec. 5-(1). *Barbour County*.—For the county of Bar-  
2 bour, three thousand dollars.

Sec. 5-(2). *Berkeley County*.—For the county of Berke-  
2 ley, five thousand dollars.

Sec. 5-(3). *Boone County*.—For the county of Boone,  
2 five thousand two hundred dollars.

Sec. 5-(4). *Braxton County*.—For the county of Brax-  
2 ton, three thousand six hundred dollars.

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

Sec. 5-(6). *Cabell County*.—For the county of Cabell,  
2 five thousand dollars.

Sec. 5-(7). *Calhoun County*.—For the county of Cal-  
2 houn, two thousand five hundred dollars.

Sec. 5-(8). *Clay County*.—For the county of Clay, three  
2 thousand six hundred dollars.

Sec. 5-(9). *Doddridge County*.—For the county of Dodd-  
2 ridge, three thousand two hundred dollars.

Sec. 5-(10). *Fayette County*.—For the county of Fay-  
2 ette, not less than four thousand eight hundred nor  
3 more than five thousand five hundred dollars, to be fixed  
4 by the county court.

Sec. 5-(11). *Gilmer County*.—For the county of Gilmer,  
2 three thousand six hundred dollars.

Sec. 5-(12). *Grant County*.—For the county of Grant,  
2 two thousand four hundred dollars.

Sec. 5-(13). *Greenbrier County*.—For the county of  
2 Greenbrier, four thousand five hundred dollars.

Sec. 5-(14). *Hampshire County*.—For the county of  
2 Hampshire, two thousand four hundred dollars.

Sec. 5-(15). *Hancock County*.—For the county of Han-  
2 cock, four thousand eight hundred dollars.

Sec. 5-(16). *Hardy County*.—For the county of Hardy,  
2 two thousand eight hundred dollars.

Sec. 5-(17). *Harrison County*.—For the county of Har-  
2 rison, seven thousand dollars.

Sec. 5-(18). *Jackson County*.—For the county of Jack-  
2 son, three thousand six hundred dollars.

Sec. 5-(19). *Jefferson County*.—For the county of Jeff-  
2 erson, three thousand three hundred dollars.

Sec. 5-(20). *Kanawha County*.—For the county of Ka-  
2 nawha, seven thousand five hundred dollars.



2      Sec. 5-(21). *Lewis County*.—For the county of Lewis,  
2      three thousand two hundred dollars.

2      Sec. 5-(22). *Lincoln County*.—For the county of Lin-  
2      coln, four thousand eight hundred dollars.

2      Sec. 5-(23). *Logan County*.—For the county of Logan,  
2      seven thousand two hundred dollars.

2      Sec. 5-(24). *Marion County*.—For the county of Marion,  
2      five thousand two hundred dollars.

2      Sec. 5-(25). *Marshall County*.—For the county of Mar-  
2      shall, four thousand five hundred dollars.

2      Sec. 5-(26). *Mason County*.—For the county of Mason,  
2      three thousand two hundred dollars.

2      Sec. 5-(27). *McDowell County*.—For the county of Mc-  
2      Dowell, five thousand four hundred dollars.

2      Sec. 5-(28). *Mercer County*.—For the county of Mer-  
2      cer, five thousand five hundred dollars.

2      Sec. 5-(29). *Mineral County*.—For the county of Min-  
2      eral, four thousand two hundred dollars.

2      Sec. 5-(30). *Mingo County*.—For the county of Mingo,  
2      four thousand eight hundred dollars.

2      Sec. 5-(31). *Monongalia County*.—For the county of  
2      Monongalia, four thousand dollars.

2      Sec. 5-(32). *Monroe County*.—For the county of Mon-  
2      roe, one thousand eight hundred dollars.

2      Sec. 5-(33). *Morgan County*.—For the county of Mor-  
2      gan, three thousand dollars.

2      Sec. 5-(34). *Nicholas County*.—For the county of Nicho-  
2      las, four thousand dollars.

2      Sec. 5-(35). *Ohio County*.—For the county of Ohio, six  
2      thousand nine hundred dollars.

2      Sec. 5-(36). *Pendleton County*.—For the county of Pen-  
2      dleton, two thousand six hundred dollars.

2      Sec. 5-(37). *Pleasants County*.—For the county of Pleas-  
2      ants, three thousand dollars.

2      Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, two thousand eight hundred dollars.

2      Sec. 5-(39). *Preston County*.—For the county of Preston, three thousand six hundred dollars.

2      Sec. 5-(40). *Putnam County*.—For the county of Putnam, three thousand nine hundred dollars.

2      Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, six thousand dollars.

2      Sec. 5-(42). *Randolph County*.—For the county of Randolph, five thousand eight hundred dollars.

2      Sec. 5-(43). *Ritchie County*.—For the county of Ritchie, three thousand four hundred dollars.

2      Sec. 5-(44). *Roane County*.—For the county of Roane, four thousand dollars.

2      Sec. 5-(45). *Summers County*.—For the county of Summers, two thousand seven hundred dollars.

2      Sec. 5-(46). *Taylor County*.—For the county of Taylor, three thousand two hundred dollars.

2      Sec. 5-(47). *Tucker County*.—For the county of Tucker, two thousand eight hundred dollars.

2      Sec. 5-(48). *Tyler County*.—For the county of Tyler, three thousand three hundred dollars.

2      Sec. 5-(49). *Upshur County*.—For the county of Upshur, two thousand eight hundred dollars.

2      Sec. 5-(50). *Wayne County*.—For the county of Wayne, four thousand eight hundred dollars.

2      Sec. 5-(51). *Webster County*.—For the county of Webster, three thousand dollars.

2      Sec. 5-(52). *Wetzel County*.—For the county of Wetzel, four thousand dollars.

2      Sec. 5-(53). *Wirt County*.—For the county of Wirt, one thousand eight hundred dollars.

2       Sec. 5-(54). *Wood County*.—For the county of Wood,  
3       five thousand dollars.

4       Sec. 5-(55). *Wyoming County*.—For the county of  
5       Wyoming, six thousand dollars.

6       The salaries now set forth in the code shall remain  
7       in full force and effect until the effective dates herein  
8       set out.

## CHAPTER 31

(House Bill No. 402—By Mr. Kidd)

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

[Passed March 12, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 7. Compensation and Allowances.

#### Section

#### 5. Mileage and expenses of judges.

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

That section five, 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 5. *Mileage and Expenses of Judges*.—A judge  
2 of the supreme court of appeals and of a circuit court  
3 shall be entitled to an allowance for mileage at the rate  
4 of ten cents for each mile, to be computed according to  
5 the distance by the nearest practicable route, necessarily  
6 traveled from his place of residence, to the place of holding  
7 any term of court in a county other than that of his  
8 residence, and from such place to his residence; and a  
9 judge of the circuit court shall be paid the sum of seven  
10 dollars and fifty cents per day as expenses while holding  
11 court in a county other than that in which he resides:  
12 *Provided*, That no judge of a circuit court shall be paid  
13 mileage and expenses for holding more than ten terms of

14 court in any county in any one year, including regular,  
15 adjourned and special terms. The mileage and expenses  
16 provided for in this article shall be paid to any judge out  
17 of the state treasury as and when the salary of such judge  
18 is payable.

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## CHAPTER 32

(House Bill No. 24—By Mr. Myles and Mr. Frazer)

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AN ACT to amend and reenact sections one and one-l, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article two by adding thereto a new section, to be designated section one-bb, all relating to establishment of judicial circuits and terms of court therein.

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[Passed February 4, 1959; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

1. Judicial circuits; judges; terms of court.

1-1. Twelfth circuit.

1-bb. Twenty-eighth circuit.

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

That sections one and one-l, article two, chapter fifty-one 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, to be designated section one-bb, all to read as follows:

#### Section 1. *Judicial Circuits; Judges; Terms of Court.*—

- 2 The state shall be divided into judicial circuits as follows:
- 3 The counties of Brooke, Hancock and Ohio shall constitute
- 4 the first circuit; the counties of Marshall, Tyler and
- 5 Wetzel shall constitute the second circuit; the counties of

6 Doddridge, Pleasants and Ritchie shall constitute the  
7 third circuit; the counties of Wood and Wirt shall con-  
8 stitute the fourth circuit; the counties of Calhoun, Jack-  
9 son, Mason and Roane shall constitute the fifth circuit;  
10 the counties of Cabell and Putnam shall constitute the  
11 sixth circuit; the county of Logan shall constitute the  
12 seventh circuit; the county of McDowell shall constitute  
13 the eighth circuit; the county of Mercer shall constitute  
14 the ninth circuit; the county of Raleigh shall constitute  
15 the tenth circuit; the counties of Greenbrier, Monroe,  
16 Pocahontas and Summers shall constitute the eleventh  
17 circuit; the county of Fayette shall constitute the twelfth  
18 circuit; the county of Kanawha shall constitute the  
19 thirteenth circuit; the counties of Braxton, Clay, Gilmer  
20 and Webster shall constitute the fourteenth circuit; the  
21 county of Harrison shall constitute the fifteenth circuit;  
22 the county of Marion shall constitute the sixteenth cir-  
23 cuit; the county of Monongalia shall constitute the seven-  
24 teenth circuit; the county of Preston shall constitute the  
25 eighteenth circuit; the counties of Barbour and Taylor  
26 shall constitute the nineteenth circuit; the county of Ran-  
27 dolph shall constitute the twentieth circuit; the counties  
28 of Grant, Mineral and Tucker shall constitute the twenty-  
29 first circuit; the counties of Hampshire, Hardy and Pen-  
30 dleton shall constitute the twenty-second circuit; the coun-  
31 ties of Berkeley, Jefferson and Morgan shall constitute  
32 the twenty-third circuit; the counties of Mingo and Wayne  
33 shall constitute the twenty-fourth circuit; the counties of  
34 Lincoln and Boone shall constitute the twenty-fifth cir-  
35 cuit; the counties of Lewis and Upshur shall constitute  
36 the twenty-sixth circuit; the county of Wyoming shall  
37 constitute the twenty-seventh circuit; the county of Nich-  
38 olas shall constitute the twenty-eighth circuit.

39 There shall be elected on the Tuesday next after the  
40 first Monday in November, one thousand nine hundred  
41 fifty-two, and every eighth year thereafter, one judge  
42 in each of the circuits herein constituted, except for the  
43 first circuit there shall be two judges elected.

44 The terms of the several circuit judges of the counties  
45 aforesaid shall commence and be held each year as here-  
46 inafter provided.

- Sec. 1-l. *Twelfth Circuit*.—For the county of Fayette,  
2 on the first Tuesday in January, April and July, and the  
3 third Tuesday in September.

- Sec. 1-bb. *Twenty-Eighth Circuit*.—For the county of  
2 Nicholas, on the third Tuesday in February, May, August  
3 and November.

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## CHAPTER 33

(Senate Bill No. 285—By Mr. Jackson, of Lincoln)

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

[Passed February 20, 1959; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

- 1-y. Twenty-fifth circuit.

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

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

- Section 1-y. *Twenty-fifth Circuit*.—For the county of  
2 Boone, on the third Monday in January, the fourth Mon-  
3 day in April and the second Monday in September.  
4 For the county of Lincoln, on the second Monday in  
5 March, June and November.

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## CHAPTER 34

(House Bill No. 391—By Mr. Graziani)

AN ACT to amend and reenact section one-t, 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 twentieth circuit.

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[Passed March 3, 1959; in effect ninety days from passage. Approved by the Governor.]

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

### **Section**

1-t. Twentieth circuit.

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

That section one-t, 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-t. *Twentieth Circuit.*—For the county of  
2 Randolph, on the third Tuesday in September, January  
3 and April.

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## **CHAPTER 35**

(House Bill No. 325—By Mr. Parker and Mr. Seibert)

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AN ACT to amend and reenact section twelve, 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 refunds of money paid into the retirement fund.

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[Passed March 11, 1959; in effect from passage. Approved by the Governor.]

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## **Article 9. Retirement System for Judges of Courts of Record.**

### **Section**

12. Refunds.

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

That section twelve, 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 12. *Refunds.*—Any judge of a court of record of this state whose services have terminated, otherwise than by retirement under provisions of this article, shall, upon his written demand, or the written demand of his personal representative, filed with the state auditor, by a proper warrant of the state auditor drawn on the fund, be refunded, without interest, any and all money paid by or for said judge into the fund. Such repayment shall terminate all rights of said judge to participate thereafter at any time in the benefits and pay of the retirement system, without prejudice, however, to his right to reenter the system after a subsequent appointment or election to a qualified judgeship, but without credit for any prior years of service: *Provided, however,* That should a retired judge die while receiving retirement benefits under the provisions of this article and before he has received from the judges' retirement fund an amount equal to, or in excess of, sums paid by him into such fund, then and in that event, the state auditor shall, upon the written demand of his personal representative, filed with said state auditor, by a proper warrant of the state auditor drawn on the fund, refund, without interest, to such judge's estate an amount equal to the difference between the amount paid into the fund by or for said judge and the amount of retirement benefits paid to him.

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## CHAPTER 36

(House Bill No. 478—By Mr. Noll and Mr. Smith, of Tyler)

AN ACT to amend article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-eight-a, relating to cutting, damaging or carrying away without permission from the owner thereof, of timber, trees, tree products or growing plants, and providing treble damages therefor.

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[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]



**Article 3. Crimes against Property.****Section**

48-a. Cutting, damaging or carrying away without permission, timber, trees, growing plants or the products thereof; treble damages provided.

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

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

Section 48-a. *Cutting, Damaging or Carrying Away without Permission, Timber, Trees, Growing Plants or the Products Thereof; Treble Damages Provided.*—Every person, firm, association, partnership or corporation, who shall cut, damage, or carry away without permission from the rightful owner thereof, any timber, trees, logs, posts, fruit, nuts, growing plant or product of any growing plant, shall be liable to the rightful owner to the amount of three times the value of such as damages, which shall be in addition to and notwithstanding any other penalties by law provided.

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## CHAPTER 37

(House Bill No. 332—By Mr. Singleton)

AN ACT to amend and reenact section seven, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to bribery of commissioner of court, auditor, justice of the peace, arbitrator, umpire, or juror, and providing penalties for violations.

[Passed March 12, 1959; in effect ninety days from passage. Approved by the Governor.]

**Article 5. Crimes against Public Justice.****Section**

7. Bribery of commissioner of court, auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed; penalty.

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

That section seven, article five, 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 7. *Bribery of Commissioner of Court, Auditor, Justice of the Peace, Arbitrator, Umpire, Juror, or other County Official, either Elected or Appointed; Penalty.*— Any person who gives or offers, directly or through any other person or persons, or promises, directly or indirectly, to give any money or other thing of value to a commissioner appointed by a court, auditor, justice of the peace, arbitrator, umpire, juror (although not impaneled), or other county official, either elected or appointed, with intent to bias his opinion or influence his decision in relation to any matter in which he is acting or is to act; and any such commissioner, auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed, who corruptly takes or receives such money or other thing of value, or who agrees to take such money or other thing of value to bias or influence his opinion or action or both, shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, and fined in addition thereto not exceeding five thousand dollars.

— 3 —

## CHAPTER 38

(Com. Sub. for House Bill No. 52—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section eleven, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to obscene literature, books and pictures and the penalty for sale, possession, distribution or exhibition thereof.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

**Article 8. Crimes against Chastity, Morality and Decency.****Section**

11. Obscene literature, books and pictures; penalty.

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

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

**Section 11. Obscene Literature, Books and Pictures;**

2 **Penalty.**—If any person import, print, publish, sell or dis-  
3 tribute any book or other thing containing obscene lan-  
4 guage, or any print, picture, figure or description mani-  
5 festly tending to corrupt the morals of youth, or tending  
6 to corrupt the public morals, or introduce into any family,  
7 school or place of education, or buy or have in his posses-  
8 sion, any such thing, for the purpose of sale, exhibition  
9 or circulation, or with intent to introduce it into any  
10 family, school, or place of education, he shall be guilty of  
11 a misdemeanor, and, upon conviction, shall be confined  
12 in jail not more than one year and fined not exceeding  
13 one thousand dollars. Upon commission of a second or  
14 subsequent offense under this section, he shall be guilty  
15 of a felony, and, upon conviction, shall be confined in the  
16 penitentiary of this state for a period of not less than one  
17 nor more than five years.

## CHAPTER 39

(House Bill No. 319—By Mr. Robertson and Mr. Zabeau)

AN ACT to amend and reenact section eighteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exemptions from penalties for laboring on the Sabbath.

[Passed March 9, 1959; in effect from passage. Approved by the Governor.]

**Article 8. Crimes against Chastity, Morality and Decency.****Section**

18. Limitation of preceding section; contract made on Sabbath day valid.

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

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

**Section 18. *Limitation of Preceding Section; Contract***

- 2 ***Made on Sabbath Day Valid.***—No forfeiture shall be in-  
3 curred or conviction had under the preceding section for  
4 the transportation on the Sabbath day of the mail, or of  
5 passengers and their baggage carried by any mode of  
6 public conveyance, or for running any railroad train,  
7 traction car or system, automobile or other motor car  
8 carrying passengers for pleasure or hire, steamboat or  
9 other boat used in carrying passengers or freight, garages,  
10 gasoline service stations, manufacturing establishments  
11 or any of their employees where the processes of said  
12 manufacture require continuous operation and where said  
13 employees are on rotating shift schedules, on the Sabbath  
14 day, or for the operation of, or labor in, grocery stores or  
15 other similar establishments engaged primarily in the  
16 sale of food products for human consumption: *Provided,*  
17 *however,* That no such establishment located within three  
18 hundred feet of a church shall remain open for business  
19 on the Sabbath day during the customary hours for morn-  
20 ing and evening worship in such church, or for carrying  
21 firearms or shooting on that day, by any person having the  
22 right so to do under the laws of the United States or of  
23 this state; and no forfeiture shall be incurred or conviction  
24 had under the preceding section by or of any person who  
25 conscientiously believes that the seventh day of the week  
26 ought to be observed as a Sabbath and actually refrains  
27 from all secular business and labor on that day, provided  
28 he does not compel any apprentice or servant not of his  
29 belief to do secular work or business on Sunday, and does  
30 not on that day disturb any other person in his observance  
31 of the same. No contract shall be deemed void because it  
32 is made on the Sabbath day.

## CHAPTER 40

(Com. Sub. for House Bill No. 5—Originating in the House  
Committee on the Judiciary)

AN ACT to amend and reenact section twenty-one, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to discharge from prosecution of person charged with a felony or misdemeanor for failure to try within specified time, and exceptions thereto.

[Passed February 11, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Trial of Criminal Cases.

#### Section

21. Discharge for failure to try; exceptions.

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

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

#### Section 21. *Discharge for Failure to Try; Exceptions.*—

2 Every person charged by presentment or indictment with  
3 a felony or misdemeanor, and remanded to a court of com-  
4 petent jurisdiction for trial, shall be forever discharged  
5 from prosecution for the offense, if there be three regular  
6 terms of such court, after the presentment is made or the  
7 indictment is found against him, without a trial, unless  
8 the failure to try him was caused by his insanity; or by  
9 the witnesses for the state being enticed or kept away,  
10 or prevented from attending by sickness or inevitable  
11 accident; or by a continuance granted on the motion of  
12 the accused; or by reason of his escaping from jail, or  
13 failing to appear according to his recognizance, or of the  
14 inability of the jury to agree in their verdict; and every  
15 person charged with a misdemeanor before a justice of the  
16 peace, city police judge, or any other inferior tribunal,

17 and who has therein been found guilty and has appealed  
18 his conviction of guilt and sentence to a court of record,  
19 shall be forever discharged from further prosecution for  
20 the offense set forth in the warrant against him, if after  
21 his having appealed such conviction and sentence, there  
22 be three regular terms of such court without a trial,  
23 unless the failure to try him was for one of the causes  
24 hereinabove set forth relating to proceedings on indict-  
25 ment.

## CHAPTER 41

(Senate Bill No. 124—By Mr. Carrigan)

AN ACT to amend and reenact section one, article eight, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to offenses by convicts.

[Passed March 9, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 8. Crimes by and Proceedings against Convicts.

#### Section

1. Offenses by convicts; conspiracy.

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

That section one, article eight, 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 1. *Offenses by Convicts; Conspiracy.*—A convict  
2 confined in the penitentiary or medium security prison,  
3 or in the custody of an officer thereof, shall be deemed  
4 guilty of a felony if he shall kill, wound or inflict other  
5 bodily injury upon an officer or guard of the penitentiary  
6 or medium security prison; or shall escape from the peni-  
7 tentiary or medium security prison or such custody; or  
8 shall break, cut or injure any building, fixture or fastening  
9 of the penitentiary or medium security prison, or any part

10 thereof, for the purpose of escaping or aiding any other  
11 convict to escape therefrom, or rendering the penitentiary  
12 or medium security prison less secure as a place of confine-  
13 ment; or shall make, procure, secrete, or have in his pos-  
14 session, any instrument, tool or other thing for such pur-  
15 pose, or with intent to kill, wound or inflict bodily injury  
16 as aforesaid; or shall resist the lawful authority of an of-  
17 ficer or guard of the penitentiary or medium security  
18 prison for such purpose or with such intent. Any three or  
19 more convicts so confined, or in such custody, who shall  
20 conspire together to commit any offense mentioned in this  
21 section shall each be deemed guilty of a felony.

## CHAPTER 42

(House Bill No. 166—By Mr. Hersman)

AN ACT to amend and reenact section five-a, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to probation officers of courts and their salary and expenses.

[Passed February 17, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 12. Probation and Parole.

#### Section

- 5-a. Probation officers of second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit 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, Fifth Judicial Circuit, Twelfth 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,

6 fifth judicial circuit, twelfth judicial circuit, fourteenth  
7 judicial circuit and of the circuit court of Wayne county  
8 in the twenty-fourth judicial circuit each is authorized to  
9 appoint a court probation officer to serve during the  
10 pleasure of the appointing judge, without first obtaining  
11 approval of the county courts of the counties of said  
12 judicial circuits and of Wayne county, respectively, as  
13 provided in section five of this article. Such appoint-  
14 ment shall be effective upon the entry of the appointment  
15 order in the court order book. A certified copy of said  
16 order shall be delivered to the county court of each of  
17 the counties concerned and said county courts respec-  
18 tively, shall arrange for and appropriate funds for pay-  
19 ment of and shall pay the salary and expenses of such  
20 probation officer in a manner consistent with contribution  
21 provisions of said section five. The probation officers so  
22 appointed shall have and may exercise all of the powers  
23 and perform all the duties and services of probation  
24 officers as provided in this article.

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## CHAPTER 43

(House Bill No. 33—By Mr. Myles)

AN ACT to amend and reenact section eighteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to period of parole and discharge therefrom.

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[Passed February 18, 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 12. Probation and Parole.

#### Section

18. Period of parole; discharge.

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

That section eighteen, 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 18. *Period of Parole; Discharge.*—The period of  
2 parole shall be the maximum of any sentence, less deduc-  
3 tions for good conduct and work as provided by law, for  
4 which the paroled prisoner, at the time of release, was  
5 subject to imprisonment under his definite or indetermi-  
6 nate sentence, as the case may be: *Provided*, That any  
7 time after a paroled prisoner has been on parole for a  
8 period of one year from the date of his release, the board  
9 may, when in its judgment the ends of parole have been  
10 attained and the best interests of the state and the pa-  
11 roled prisoner will be served thereby, release the pa-  
12 rolee from further supervision and discharge him from  
13 parole: *Provided further*, That no prisoner sentenced to  
14 serve a life term of imprisonment and released on parole  
15 shall be discharged from supervision and parole in a  
16 period less than five years from the date of his release  
17 on parole.

18 No prisoner on parole who has violated the terms of  
19 his release on parole by confession to, or being convicted  
20 of, in any state of the United States, the District of  
21 Columbia, or the territorial possessions of the United  
22 States, the crime of treason, murder, armed robbery, rape,  
23 sodomy or incest, shall be discharged from parole. A  
24 paroled prisoner serving a sentence in any penitentiary  
25 of another state or the United States may, except in the  
26 enumerated crimes, be discharged from parole while so  
27 serving his sentence in said penitentiary, or be continued  
28 on parole or returned to West Virginia as a parole vio-  
29 lator, in the discretion of the parole board.

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## CHAPTER 44

(House Bill No. 34—By Mr. Myles)

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AN ACT to amend and reenact section nineteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to violation of parole, revocation and arrest.

[Passed February 19, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 12. Probation and Parole.

### Section

19. Violation of parole; revocation and arrest.

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

That section nineteen, 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 19. *Violation of Parole; Revocation and Arrest.*

2 —If at any time during the period of parole, there shall be  
3 reasonable cause to believe that the parolee has violated  
4 any of the conditions of his release on parole, the proba-  
5 tion and parole officer may arrest him with or without an  
6 order or warrant, or the board of probation and parole may  
7 issue its written order or warrant for his arrest, which  
8 written order or warrant shall be sufficient for his arrest  
9 by any officer charged with the duty of executing an  
10 ordinary criminal process. The board's written order or  
11 warrant delivered to the sheriff against the paroled priso-  
12 ner shall be a command to keep custody of the parolee  
13 for the jurisdiction of the board, and during the period  
14 of custody, the parolee shall be ineligible for release on  
15 bond; the costs of confining such paroled prisoner shall  
16 be paid out of the funds appropriated for the penitentiary  
17 from which he was paroled.

18 When a parolee is under arrest for violation of the con-  
19 ditions of his parole, he shall be given a prompt and sum-  
20 mary hearing, at which the parolee and his counsel shall  
21 be given an opportunity to attend. If at the hearing, it  
22 shall appear to the satisfaction of the board that the  
23 parolee has violated any condition of his release on parole,  
24 or any rules and regulations for his supervision, the  
25 board may revoke his parole and may require him to  
26 serve in prison the remainder or any portion of his maxi-  
27 mum sentence for which, at the time of his release, he  
28 was subject to imprisonment: *Provided, however, That*

29 if the violation of the conditions of parole or rules and  
30 regulations for his supervision is not a felony as set out  
31 in section eighteen of this article, the board may, if in its  
32 judgment the best interests of justice do not require that  
33 the parole be revoked, release him from custody and  
34 continue him on parole.

35 When a parolee has violated the conditions of his re-  
36 lease on parole by confession to, or being convicted of  
37 any of the crimes mentioned in section eighteen of this  
38 article, he shall be returned to the penitentiary of this  
39 state to serve the remainder of his maximum sentence,  
40 during which remaining part of his sentence he shall be  
41 ineligible for further parole.

42 Whenever the parole of a paroled prisoner has been re-  
43 voked, the warden shall upon receipt of the board's writ-  
44 ten order of revocation, convey and transport the paroled  
45 prisoner to the penitentiary from which he was granted  
46 a release on parole. A paroled prisoner whose parole has  
47 been revoked shall remain in custody of the sheriff until  
48 delivery to guard sent and duly authorized by the warden  
49 for the removal of the paroled prisoner to the peniten-  
50 tiary; the costs of confining such paroled prisoner shall  
51 be paid out of the funds appropriated for the penitentiary  
52 from which he was paroled.

53 When a paroled prisoner is convicted of, or confesses to,  
54 any one of the crimes enumerated in section eighteen of  
55 this article, it shall be the duty of the board to cause him  
56 to be returned to this state for a summary hearing as pro-  
57 vided by this article. A warrant filed by the board shall  
58 stop the running of his sentence until the paroled prisoner  
59 is within the jurisdiction of West Virginia. Whenever a  
60 paroled prisoner has absconded supervision, the board  
61 shall issue its warrant for his apprehension and return  
62 to this state for the summary hearing provided by this  
63 article: *Provided*, That the board may, if it be of opinion  
64 the best interests of justice do not require such hearing,  
65 cause the paroled absconder to be released to continue on  
66 parole.

## CHAPTER 45

(Senate Bill No. 182—By Mr. Riley)

AN ACT to amend article four, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section three, relating to disclaimer of gifts under wills or property passing by intestacy.

[Passed February 23, 1959; in effect from passage. Approved by the Governor.]

### Article 4. General Provisions.

#### Section

3. Disclaimer of gifts under wills or property passing by intestacy.

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

That article four, chapter forty-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 three, to read as follows:

#### Section 3. *Disclaimer of Gifts Under Wills or Property*

2 *Passing by Intestacy.*—Any devisee or beneficiary who is  
3 *sui juris*, shall have the right, within two months from the  
4 date on which the will is admitted to probate, to disclaim  
5 such devise or bequest. If the will be contested, or the  
6 order admitting it to probate be appealed from, such  
7 disclaimer may be made within two months of the final  
8 decision on such contest or appeal. The devise or bequest  
9 so disclaimed shall pass as the will directs where there is  
10 a provision for disclaimer contained in the will making  
11 a specific alternative disposition of such property, and, in  
12 the absence of any such provision said devise or bequest  
13 shall pass as if the person so disclaiming had immediately  
14 predeceased the testator.

15 Any heir-at-law or distributee under the laws of descent  
16 and distribution who is *sui juris*, shall have the right,  
17 within two months of the date of death of the decedent,

18 to disclaim such real or personal property. The property  
19 so disclaimed shall pass by the laws of descent and dis-  
20 tribution of this state as if the person so disclaiming had  
21 immediately predeceased the decedent.

22 Any such disclaimer shall be made by a writing signed  
23 by the person so disclaiming and acknowledged in such  
24 manner as would authorize a deed to be admitted to  
25 record and shall be filed and recorded in the office of the  
26 clerk of the county court by which the will is admitted to  
27 probate or, in the event of intestacy, in the office of the  
28 clerk of the county court in which the decedent's estate is  
29 administered; and in either event, such disclaimer shall be  
30 recorded with fiduciary orders and/or probate documents.  
31 Said gift or property so disclaimed shall be considered as  
32 never having vested in any manner whatsoever in the per-  
33 son so disclaiming.

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## CHAPTER 46

(House Bill No. 185—By Mrs. Drewry and Mrs. Walker)

AN ACT to amend and reenact section six, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to application for an issuance of marriage license.

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[Passed March 2, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Marriage.

#### Section

6. Application for license; requirements for issuance of license.

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

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

Section 6. *Application for License; Requirements for*  
2 *Issuance of License.*—Every license for marriage shall be

3 issued by the clerk of the county court of the county in  
4 which the female to be married usually resides, except in  
5 cases of a female who is a nonresident of the state of  
6 West Virginia, by the clerk of the county court of the  
7 county in which application is made: *Provided, however,*  
8 That such license shall be issued not sooner than three  
9 days after the filing with said clerk of a written applica-  
10 tion therefor. The day upon which such application is  
11 filed shall be counted as the first day, but two full days  
12 shall elapse after the day of such filing before the license  
13 shall be issued: *Provided, further,* That before any such  
14 license is issued each applicant therefor shall file with  
15 the clerk a certificate or certificates from any physician  
16 duly licensed in the state, stating that each party thereto  
17 has been given such examination, including a standard  
18 serological test, as may be necessary for the discovery of  
19 syphilis, made not more than thirty days prior to the date  
20 on which such license is issued, and stating that in the  
21 opinion of the physician the person therein named either  
22 is not infected with syphilis or, if so infected, is not in  
23 the state of the disease which is or may later become  
24 communicable. Such examinations and tests as are re-  
25 quired hereunder may be given as provided by section  
26 nineteen, article four, chapter sixteen of this code.

27 The application for a marriage license shall contain  
28 a statement of the full names of both parties, their respec-  
29 tive ages and their places of birth and residence. It shall  
30 be signed by one or the other of the parties to the con-  
31 templated marriage, and shall be verified by such party  
32 to be true to the best of his or her knowledge and belief;  
33 and shall be recorded in the register of marriages pro-  
34 vided for in section eleven of this article. The date of its  
35 filing shall be noted in said register, which notation or a  
36 certified copy thereof shall be legal evidence of the facts  
37 therein contained.

38 To the extent otherwise provided by section six-c of  
39 this article, the provisions of this section shall not apply.  
40 No application for license shall be received nor any license  
41 issued on any Sunday, or before the hours of eight o'clock  
42 A.M. and after five o'clock P.M. on any week day.

## CHAPTER 47

(House Bill No. 212—By Mr. Watson)

AN ACT to amend and reenact section five, article four, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the effect of a decree of adoption as to the relations of parent and child and rights of inheritance.

[Passed March 11, 1959; in effect from passage. Approved by the Governor.]

### Article 4. Adoption.

#### Section

5. Effect of decree as to relations of parents and child and rights of inheritance.

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

That section five, 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 5. *Effect of Decree as to Relations of Parents and Child and Rights of Inheritance.*—Upon the entry of such decree of adoption, the natural parent or parents, any parent or parents by any previous legal adoption, and the lineal or collateral kindred of any such parent or parents, except any such parent who is the husband or wife of the petitioner for adoption, shall be divested of all legal rights, including the right of inheritance from or through the adopted child under the statutes of descent and distribution of this state, and shall be divested of all obligations in respect to the said adopted child, and the said adopted child shall be free from all legal obligations, including obedience and maintenance, in respect to any such parent or parents. From and after the entry of such decree of adoption, the adopted child shall be, to all intents and for all purposes, the child of the person or persons so adopting him or her and shall be entitled to all the rights and privileges and subject to all the obligations

19 of a natural child of such adopting parent or parents.  
20 For the purpose of descent and distribution, from and  
21 after the entry of such decree of adoption, a legally  
22 adopted child shall inherit from and through the parent  
23 or parents of such child by adoption and from or through  
24 the lineal or collateral kindred of such adopting parent  
25 or parents in the same manner and to the same extent as  
26 though said adopted child were a natural child of such  
27 adopting parent or parents, but such child shall not inherit  
28 from his or her natural parent or parents nor their lineal  
29 or collateral kindred, except that a child legally adopted  
30 by a husband or wife of the natural parent shall inherit  
31 from the natural parent of such child as well as from the  
32 adopting parent. If a legally adopted child shall die intes-  
33 tate, all property, including real and personal, of such  
34 adopted child shall pass, according to the statutes of de-  
35 scent and distribution of this state, to those persons who  
36 would have taken had the decedent been the natural child  
37 of the adopting parent or parents.

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## CHAPTER 48

(Com. Sub. for House Bill No. 23—Originating in the House  
Committee on the Judiciary)

AN ACT to amend and reenact section one, article eight, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to desertion or nonsupport of wife or child; the offense; penalty; allowing a convicted person to remain in his regular employment and to be confined in jail between periods of employment.

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[Passed February 11, 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 8. Desertion or Nonsupport of Wife or Child.

#### Section

1. Offense; penalty.



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

That section one, article eight, 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 1. *Offense; Penalty.*—Any husband who shall,  
2 without just cause, desert or wilfully neglect or refuse  
3 to provide for the support and maintenance of his wife,  
4 in destitute and necessitous circumstances, or any parent  
5 who shall, without lawful excuse, desert or wilfully neg-  
6 lect or refuse to provide for the support and maintenance  
7 of his or her legitimate or illegitimate child or children,  
8 under the age of sixteen years, in destitute and neces-  
9 sitous circumstances, shall be guilty of a misdemeanor,  
10 and, upon conviction thereof, shall be fined not exceeding  
11 five hundred dollars, or imprisoned in the county jail  
12 not exceeding one year, with hard labor, or both, and the  
13 court may also direct that the husband or parent work  
14 on the public highways of this state or where he may  
15 obtain employment, and the court may order such pay-  
16 ments to be made to the wife, guardian, custodian or  
17 trustee of such minor child or children as he may deem  
18 necessary for their maintenance, taking into considera-  
19 tion the station in life of such husband or parent and  
20 any other circumstances surrounding the case: *Provided,*  
21 *however.* That if such husband or parent be regularly  
22 employed, the court in its discretion may order such hus-  
23 band or parent to remain in such employment, and it  
24 shall be the duty of the sheriff to arrange for a continua-  
25 tion of said employment without interruption, and when-  
26 ever such husband or parent is not employed, and be-  
27 tween the hours or periods of employment, he or she  
28 shall be confined in jail unless the court shall otherwise  
29 direct. The earnings of such husband or parent shall be  
30 collected by the sheriff, and from such earnings the sheriff  
31 shall pay the board and reasonably necessary personal  
32 expenses of such husband or parent, both inside and out-  
33 side the jail, and, to the extent directed by the court, pay  
34 the balance to the wife, guardian, custodian or trustee of  
35 such minor child or children, as the court may order.

## CHAPTER 49

(Com. Sub. for Senate Bill No. 13—Originating in the Senate  
Committee on the Judiciary)

AN ACT to amend article one, chapter forty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty, relating to awarding a cash sum in lieu of dower.

[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### Article 1. Dower.

#### Section

20. Award of cash sum in lieu of dower in kind.

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

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

Section 20. *Award of Cash Sum in Lieu of Dower in*  
2 *Kind.*—Subject to the provisions of section eleven of this  
3 article, in any proceeding for the assignment of dower  
4 hereafter brought pursuant to the provisions of sections  
5 twelve or thirteen of this article, if the court be of the  
6 opinion that the real estate involved in such proceeding is  
7 indivisible or that the value thereof will be enhanced or  
8 preserved by not assigning dower in kind, or that the sur-  
9 viving spouse may be fully compensated for such dower  
10 and his or her interest will not be adversely affected by  
11 awarding the cash value of such dower to him or her in  
12 lieu of dower in kind, and finds that the persons entitled to  
13 the real estate subject to such dower, or any of them, are  
14 willing and able, either from the remaining unencumbered  
15 personal estate distributable to them or from any other  
16 source, to pay in cash to such surviving spouse a gross sum  
17 in cash equal to the value of such dower, the court shall

18 order that in lieu of assignment of dower in kind payment  
19 shall be made to the surviving spouse of cash in an amount  
20 equal to the value of such dower computed as provided in  
21 article two of this chapter. Unless all parties owning an  
22 interest in said real estate and the surviving spouse are  
23 able to agree upon the value of the real estate subject to  
24 such dower, the court, or the judge thereof in vacation,  
25 shall take evidence upon the value thereof, in the same  
26 manner as in other chancery causes involving the value of  
27 real estate, and shall find the fair market value of such  
28 real estate, upon which the cash value of the dower shall  
29 be computed and determined. The value of the real estate  
30 shall be determined as of the date of entering the decree  
31 or order of the court directing payment of a gross sum  
32 of cash in lieu of dower in kind, and the sum finally de-  
33 termined to be the value of such dower shall bear interest  
34 from the same date until paid at the rate of six per cent  
35 per annum. Payment of such sum and interest shall be  
36 made on such date as may be fixed by the court ade-  
37 quately to protect the interests of such surviving spouse.  
38 Upon such payment the court shall order a release of the  
39 dower interest to be executed by such spouse if not under  
40 disability, or if he or she be under disability or fail or  
41 refuse to execute such release, then by a special commis-  
42 sioner to be appointed by the court for the purpose, and  
43 such a release executed by such special commissioner  
44 shall operate to divest from such surviving spouse all  
45 dower in said real estate and transfer the same to the  
46 grantee in the instrument releasing such dower. In the  
47 event the persons directed to pay such gross sum in lieu  
48 of dower fail to pay the same within the time allowed by  
49 the court, the court shall proceed to assign dower in kind.

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## CHAPTER 50

(Senate Bill No. 340—By Mr. Bean, Mr. President,  
and Mr. Carrigan)

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AN ACT to amend chapter twenty-nine of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended,

by adding thereto a new article, designated article thirteen, relating to the establishing of an "Economic Development Agency" for the purpose of accelerating a return to and maintenance of a stable economy in West Virginia; providing a facility for the utilization of funds from the government of the United States and other sources for the accomplishment of such objectives; and abolishing the "State Planning Board" and transferring the powers and duties thereof to the "Economic Development Agency".

[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### **Article 13. Economic Development Agency.**

#### **Section**

1. Economic development agency created; number of members; how appointed.
2. Terms of members.
3. Honorarium and traveling expenses.
4. Chairman.
5. Offices; meetings; quorum.
6. Rules of agency; records; employees; executive director and employees; expenses, assistance of other departments.
7. Duties of agency generally.
8. Authority to enter into agreements.
9. Authority to expend funds, and participate in federal planning assistance programs.
10. Report; recommendations, etc.
11. Additional powers and duties; state planning board abolished.

#### *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 thirteen to read as follows:

- Section 1. *Economic Development Agency Created; Number of Members; How Appointed.*—There is hereby created the "Economic Development Agency", herein after referred to as the "agency", to consist of nine members, not more than five of whom shall be of the same political party, who shall be appointed by the governor, by and with the advice and consent of the Senate.

- Sec. 2. *Terms of Members.*—The terms of the members shall be for four years, and until their successors are ap-

3 pointed and qualified. The first three members appointed  
4 shall serve for a period of one year; the second two, for a  
5 period of two years; the next two for a period of three  
6 years; and the remaining two, for a period of four years.  
7 Thereafter, all such appointments shall be made for a  
8 term of four years, except that in case of a vacancy the  
9 appointment shall be made to fill the unexpired term.

Sec. 3. *Honorarium and Traveling Expenses.*—Each  
2 member of the agency shall receive an honorarium of  
3 twenty-five dollars for each day actually served in at-  
4 tendance at meetings of the agency, and actual expenses  
5 incurred in the performance of his duties under the provi-  
6 sions of this article.

Sec. 4. *Chairman.*—The governor shall annually desig-  
2 nate a member as chairman of the agency.

Sec. 5. *Offices; Meetings; Quorum.*—The agency shall  
2 be supplied with necessary office space in the state capitol  
3 or in some other state office building. It shall meet upon  
4 the call of the chairman and upon such other call and at  
5 such other times and places as it may determine. A  
6 majority of the members shall constitute a quorum for  
7 the transaction of business.

Sec. 6. *Rules of Agency; Records; Employees; Execu-  
2 tive Director and Employees; Expenses; Assistance of  
3 Other Departments.*—The agency shall provide rules for  
4 the conduct of its proceedings. It shall keep permanent  
5 and complete public records of its meetings, hearings,  
6 orders, and decisions. In order to carry out the purposes  
7 of this article, the agency shall appoint an executive di-  
8 rector, who shall be qualified by special training and ex-  
9 perience in the field of state, local, or national economic  
10 planning and community development, and employ such  
11 other technical and clerical assistance as may be re-  
12 quired. It may fix their compensation, and may within  
13 the limits of the funds available, incur any other ex-  
14 penses necessary to the effective discharge of its powers  
15 and duties. The agency may request the assistance and  
16 advice of other state departments and agencies in making  
17 its studies and in formulating its plans.

Sec. 7. *Duties of Agency Generally.*—The agency shall  
2 prepare and maintain a master plan for the physical, soc-  
3 ial, and economic development of the state, and shall pre-  
4 pare and keep current a proposed long-range program of  
5 major state improvements relating to the comprehensive  
6 development of natural and artificial resources of this  
7 state. The agency shall cooperate with existing federal  
8 and state departments and other agencies or groups in  
9 perfecting and promoting said master plan. The agency  
10 also may, and, at the request of the governor, shall:

11 (1) Advise with the various federal, state and local  
12 authorities and any other agency or group whose interests  
13 are in harmony with the purposes of this article, and par-  
14 ticularly with out-of-state and intrastate planning au-  
15 thorities as to ways and means of coordinating all plans  
16 for the physical and economic development of the state.

17 (2) Publish information as an aid to planning on both  
18 community and state levels.

19 (3) Provide professional services to communities plan-  
20 ning or engaged in economic improvement.

21 (4) Make studies, collect and utilize information per-  
22 taining to the physical, social, and economic development  
23 of the state, and make such recommendations to the gov-  
24 ernor and to the Legislature as it may deem advisable.

25 (5) Organize voluntary county or regional councils or  
26 groups in order to help effectuate the purposes of this  
27 article on the local level.

Sec. 8. *Authority to Enter into Agreements.*—The agency  
2 may enter into agreements with federal and state depart-  
3 ments or agencies, including those of other states, and any  
4 other groups whose interests are in harmony with the  
5 purposes of this article, as well as with counties or munici-  
6 palities of this state, for the promotion of and for the  
7 rendering of consultative service with respect to the plan-  
8 ning of the county or municipality. The agreement may  
9 provide that the county or municipality shall pay part or  
10 all of the expense of such services.

Sec. 9. *Authority to Expend Funds, and Participate in*  
2 *Federal Planning Assistance Programs.*—The agency is  
3 authorized to spend funds made available for the purposes

4 of this article, and to accept and use funds provided for  
5 the purposes of this article by the government of the  
6 United States and any other agency or group whose in-  
7 terests are in harmony with the purposes of this act, in  
8 accordance with federal requirements and under such con-  
9 ditions as the laws of this state may provide. In this con-  
10 nection, the agency is hereby expressly authorized to par-  
11 ticipate in the federal planning assistance programs as set  
12 forth in the "Federal Housing Act of 1954", as amended,  
13 and any subsequent acts; to give planning assistance to  
14 municipalities, whatever their size, and metropolitan and  
15 regional areas, and any other areas now or hereafter en-  
16 gaged in such activity; and to accept, on behalf of said  
17 municipalities, metropolitan and regional areas, funds pro-  
18 vided by the government of the United States in accord-  
19 ance with the aforesaid "Federal Housing Act of 1954",  
20 as amended.

Sec. 10. *Report; Recommendations, etc.*—The agency  
2 shall submit a report of progress to the governor and to  
3 the Legislature in January of each year, in addition to  
4 such other recommendations, studies, and plans as it may  
5 submit from time to time.

Sec. 11. *Additional Powers and Duties; State Planning  
2 Board Abolished.*—The agency shall have and is hereby  
3 granted all of the powers and authority and shall perform  
4 all of the functions and services vested in and performed  
5 by the "State Planning Board", which is hereby abolished.  
6 Whenever in this chapter or elsewhere in law reference  
7 is made to the "State Planning Board", such reference  
8 shall henceforth be construed and understood to mean  
9 the "Economic Development Agency".

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## CHAPTER 51

(Com. Sub. for House Bill No. 299—Originating in the  
House Committee on Education)

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AN ACT to amend article two, chapter eighteen of the code of  
West Virginia, one thousand nine hundred thirty-one, as

amended, by adding to said article a new section, designated section ten, relating to regulation of privately-owned correspondence, business and trade schools, and providing penalties for violations.

[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 2. State Board of Education.

### Section

10. Permits required for certain correspondence, business and trade schools; application for permit; fee; bond; revocation of permits; rules and regulations.

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

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

Section 10. *Permits Required for Certain Correspondence, Business and Trade Schools; Application for Permit; Fee; Bond; Revocation of Permits; Rules and Regulations.*—It shall be unlawful for any person representing a correspondence school (excepting accredited members of the national home study council), located within this state or outside thereof, to solicit, sell, or offer to sell within this state any correspondence course for a consideration or remuneration, and for any person representing a privately-owned business school (excepting those resident business schools or commercial colleges who are members of the West Virginia association of business schools and who are also members of the national association and council of business schools) or trade schools to solicit, sell, or offer to sell any resident for a consideration or remuneration courses of instruction unless such person first obtains a permit from the West Virginia board of education in the manner and on the terms herein prescribed.

The application for a permit shall be made on forms to be furnished by the said board. The application shall be



21 accompanied by a fee of five dollars and by a surety bond  
22 in the penal sum of one thousand dollars. Such bond may  
23 be continuous and shall be conditioned to provide indemni-  
24 fication to any student suffering loss as a result of any  
25 fraud or misrepresentation used in procuring his enroll-  
26 ment. The bond may be given by the representative of a  
27 school or by the school itself as a blanket bond covering  
28 all of its representatives in the amount of one thousand  
29 dollars each. The surety on any such bond may cancel  
30 the same upon giving thirty days' notice in writing to  
31 the principal on said bond and to the state board of edu-  
32 cation, and thereafter shall be relieved of liability for  
33 any breach of condition occurring after the effective  
34 date of said cancellation.

35 A permit shall be valid for the calendar year in which  
36 it is issued, and, upon application, accompanied by a fee  
37 of five dollars and the surety bond as herein required,  
38 may be renewed if a continuous bond has not been fur-  
39 nished.

40 All fees collected for the issuance or renewal of such  
41 permits shall be deposited in the state treasury to the  
42 credit of the general school fund.

43 No person shall be granted a permit under this section  
44 unless he is an individual of good moral character.

45 A permit issued hereunder may upon ten days' notice  
46 and after a hearing be revoked by the said board of educa-  
47 tion for fraud or misrepresentation in soliciting or enroll-  
48 ing students, or for other cause.

49 The said board of education is hereby authorized to  
50 adopt rules and regulations for the administration and  
51 enforcement of the provisions of this section, and to es-  
52 tablish an advisory committee of not more than five  
53 owners or other representatives of privately owned cor-  
54 respondence, business and trade schools.

55 Any person violating any provision of this section, shall  
56 be guilty of a misdemeanor, and upon conviction thereof,  
57 shall be fined not more than two hundred dollars or be  
58 imprisoned not more than sixty days, or both fined and  
59 imprisoned, in the discretion of the court.

## CHAPTER 52

(House Bill No. 97—By Mr. Myles)

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-c, relating to payroll deductions for contributions by employees of the West Virginia board of education or institutions operating under the jurisdiction of the West Virginia board of education for participation in group insurance plans.

[Passed February 20, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 2. State Board of Education.

#### Section

13-c. Payroll deductions for employees participation in group insurance plans.

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

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

Section 13-c. *Payroll Deductions for Employees Participation in Group Insurance Plans.*—Whenever any employees of the West Virginia board of education or institutions operating under the jurisdiction of the West Virginia board of education 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 53

(House Bill No. 76—By Mr. Floyd and Mr. Seibert)

AN ACT to amend and reenact section eighteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment of kindergarten schools or classes and standards for their operation.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 5. District Board of Education.

#### Section

#### 18. Kindergartens.

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

That section eighteen, 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 18. *Kindergartens.*—The board of education of  
2 any county shall have authority to establish in connection  
3 with the public school system, kindergarten schools or  
4 classes to which may be admitted children between the  
5 ages of four and six years. Persons employed as public  
6 kindergarten teachers shall be required to hold a certifi-  
7 cate valid for teaching in the elementary schools and may  
8 be required at the discretion of the state board of educa-  
9 tion to take specialized training.  
10 The state board of education with the advice of the  
11 state superintendent of free schools shall prescribe stand-  
12 ards and regulations relating to the establishment and  
13 operation of public kindergarten schools and classes.  
14 Standards so prescribed are also intended to serve as cri-  
15 teria to guide the development of non-public kindergarten  
16 schools and shall be used for the evaluation and approval  
17 of such schools and classes provided application for such  
18 evaluation and approval is made in writing to the state

19 department of education by proper authorities in control  
20 of such schools or classes. The state superintendent of  
21 free schools at intervals not to exceed two years, begin-  
22 ning with the school year one thousand nine hundred  
23 fifty-nine-sixty, shall publish a list of non-public kinder-  
24 garten schools or classes that have been approved in ac-  
25 cordance with the provisions of this section.

## CHAPTER 54

(House Bill No. 257—By Mr. Callaway)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-six-a, relating to the authority of a county board of education to offer rewards.

[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### Article 5. District Board of Education.

#### Section

36-a. Authority to offer rewards.

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

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

Section 36-a. *Authority to Offer Rewards.*—A county  
2 board of education shall have the authority to offer a  
3 reward for information leading to the arrest and/or con-  
4 viction of any person or persons who damage or destroy  
5 school property, or who threaten, offer or attempt to do  
6 so.

## CHAPTER 55

(House Bill No. 77—By Mr. Floyd and Mr. Seibert)

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 for teachers.

[Passed March 14, 1959; in effect ninety days from passage. 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.*—The county  
2 board of education shall establish and maintain in its  
3 annual budget a separate fund to be known as the “teach-  
4 ers’ sick leave fund.” In allocating money to this fund,  
5 the board shall provide and maintain a reasonable re-  
6 serve to meet the cost of any accumulated sick leave that  
7 may occur.

8 Any full-time teacher employed by a county board of  
9 education shall be entitled to at least five days of sick  
10 leave per year, accumulative to a total of twenty school  
11 days. Money allocated to the sick leave fund shall be used  
12 to pay the salary of any full-time teacher who loses time  
13 from assigned duties due to personal accident, sickness,  
14 death in the immediate family, or any other emergency  
15 cause that may be authorized or approved by the board.

16 All sick leave benefits shall be paid at the end of the  
17 school year. If funds budgeted for sick leave are insuffi-  
18 cient to pay the amount due, the per diem salaries for all  
19 teachers claiming sick leave benefits shall be reduced  
20 proportionately. The board is authorized to prescribe such  
21 other regulations as it may deem necessary.

## CHAPTER 56

(House Bill No. 79—By Mr. Floyd and Mr. Seibert)

AN ACT to amend and reenact section four, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time lost through closing of schools.

[Passed February 18, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Teachers.

#### Section

4. Time lost through closing schools; holidays; extension of school term.

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

That section four, 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 4. *Time Lost Through Closing Schools; Holidays; Extension of School Term.*—In accordance with the provisions of chapter eighteen of the code, the county board of education shall provide a minimum of one hundred and eighty days of instruction beginning with the opening of the said school term as established in the annual budget which has been duly approved by the board of school finance and adopted by the county board in its fixed statutory meeting for such purpose.
- Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control. Schools shall not be kept open for instruction on any Saturday nor on the following days which are hereby named and designated as school holidays, namely: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, and any day on which a primary election or general

19 election or special election is held throughout the state  
20 or school district and any day appointed and set apart  
21 by the president or the governor as a holiday of special  
22 observance by the people of the state.

23 Under any or all of the above provisions, the time lost  
24 by the closing of schools shall be counted as taught and  
25 as meeting a part of the requirements of the minimum  
26 term of one hundred and eighty days of instruction. The  
27 teacher shall receive pay the same as if school were in  
28 session: *Provided*, That he has held himself in readiness  
29 to teach subject to the order of the board: *And provided*  
30 *further*, That, in case of the designated school holidays,  
31 the school has been taught on the day preceding or follow-  
32 ing such holiday or holidays.

33 Insofar as funds are available or can be made available  
34 during the school year, the board may extend the school  
35 term for such time as necessary to make up any or all of  
36 the lost time provided for above, thereby assuring the  
37 greatest possible amount of the one hundred and eighty  
38 days for actual class instruction.

39 In addition to any other provisions of this chapter, the  
40 board is further authorized to provide in its annual budget  
41 for teachers' meetings, workshops, vacation time and/or  
42 other holidays through extended employment of teachers  
43 at the same rate of pay.

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## CHAPTER 57

(Senate Bill No. 72—By Mr. Traubert and Mr. Bowers)

AN ACT to amend and reenact section five, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the payment of teachers and other employees.

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[Passed February 9, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Teachers.

#### Section

5. Payment of teachers and other employees.

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

That section five, 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 5. Payment of Teachers and Other Employees.—*

2 All teachers and employees whose salaries are payable out  
3 of the school current fund shall be paid for their services  
4 by orders drawn upon the sheriff or treasurer and duly  
5 signed by the president and secretary of the board in ac-  
6 cordance with the following provisions:

7 Notwithstanding any other provisions of this chapter,  
8 all teachers duly contracted shall be paid in not fewer than  
9 nine nor more than twelve monthly pays and on a fixed  
10 and regularly designated date for the calendar month.  
11 Adjustments for time loss due to absence may be made  
12 in the next pay check following such time loss.

13 The board may withhold the monthly salary of any  
14 teacher or employee until he has made the reports re-  
15 quired by the board or the state superintendent.

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## CHAPTER 58

(Senate Bill No. 85—By Mr. McKown)

AN ACT to amend and reenact section three, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions of "teacher".

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[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7-a. State Teachers' Retirement System.

#### Section

#### 3. Definitions.

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

That section three, article seven-a, chapter eighteen, of the



code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Definitions*.—"Teacher" shall include the following persons, if regularly employed for at least half time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) county superintendents of schools and assistant county superintendents of schools; (e) any county school attendance director holding a West Virginia teachers' certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a nonteaching capacity by the state board of education, the board of governors of West Virginia university, any county board of education, the state department of education or the teachers' retirement board, if such person was formerly employed as a teacher in the public schools; (k) all classroom teachers, principals, and educational administrators in schools under the supervision of the state board of control; (l) employees of the state board of school finance if such person was formerly employed as a teacher in the public schools.

"Members of the administrative staff of the public schools" shall include deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

"Members of the extension staff" of the public schools shall include every agricultural agent, boys' and girls' club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

"Retirement system" shall mean the state teachers' retirement system provided for in this article.

"Present teacher" shall mean any person who was a teacher within the seven years beginning July first, one

40 thousand nine hundred thirty-nine, and whose member-  
41 ship in the retirement system has been continuous.

42 "New entrant" shall mean a teacher who is not a pres-  
43 ent teacher.

44 "Present member" shall mean a present teacher who is  
45 a member of the retirement system.

46 "Total service" shall mean all service as a teacher while  
47 a member of the retirement system since last becoming  
48 a member and, in addition thereto, his credit for prior  
49 service, if any.

50 "Prior service" shall mean all service as a teacher com-  
51 pleted prior to July first, one thousand nine hundred  
52 forty-one, and all service of a present member who was  
53 employed as a teacher, and did not contribute to retire-  
54 ment account because he was legally ineligible for mem-  
55 bership during such service.

56 "Average final salary" shall mean the average annual  
57 salary earned as a teacher during the last fifteen years of  
58 prior service, including military service, as provided  
59 herein, or if prior service is less than fifteen years, the  
60 average annual salary for that period. If the records for  
61 determining each annual salary needed cannot reasonably  
62 be established by the retirement board, then the term  
63 shall mean the average annual salary of the teacher for  
64 years for which records are available.

65 "Accumulated contributions" shall mean all deposits  
66 and all deductions from the earnable compensation of a  
67 contributor minus the total of all supplemental fees de-  
68 ducted from his compensation.

69 "Regular interest" shall mean interest at three percent  
70 compounded annually, or a higher earnable rate if ap-  
71 proved by the retirement board.

72 "Refund interest" shall mean the interest on refunds  
73 of the accumulated contributions and deposits payable  
74 to former members or to the beneficiaries of deceased  
75 members, as provided in this article. The rate for refund  
76 interest shall be the average annual rate of interest, cal-  
77 culated to one decimal place, earned on retirement board  
78 investments in effect at the end of the fiscal year for  
79 which the interest is due, according to the sworn state-

80 ment of the fund custodian required by section nineteen  
81 of this article.

82 "Employer" shall mean the agency of and within the  
83 state which has employed or employs a member.

84 "Contributor" shall mean a member of the retirement  
85 system who has an account in the teachers accumulation  
86 fund.

87 "Beneficiary" shall mean the recipient of annuity pay-  
88 ments made under the retirement system.

89 "Refund beneficiary" shall mean the estate of a deceased  
90 contributor, or such person as he shall have nominated  
91 as beneficiary of his contributions by written designation  
92 duly executed and filed with the retirement board.

93 "Earnable compensation" shall mean the full compensa-  
94 tion actually received by members for service as teachers  
95 whether or not a part of such compensation is received  
96 from other funds, federal or otherwise, than those pro-  
97 vided by the state or its subdivisions. Allowances from  
98 employers for maintenance of members shall be deemed  
99 a part of earnable compensation of such members.

100 "Annuities" shall mean the annual retirement payments  
101 for life granted beneficiaries in accordance with this ar-  
102 ticle.

103 "Member" shall mean a member of the retirement sys-  
104 tem.

105 "Public schools" shall mean all publicly supported  
106 schools, including normal schools, colleges, and universi-  
107 ties in this state.

108 "Deposit" shall mean a voluntary payment to his ac-  
109 count by a member.

110 The masculine gender shall be construed so as to include  
111 the feminine.

112 Age in excess of seventy years shall be deemed to be  
113 seventy years.

c

## CHAPTER 59

(Senate Bill No. 245—By Mr. Traubert and Mr. Moats)

AN ACT to amend and reenact section two-c, article nine, chap-  
ter eighteen of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to transfer by sheriff of unneeded and unexpended funds collected to retire school bonds; how funds to be used and expended.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 9. School Finances.

### Section

2-c. Transfer by sheriff of unneeded and unexpended funds collected to retire school bonds; how funds to be used and expended.

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

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

Section 2-c. *Transfer by Sheriff of Unneeded and Unexpended Funds Collected to Retire School Bonds; How Funds to Be Used and Expended.*—The sheriffs of the various counties are hereby authorized and directed to transfer to the credit of the school current fund of the boards of education of their respective counties, all remaining funds collected for the retirement of school bonds after such bond shall have been retired, if the fact of such retirement has been certified by the state sinking fund commission.

When such bond shall have been retired the state sinking fund commission shall certify the fact of the retirement of such bond to the sheriff and to the board of education of the county. Such funds shall be used in the same manner as other funds now to the credit of, or which may hereafter be placed to the credit of, the school current fund of the respective boards of education.

## CHAPTER 60

(House Bill No. 295—By Mr. Singleton)

AN ACT to amend and reenact section fifteen, article nine-a, chapter eighteen of the code of West Virginia, one thousand

nine hundred thirty-one, as amended, relating to state aid to schools.

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[Passed March 7, 1959; in effect July 1, 1959. Approved by the Governor.]

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### Article 9-a. Allocation of State Aid for Schools.

#### Section

15. Qualification for state aid; reductions in county allocation.

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

That section fifteen, 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 15. *Qualification for State Aid; Reductions in*  
2 *County Allocation.*—Beginning with the fiscal year, one  
3 thousand nine hundred fifty-six—one thousand nine hun-  
4 dred fifty-seven, in order for a county to qualify for its full  
5 allocation of state aid, as provided in this article, the  
6 assessed valuation of all non-public utility property in the  
7 county for the assessment year one thousand nine hundred  
8 fifty-six must be not less than thirty-five per cent of the  
9 appraised value of such non-public utility property as  
10 determined by the tax commissioner in his state-wide re-  
11 port to be submitted in January, one thousand nine hun-  
12 dred fifty-six; and for the fiscal year one thousand nine  
13 hundred fifty-seven—one thousand nine hundred fifty-  
14 eight, such assessed valuation for the assessment year one  
15 thousand nine hundred fifty-seven must be not less than  
16 forty per cent of the appraised value of such property as  
17 determined in the tax commissioner's last previous state-  
18 wide report; and during the year one thousand nine hund-  
19 red fifty-eight—one thousand nine hundred fifty-nine, such  
20 assessed valuation for the assessment year one thousand  
21 nine hundred fifty-eight must be not less than forty-five  
22 per cent of the appraised value so determined; and for each  
23 year thereafter such assessed valuation must be not less  
24 than fifty per cent of the appraised value of such property  
25 as determined by the last previous state-wide report of  
26 the tax commissioner.

27 Whenever for any year a county has failed to raise the  
28 assessed valuation of its non-public utility property up to  
29 the assessment level required by the provisions of the pre-  
30 ceding paragraph, the amount of state aid to be paid to  
31 the county, as determined by the allocation of state aid  
32 made under other provisions of this article, shall be re-  
33 duced as follows: (1) First determine the number of per-  
34 centage points by which the county failed to reach the re-  
35 quired assessment level. (2) Reduce the allocation of state  
36 aid to the county by the same number of percentage  
37 points.

38 Inasmuch as bank deposits and money, which were ex-  
39 empted from ad valorem taxation by the constitutional  
40 amendment approved by the voters at the last general  
41 election, were included in the tax commissioner's survey  
42 for the year one thousand nine hundred fifty-eight as pro-  
43 vided by section three of this article, and inasmuch as such  
44 bank deposits and money will not be assessed for the year  
45 one thousand nine hundred fifty-nine, it becomes neces-  
46 sary to compensate for such bank deposits and money in-  
47 cluded in the one thousand nine hundred fifty-eight sur-  
48 vey for the purpose of this section. The Legislature finds  
49 that there is no practical means of eliminating bank de-  
50 posits and money in their exact amounts from the survey  
51 and hereby authorizes and requires the state board of  
52 school finance to substitute the one thousand nine hun-  
53 dred fifty-eight assessed valuation of Class I non-public  
54 utility property reported in the tax commissioner's survey  
55 of one thousand nine hundred fifty-eight for the one  
56 thousand nine hundred fifty-nine assessed valuation of this  
57 same property as certified by the assessor wherever such  
58 reported one thousand nine hundred fifty-eight assessment  
59 exceeds such reported one thousand nine hundred fifty-  
60 nine valuation for the purpose of determining the several  
61 counties' compliance with the provisions of this section.

62 Until such time as a complete survey for all fifty-five  
63 counties of the state can be completed by the tax com-  
64 missioner, the local share for each county shall remain the  
65 same as was used in the allocation of state aid for the  
66 fiscal year one thousand nine hundred fifty-four—one  
67 thousand nine hundred fifty-five.

## CHAPTER 61

(House Bill No. 120—By Mr. Floyd)

AN ACT to amend article ten, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen, relating to the authority of the governing board of each state educational institution to permit participation by the institution in federal student loan programs.

[Passed February 24, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 10. Federal Aid and Gifts for Educational Purposes.

#### Section

13. State educational institutions authorized to participate in federal student loan programs.

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

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

- Section 13. *State Educational Institutions Authorized to Participate in Federal Student Loan Programs.*—The governing board of each state educational institution is hereby authorized and empowered to comply with all provisions of federal law necessary to permit participation by such institution in the federal student loan program established by the "National Defense Education Act of 1958" or by any other act of Congress heretofore or hereafter enacted. The state matching funds needed to qualify the institution for receipt of federal contributions under any such program may be provided by the board from gifts or grants available to the institutions for loans to students unless the terms of the gift or grant would preclude its use for matching purposes.

## CHAPTER 62

(Senate Bill No. 212—By Mr. Moreland)

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 four-c, relating to the authority of the board of governors of West Virginia university to operate supply rooms at the medical center for the sale or rental of equipment to students, faculty, and university departments, and for the furnishing to students, faculty, and university departments, medical, dental and pharmaceutical supplies and laundry and other services; to the collection of charges therefor, and to the disposition of funds so collected.

[Passed March 2, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 11. West Virginia University.

#### Section

4-c. Authority to operate supply rooms at West Virginia university medical center; collection of charges; 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, designated section four-c, to read as follows:

Section 4-c. *Authority to Operate Supply Rooms at West Virginia University Medical Center; Collection of Charges; Disposition Thereof.*—The board of governors of West Virginia university shall have authority to operate at the medical center supply rooms for the sale or rental of equipment to students, faculty, and university departments and for the furnishing to students, faculty, and university departments, medical, dental and pharmaceutical supplies and laundry and other services. The board



10 shall have authority to fix the prices and charges to be  
11 collected for the sale, rental or furnishing of such equip-  
12 ment, supplies and services. Payment by the board of  
13 governors for the purchase of such equipment, supplies  
14 and services shall be made from the special medical school  
15 fund heretofore created in the state treasury under the  
16 provisions of section two, article nineteen, chapter eleven  
17 of this code, and all moneys collected under the authority  
18 of this section shall be paid into the special medical  
19 school fund and shall be used solely for the construction,  
20 maintenance and operation of the medical center.

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## CHAPTER 63

(Senate Bill No. 210—By Mr. Moreland)

AN ACT to amend and reenact section twenty-three, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of the board of governors of West Virginia university with respect to the administration and use of the contractual research revolving fund heretofore established.

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[Passed March 2, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 11. West Virginia University.

#### Section

23. Contractual research revolving fund.

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

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

#### Section 23. Contractual Research Revolving Fund.—

2 For the purpose of promoting and financing scientific and

3 other research at West Virginia university, the contract-  
4 ual research revolving fund heretofore created as a special  
5 fund in the state treasury shall be continued. The fund  
6 shall be administered by the board of governors as fol-  
7 lows:

8 (1) The moneys in the fund shall be used first for ad-  
9 vances necessary to finance scientific research under con-  
10 tracts made with agencies of the federal government,  
11 with state agencies such as the state road commission, the  
12 state department of health, the state conservation com-  
13 mission, the state department of mines, the state depart-  
14 ment of agriculture, or any other state agency authorized  
15 to enter into contracts for such research, or with any  
16 private corporation, trust or individual. Whenever the  
17 board has entered into any such contract, it may authorize  
18 expenditure from the fund of such sums as may be needed  
19 for performance of the contract. In order to reimburse the  
20 fund for such advances, all payments received under any  
21 such contract shall be redeposited in the fund. The unex-  
22 pended balance in the fund, together with total reimburs-  
23 able items payable to the fund under the provisions of this  
24 subsection shall never be less than one hundred thousand  
25 dollars.

26 (2) Whenever the amount remaining in the revolving  
27 fund, together with the reimbursable items specified in  
28 the preceding subsection, shall exceed one hundred thou-  
29 sand dollars, such excess may be used by the board to  
30 finance scientific or other research conducted by the uni-  
31 versity, whether under contract or otherwise.

32 (3) In the financing of contract or other research, ex-  
33 penditures may be made from the fund for the payment  
34 of all expenses needed in the conduct of the research, in-  
35 cluding the payment of salaries, reimbursement for neces-  
36 sary travel and other expenses, the purchase, rental or  
37 repair of equipment, and the purchase of supplies.

38 (4) Any money in the fund not immediately needed  
39 for the conduct of research may be temporarily invested  
40 by the board.

## CHAPTER 64

(House Bill No. 242—By Mr. Kincaid and Mr. Bias)

AN ACT to amend and reenact sections one, two and three, article twelve-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization of the construction or acquisition of certain capital improvements at Marshall college and the issuance of revenue bonds therefor.

[Passed February 16, 1959; in effect from passage. Approved by the Governor.]

### Article 12-a. Revenue Bonds for Marshall College Capital Improvements.

#### Section

1. West Virginia board of education authorized to issue revenue bonds for certain capital improvements.
2. Special Marshall college capital improvements fund created in state treasury; collections to be paid into special fund; authority of West Virginia board of education to pledge such collections as security for revenue bonds.
3. Issuance of revenue bonds.

*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 hundred 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 nine hundred 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

12 the cost of acquisition of land, the construction and equip-  
13 ment of any such building or buildings, and the provision  
14 of roads, utilities and other services necessary, appurte-  
15 nant or incidental to such building or buildings; and shall  
16 also include all other charges or expenses necessary, ap-  
17 purtenant or incidental to the construction, financing and  
18 placing in operation of any such building or buildings.

Sec. 2. *Special Marshall College Capital Improvements*  
2 *Fund Created in State Treasury; Collections to Be Paid*  
3 *into Special Fund; Authority of West Virginia Board of*  
4 *Education to Pledge Such Collections as Security for Reve-*  
5 *nue Bonds.*—There is hereby created in the state treasury  
6 a special non-revolving Marshall college capital improve-  
7 ments fund. On and after the first day of July, one thou-  
8 sand nine hundred fifty-seven, there shall be paid into  
9 such special fund all fees collected under the provisions  
10 of section one, article one-a, chapter twenty-five of this  
11 code, from students at Marshall college, except such fees  
12 as are required by that section to be paid into other spe-  
13 cial funds.

14 The board of education shall have authority to pledge  
15 all or such part of the revenue paid into the special Mar-  
16 shall college capital improvements fund as may be needed  
17 to meet the requirements of the sinking fund established  
18 in connection with any revenue bond issue authorized by  
19 this article, including a reserve fund for the payment of  
20 the principal of and interest on such revenue bond issue  
21 when other moneys in the sinking fund are insufficient  
22 therefor; and may provide in the resolution authorizing  
23 any issue of such bonds, and in any trust agreement made  
24 in connection therewith, for such priorities on the reve-  
25 nues paid into the special fund as may be necessary for  
26 the protection of the prior rights of the holders of bonds  
27 issued at different times under the provisions of this  
28 article. The board of education shall also have authority  
29 to use all or any part of the revenue paid into the  
30 special Marshall college capital improvements fund for  
31 the payment of all or any part of the cost of providing  
32 said health and physical education building for Marshall  
33 college: *Provided, however,* That in the event all or any  
34 part of such revenue is so used and applied, the amount

35 of revenue bonds which the board of education may issue  
36 pursuant to this article shall be correspondingly reduced  
37 so that the total amount expended pursuant to this article  
38 for the payment of the cost of providing said health and  
39 physical education building for Marshall college shall not  
40 exceed one million nine hundred thousand dollars exclu-  
41 sive of any appropriations, grants, gifts, or contributions  
42 therefor.

43 If any balance shall remain in the special Marshall  
44 college capital improvements fund after the board has  
45 issued the maximum of one million nine hundred thou-  
46 sand dollars worth of bonds authorized by this article,  
47 and after the requirements of all sinking funds and re-  
48 serve funds established in connection with the issue of such  
49 bonds have been satisfied, such balance may and shall be  
50 used solely for the redemption of any of the outstanding  
51 bonds issued hereunder which by their terms are then  
52 redeemable, or for the purchase of bonds at the market  
53 price, but at not exceeding the price, if any, at which such  
54 bonds shall in the same year be redeemable; and all bonds  
55 redeemed or purchased shall forthwith be cancelled and  
56 shall not again be issued. Whenever all outstanding bonds  
57 issued hereunder shall have been paid, the special Mar-  
58 shall college capital improvements fund shall cease to  
59 exist and any balance then remaining in such fund shall  
60 be transferred to the general revenue fund of the state.  
61 Thereafter all fees formerly paid into such special fund  
62 shall be paid into the general revenue fund of the state.

2     *Sec. 3. Issuance of Revenue Bonds.*—The issuance of  
3 bonds under the provisions of this article shall be author-  
4 ized by a resolution of the board of education, which shall  
5 recite an estimate by the board of the cost of the proposed  
6 building or buildings; and shall provide for the issuance  
7 of bonds in an amount sufficient, when sold as hereinafter  
8 provided, to provide moneys sufficient to pay such cost,  
9 less the amount of revenue paid into the special Marshall  
10 college capital improvements fund which is used to pay  
11 any part of the cost of providing said health and physical  
12 education building for Marshall college as authorized by  
13 section two of this article and less the amount of any  
other funds available for the construction of the building

14 or buildings from any appropriation, grant, gift, or con-  
15 tribution therefor. Such resolution shall prescribe the  
16 rights and duties of the bondholders and the board, and  
17 for such purpose may prescribe the form of the trust  
18 agreement hereinafter referred to. The bonds shall be of  
19 such series, bear such date or dates, mature at such time  
20 or times not exceeding thirty years from their respective  
21 dates, bear interest at such rate or rates not exceeding  
22 five per cent per annum, payable semi-annually; be in  
23 such denominations; be in such form, either coupon or  
24 fully registered without coupons, carrying such registra-  
25 tion exchangeability and interchangeability privileges;  
26 be payable in such medium of payment and at such place  
27 or places; be subject to such terms of redemption at such  
28 prices not exceeding one hundred five per cent of the prin-  
29 cipal amount thereof, and be entitled to such priorities on  
30 the revenues paid into the special Marshall college capital  
31 improvements fund as may be provided in the resolution  
32 authorizing the issuance of the bonds or in any trust  
33 agreement made in connection therewith. The bonds shall  
34 be signed by the governor, and by the president of the  
35 board of education, under the great seal of the state, at-  
36 tested by the secretary of state, and the coupons attached  
37 thereto shall bear the facsimile signature of the president  
38 of the board. In case any of the officers whose signatures  
39 appear on the bonds or coupons cease to be such officers  
40 before the delivery of such bonds, such signatures shall  
41 nevertheless be valid and sufficient for all purposes the  
42 same as if such officers had remained in office until such  
43 delivery.

44 Such bonds shall be sold in such manner as the board  
45 may determine to be for the best interests of the state,  
46 taking into consideration the financial responsibility of  
47 the purchaser, the terms and conditions of the purchase,  
48 and especially the availability of the proceeds of the bonds  
49 when required for payment of the cost of such building  
50 or buildings, such sale to be made at a price not lower  
51 than a price, which when computed upon standard tables  
52 of bond values, will show a net return of not more than  
53 six per cent per annum to the purchaser upon the amount  
54 paid therefor. The proceeds of such bonds shall be used

55 solely for the payment of the cost of such building or  
56 buildings, and shall be deposited in the state treasury in  
57 a special fund and checked out as provided by law for the  
58 disbursement of other state funds. If the proceeds of such  
59 bonds, by error in calculation or otherwise, shall, together  
60 with any other funds used therefor as hereinbefore in  
61 this article authorized, be less than the cost of such build-  
62 ing or buildings, additional bonds may in like manner be  
63 issued to provide the amount of the deficiency, but in no  
64 case to exceed one million nine hundred thousand dollars  
65 less the amount of any other funds used therefor as here-  
66 inbefore in this article authorized; and unless otherwise  
67 provided for in the resolution or trust agreement herein-  
68 after mentioned, shall be deemed to be of the same issue,  
69 and shall be entitled to payment from the same fund,  
70 without preference or priority, as the bonds before issued  
71 for such building or buildings. If the proceeds of bonds  
72 issued for such building or buildings shall, together with  
73 the amount of any other funds used therefor as herein-  
74 before in this article authorized, exceed the cost thereof,  
75 the surplus shall be paid into the sinking fund to be estab-  
76 lished for payment of the principal and interest of such  
77 bonds as hereinafter provided. Prior to the preparation  
78 of definitive bonds, the board may, under like restrictions,  
79 issue temporary bonds with or without coupons, ex-  
80 changeable for definitive bonds upon their issuance.  
81 The bonds issued under the provisions of this article  
82 shall be and have all the qualities of negotiable instru-  
83 ments under the law merchant and under the negotiable  
84 instruments law of this state.

## CHAPTER 65

(Com. Sub. for Senate Bill No. 154—Originating in the  
Senate Committee on Finance)

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 amending and reenacting section one, and by adding thereto a new section, designated section one-b,

relating to the minimum tuition fees charged at state institutions of higher education and the imposition, collection and use of an additional registration fee at said institutions.

[Passed March 7, 1959; in effect from passage. Approved by the Governor.]

### **Article 1-a. Fees and Other Moneys Collected at State Institutions.**

#### **Section**

1. Enrollment and other fees at educational institutions; refund of fees.
- 1-b. Additional registration fee at educational institutions; refund of fee; special capital improvement funds created.

#### ***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 amending and reenacting section one, and by adding thereto a new section, designated section one-b, 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, 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 operating of the graduate center at which they were collected: *Provided, however,* That except in the case of graduate center fees, the minimum tuition fee for full-time resident students shall



20 be twenty-five dollars per semester and the minimum  
21 tuition fee for full-time nonresident students shall be one  
22 hundred seventy-five dollars per semester at all state in-  
23 stitutions of higher education except the university: *And*  
24 *provided further*, That the minimum tuition fee for full-  
25 time resident students at the university shall be forty  
26 dollars per semester and the minimum tuition fee for full-  
27 time nonresident students at the university shall be two  
28 hundred five dollars per semester: *And provided further*,  
29 That except for the graduate center fees the maximum  
30 fees to be collected under this section for resident students  
31 shall not exceed two hundred dollars per semester; and  
32 for nonresident students; five hundred dollars per semes-  
33 ter. The schedule of fees, and any changes therein, shall  
34 be entered in the minutes of the meeting of the governing  
35 board, and the governing board shall file with the state  
36 auditor and director of the budget division a certified copy  
37 of such schedule and changes.

38 In addition to the fees mentioned in the preceding para-  
39 graph, but subject to all requirements and within the lim-  
40 its fixed thereby, the governing board of any state educa-  
41 tional institution may impose and collect a student union  
42 building fee. All such building fees collected at the insti-  
43 tution shall be paid into a special fund and shall be used  
44 only for the eventual construction and operation of a stu-  
45 dent union building or a combination student union-din-  
46 ing hall building or for the renovation of an existing  
47 structure for use as a student union building or a combi-  
48 nation student union-dining hall building or for the pay-  
49 ment of principal of and interest on any bonds issued to  
50 finance part or all of the construction of a student union  
51 building or a combination student union-dining hall build-  
52 ing or the renovation of an existing structure for use as a  
53 student union building. Until such time as the special  
54 fund, together with any other moneys available for the  
55 purpose, may be large enough to defray the cost of pro-  
56 viding a student union building or a combination student  
57 union-dining hall building, all moneys in the fund may be  
58 invested in any such bonds or other securities as are now  
59 or may hereafter be authorized as proper investments for  
60 state funds.

61 Refund, as an erroneous payment, may be made of any  
62 such fees, upon the voluntary or involuntary withdrawal  
63 from classes of any student, until eight weeks of the school  
64 semester or term have expired, but no refund may be  
65 made thereafter.

Sec. 1-b. *Additional Registration Fee at Educational In-*  
2 *stitutions; Refund of Fee; Special Capital Improvement*  
3 *Funds Created.*—In addition to all other fees imposed by  
4 the governing boards of state educational institutions  
5 there is hereby imposed and the governing boards are  
6 hereby directed to provide for the collection of an addi-  
7 tional registration fee from all students in the amounts  
8 as hereinafter provided.

9 For full time students at state institutions of higher ed-  
10 ucation, except the university, the additional registration  
11 fee shall be fifty dollars per semester and for all part time  
12 and summer school students the governing board shall  
13 provide for such fee in proportion to, but not exceeding,  
14 that paid by full-time students. For full-time students at  
15 the university the additional registration fee shall be fifty  
16 dollars per semester and for all part-time and summer  
17 school students at said institution the governing board  
18 shall provide for such fee in proportion to, but not ex-  
19 ceeding, that paid by full-time students.

20 One third of the proceeds derived from this fee col-  
21 lected at all state colleges other than the university from  
22 the students thereof, and one third of the proceeds de-  
23 rived from said fee collected at the university from the  
24 students thereof, shall be deposited in the state treasury  
25 to the account of the state fund general revenue.

26 There is hereby created in the state treasury a special  
27 non-revolving capital improvements fund, to be expended  
28 by the board of governors for West Virginia university  
29 and Potomac state college of West Virginia university.  
30 On and after the first day of July, one thousand nine hun-  
31 dred fifty-nine, there shall be paid into such special fund  
32 two thirds of the additional registration fee collected at  
33 the university or Potomac state college aforesaid under  
34 the provisions of this section, from students at West Vir-  
35 ginia university and Potomac state college aforesaid. The

36 board of governors shall have authority to pledge all or  
37 such part of the revenue paid into this special non-re-  
38 volving capital improvements fund as may be needed to  
39 meet the cost of construction of a predetermined capital  
40 improvements program for West Virginia university  
41 and/or Potomac state college in the order of priority as  
42 shall have been agreed upon by the board of governors  
43 and presented to the board of public works for inclusion  
44 in the annual budget bill.

45 There is hereby created in the state treasury a special  
46 non-revolving capital improvements fund, to be expended  
47 by the board of education for West Virginia state colleges,  
48 except Potomac state college of West Virginia university.  
49 On and after the first day of July, one thousand nine hun-  
50 dred fifty-nine, there shall be paid into such special fund  
51 two thirds of the additional registration fee collected  
52 under the provisions of this section, from students at such  
53 colleges aforesaid. The board of education shall have au-  
54 thority to pledge all or such part of the revenue paid into  
55 this special non-revolving capital improvements fund as  
56 may be needed to meet the cost of construction of a pre-  
57 determined capital improvements program for one or  
58 more of such colleges in the order of priority as shall have  
59 been agreed upon by the board of education and presented  
60 to the board of public works for inclusion in the annual  
61 budget bill.

62 Neither of the next two preceding paragraphs in any  
63 manner contemplates or authorizes the expenditure of any  
64 funds from the two special non-revolving capital improve-  
65 ments funds created by this section for the servicing of  
66 bonds for construction purposes. Expenditures from such  
67 special non-revolving capital improvements funds shall  
68 be undertaken only with the approval of the Legislature  
69 as indicated by a direct appropriation for this purpose.

70 The fee imposed by this section shall be in addition to  
71 the maximum fees allowed to be collected pursuant to  
72 chapter twenty-five, article one-a, section one of this code  
73 and shall not be limited thereby.

74 Refunds of this fee may be made in the same manner  
75 as any other fee collected at state educational institutions.

## CHAPTER 66

(House Bill No. 388—By Mr. Speaker, Mr. Pauley, and  
Mr. Seibert)

AN ACT to amend and reenact section two, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and expenditure of athletic receipts at state educational institutions.

[Passed March 4, 1959; in effect from passage. Approved by the Governor.]

### Article 1-a. Fees and Other Moneys Collected at State Institutions.

#### Section

2. Fees and money derived from athletic contests; collection and expenditure thereof.

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

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

Section 2. *Fees and Money Derived from Athletic Contests; Collection and Expenditure Thereof.*—The directors of athletics at state educational institutions may fix and charge admission fees to athletic contests at state educational institutions and may enter into contracts, spend and receive money under such contracts for the student athletic teams of state educational institutions to contest with other athletic teams inside or outside the state.

All money derived from such fees and under such contracts shall be used to defray the cost of maintaining the athletic department and athletic program of such institutions. The operation of training camps and training tables for participants in the athletic program of such institutions shall be recognized and considered as a proper part of such maintenance, but the specific mention of training camps and training tables shall not be construed or understood to limit in any way the general power and authority otherwise granted and conferred by this section.

## CHAPTER 67

(House Bill No. 3—By Mr. Burnette and Mr. West)

AN ACT to amend and reenact sections one and three, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to primary elections.

[Passed February 17, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 4. Nomination or Election of Candidates at Primaries.

#### Section

1. May primaries.
3. Delegates to national convention; election.

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

That sections one and 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 1. *May Primaries.*—Primary elections shall be
- 2 held at the voting place in each of the voting precincts
  - 3 in the state for the purposes set forth in this article, as
  - 4 follows:
  - 5 On the second Tuesday in May, in the year nineteen
  - 6 hundred sixty and in each second year thereafter.
  - 7 The time of holding a primary election and a statement
  - 8 describing the object thereof shall be published in two
  - 9 newspapers, if such there be, of the two opposite political
  - 10 parties which polled the highest and the next highest
  - 11 number of votes for governor at the preceding general
  - 12 election, in each county in the state, and of general circu-
  - 13 lation therein, once a week for two successive weeks pre-
  - 14 ceding the date of such primary election. It shall be the
  - 15 duty of the secretary of state to prepare and publish such
  - 16 notice and statement, and the expense of such publication
  - 17 shall be paid out of the general fund of each county.
  - 18 At such elections the polls shall be opened and closed

19 at the hours provided for opening and closing the polls  
20 in a general election.

Sec. 3. *Delegates to National Convention; Election.*—At  
2 the primary to be held in the year nineteen hundred  
3 sixty, and in each fourth year thereafter, there shall be  
4 elected by the voters of each political party of the state  
5 the number of persons to which the party is entitled as  
6 delegates at large, and by the voters of each political  
7 party in each congressional district in the state the num-  
8 ber of delegates to which the district is entitled, in the  
9 national convention of the party to be next held after the  
10 date of such primary. The persons receiving the highest  
11 number of votes in the state as delegates at large, to the  
12 number to which the state is entitled, shall be elected dele-  
13 gates. The persons receiving the highest number of votes  
14 as delegates in any congressional district, to the number  
15 to which the district is entitled, shall be elected delegates.  
16 Each delegate so elected shall then appoint an individual  
17 to serve as alternate delegate, and shall by registered  
18 letter notify the secretary of state of such appointment  
19 within forty days after the May primary.

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## CHAPTER 68

(House Bill No. 61—By Mr. Booth, of Fayette)

AN ACT to amend and reenact section one, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voting by absent voter's ballot.

[Passed February 26, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Voting by Absentees.

#### Section

1. Persons who may vote by absent voter's ballot.

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

That section one, article six, 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 1. *Persons Who May Vote by Absent Voter's Ballot.*—Any qualified elector of the state of West Virginia, having duly registered, who by reason of the nature of his employment, business, or on account of other unavoidable causes, expects to be absent from the state on the date of any primary, general or special election, or who is a student attending any college or university, or the spouse of any such student, within this state, or who by reason of physical disability, illness or injury will be unable to vote in person at the polls at such election as otherwise required by law, may vote at any such election as hereinafter provided. The provisions of this article shall apply only to electors necessarily absent from the state or from the polls on election day for the reasons specified in this section: *Provided, however,* That any such student, or the spouse of any such student, attending any college or university within this state, and who are not residents of the county in which the college or university they are attending is located, shall be treated as persons absent from the state under the provisions of the following sections of this article.

## CHAPTER 69

(House Bill No. 158—By Mr. Booth, of Cabell)

AN ACT to amend and reenact sections two and five, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to absentee voting.

[Passed February 24, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Voting by Absentees.

#### Section

2. Application for absent voter's ballot.
5. Mailing of ballots.

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

That sections two and five, article six, 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 2. *Application for Absent Voter's Ballot.*—An  
2 elector, as designated in section one of this article, ex-  
3 pecting to be absent from the state or from the polls on  
4 the day of any primary, general or special election, may,  
5 not more than thirty nor less than ten days prior to the  
6 date of any such election, make application to the clerk  
7 of the circuit court of the county in which his voting pre-  
8 cinct is situated for an official absent voter's ballot or bal-  
9 lots to be voted at such election: *Provided*, That for those  
10 voters who by reason of physical disability, illness or  
11 injury will be unable to vote in person at the polls at such  
12 election as otherwise required by law, the time for appli-  
13 cation to the clerk of the circuit court shall be not more  
14 than thirty or less than ten days prior to the date of any  
15 such election: *Provided, further*, That for those voters  
16 who are beyond the continental limits of the United States,  
17 the time for making application to the clerk of the circuit  
18 court of the county in which his voting precinct is situated  
19 shall be not more than forty-five days nor less than twenty  
20 days prior to the date of any such election: *Provided*,  
21 *further*, That the provisions of this section shall not apply  
22 to absentee voting by members of the armed services.

Sec. 5. *Mailing of Ballots.*—The clerk of the circuit  
2 court of the county in which an applicant is a qualified  
3 elector, on the tenth day prior to the election at which the  
4 absent voter's ballot is to be used, but not before said tenth  
5 day, shall mail to all duly registered applicants who have  
6 executed and filed their applications on or before said  
7 tenth day, postage prepaid, to the address named in the  
8 application, an official ballot or ballots (if more than one  
9 are to be voted at such election), or the applicant may  
10 obtain such ballot or ballots by applying personally at the  
11 office of such clerk of the circuit court not more than ten  
12 nor less than four days before such election. The clerk of  
13 the circuit court, on each and every day after said tenth



14 day until and including the fourth day before the election  
15 at which such absent voter's ballot is to be used, but not  
16 after said fourth day, shall mail to each duly registered  
17 applicant, on the day of the filing of the application an  
18 official ballot or ballots in the manner that the ballots were  
19 mailed on said tenth day. In computing the tenth and the  
20 fourth day before the election day, the date of the election  
21 shall be excluded. Before any ballot is mailed or deliver-  
22 ed, the clerk shall affix his official seal and he and the  
23 other members of the board of ballot commissioners shall  
24 place their signatures near the lower left hand corner on  
25 the back thereof: *Provided*, That the clerk of the circuit  
26 court of the county in which an applicant is a qualified  
27 elector shall mail said absent voter's ballot to all duly  
28 registered applicants who are outside the continental  
29 limits of the United States on, but not before the thirtieth  
30 day and not after the fifteenth day prior to the election at  
31 which the absent voter's ballot is to be used: *Provided*,  
32 *further*, That the provisions of this section shall not apply  
33 to absentee voting by members of the armed services.

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## CHAPTER 70

(House Bill No. 165—By Mr. Singleton)

AN ACT to amend and reenact section eight, article six-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to absentee voting by members of armed services, their spouses and members of their family.

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[Passed February 24; 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 6-a. Absentee voting by Members of Armed Services.

#### Section

8. Persons entitled to vote under the provisions of this article.

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

That section eight, article six-a, chapter three of the code of

West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 8. *Persons Entitled to Vote Under the Provisions of This Article.*—Any person, man or woman, who is registered as a voter in any county of this state, who is a member of any branch of the armed services of the United States, and who in the performance of his duties expects to be absent on election day from the county in which he is registered, or his wife or husband, or other member of his family living with such person, may vote by absent voter's ballot as provided in this article, whether such person at the time of voting is within or without the territorial limits of the United States.
- Any other person may vote by absent voter's ballot only as provided in article six, chapter three of this code.

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## CHAPTER 71

(Senate Bill No. 19—By Mr. Bean, Mr. President,  
and Mr. Carrigan)

AN ACT to amend and reenact section seven-a, article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the disposition of coupons and bonds.

[Passed February 16, 1959; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 1. Legislative Acts and Resolutions; Public Records.

#### Section

- 7-a. Photographing, microphotographing or reproducing on film, records, papers or documents; destruction of paid and cancelled bonds, coupons and interim certificates.

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

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

Section 7-a. *Photographing, Microphotographing or Reproducing on Film, Records, Papers or Documents; Destruction of Paid and Cancelled Bonds, Coupons and Interim Certificates.*—Any public officer of the state may, with the approval of the board of public works, cause any or all records, papers or documents kept by him to be photographed, microphotographed or reproduced on film. Such photographic film shall be of durable material and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details.

Such photographs, microphotographs or photographic film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original. Whenever photographs, microphotographs or reproductions on film have been made and put in conveniently accessible fireproof files, and provision has been made for preserving, examining and using the same, the respective heads of the departments, divisions, institutions and agencies of the state may, with the approval of the board of public works, cause the records and papers so photographed, microphotographed or reproduced on film, or any part thereof, to be destroyed; but before any such records, papers or documents are authorized to be destroyed, the board of public works shall obtain the advice and counsel of the state historian and archivist, or his designated representative, as to the desirability of placing the said records, papers and documents in the archives of that department, whereupon the board of public works may cause such records, papers and documents to be so transferred: *Provided, however,* That with respect to paid and cancelled bonds, coupons and interim certificates in the custody of the treasurer of the state of West Virginia of any and all West Virginia bond issues, the legislative auditor shall, at least once each year, if practicable, examine such cancelled bonds, coupons and interim certificates, and if he determines that the said bonds, coupons

41 and interim certificates have been paid, then the legisla-  
42 tive auditor shall list such paid and cancelled bonds,  
43 coupons and interim certificates by numbers and he shall  
44 then, in writing, certify such list to the commissioner of  
45 finance and administration and to the state treasurer.

46 Upon receipt of such certification from the legislative  
47 auditor, the state treasurer is authorized to destroy such  
48 listed bonds, coupons and interim certificates.

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## CHAPTER 72

House Bill No. 368—By Mr. White and Mr. Robertson)

AN ACT to amend article five, 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 eleven, relating to the disposition by a judge of any court of record of evidence and exhibits introduced at a hearing, trial, or otherwise.

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[Passed March 5, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 5. Miscellaneous Provisions.

#### Section

11. Disposal of exhibits, articles of evidence and property in hands of law enforcement officers; sale; disposition of proceeds.

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

That article five, 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 eleven, to read as follows:

- Section 11. *Disposal of Exhibits, Articles of Evidence and Property in Hands of Law Enforcement Officers; Sale; Disposition of Proceeds.*—Any court of record in this state, or the judge thereof in vacation may in its discretion by order entered of record dispose of by return to the owner thereof, or by destruction, sale, or otherwise, any exhibit or article introduced or offered in evidence at the hearing,

8 or upon the trial, of any matter or case before such court  
9 or judge, and remaining in the custody or control of such  
10 court for a period of thirty days after the expiration of  
11 the time within which an appeal may be taken from any  
12 final order or judgment in such matter or case, if no ap-  
13 peal is taken therefrom, or thirty days, after any final  
14 order or judgment of an appellate court, if such appeal  
15 is taken therein: *Provided, however,* That if the owner-  
16 ship of such exhibit or article be known, the owner shall  
17 be notified and such exhibit or article shall be returned  
18 to him if he so desires.

19 Any court of record having original criminal jurisdic-  
20 tion, or the judge thereof in vacation, may in its discretion  
21 by order entered of record, dispose of by destruction, sale,  
22 or otherwise any property or article, the ownership of  
23 which is unknown, and which has been seized or has come  
24 into the hands of any law enforcement officer in pur-  
25 suance of the discharge of his official duties in any county  
26 within the jurisdiction of such court: *Provided, however,*  
27 That if the ownership of such exhibit or article be known,  
28 the owner shall be notified and such exhibit or article  
29 shall be returned to him if he so desires.

30 Any sale directed hereunder shall be made upon such  
31 notice and terms and by such officer or other person as  
32 the court or judge shall direct. The proceeds of any such  
33 sale shall be applied to the reasonable costs and expenses  
34 of such sale as the court or judge shall allow, and the re-  
35 mainder thereof shall be paid into the general fund of the  
36 county.

37 The provisions of this section shall not apply or ex-  
38 tend to the county court of any county; nor shall any  
39 property or article be disposed of hereunder contrary to  
40 any other statute which expressly provides a different  
41 disposition.

## CHAPTER 73

(Senate Bill No. 57—By Mr. Martin)

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

sand nine hundred thirty-one, as amended, relating to the powers and duties of the state fire marshal within certain municipalities.

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[Passed February 13, 1959; in effect from passage. Approved by the Governor.]

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### **Article 3. State Fire Marshal; Protection against Fire.**

#### **Section**

4-d. Certain municipalities exempt as to certain buildings.

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

That section four-d, 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 4-d. *Certain Municipalities Exempt Except as to*  
2 *Certain Buildings.*—The powers herein granted in sec-  
3 tions four-a, four-b and four-c shall not be exercised, ex-  
4 cept as to public and private school buildings, including  
5 colleges and universities, public and private hospitals and  
6 nursing homes and buildings owned or operated by or for  
7 the state of West Virginia or any division or agency there-  
8 of or public corporation performing any function of the  
9 state other than municipalities, within any municipality  
10 which has adopted, or which shall hereafter upon the re-  
11 quest of the fire marshal adopt, ordinances by which the  
12 fire chief or other appropriate municipal officer is given  
13 substantially the same powers contained in said sections  
14 four-a, four-b and four-c; but the powers granted the state  
15 fire marshal by sections four-a, four-b and four-c shall  
16 continue to be exercised exclusively by the state fire mar-  
17 shal within each such municipality with respect to public  
18 and private school buildings, including colleges and uni-  
19 versities, public and private hospitals and nursing homes,  
20 and buildings owned or operated by or for the state of  
21 West Virginia or any division or agency thereof or public  
22 corporation performing any function of the state other  
23 than municipalities, located within each such municipal-  
24 ity. Any fire hazard found within any excepted building  
25 by any municipal fire department shall be reported by it  
26 to the state fire marshal.

## CHAPTER 74

(Senate Bill No. 60—By Mr. Martin)

AN ACT to amend and reenact article three, 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 four-f, relating to the powers and duties of the state fire marshal and the governor with reference to public buildings and the correction of fire hazards therein.

[Passed February 13, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 3. State Fire Marshal; Protection against Fire.

#### Section

4-f. Authority of governor with respect to safety of buildings.

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

That article three, 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 four-f, to read as follows:

Section 4-f. *Authority of Governor with Respect to*  
2 *Safety of Buildings.*—Whenever the governing board or  
3 body of any public school, college or university, hospital,  
4 nursing home or other building owned or operated by or  
5 on behalf of the state of West Virginia or any division or  
6 agency thereof or any public corporation performing any  
7 function of the state, shall fail to comply with an order  
8 of the state fire marshal for the correction of fire hazards,  
9 he shall make a written report of the facts and forward a  
10 copy of the same, together with a copy of such order, to  
11 the governor who shall have power to order such building,  
12 or the unsafe part thereof, closed, until the order is com-  
13 plied with. This section shall not apply to county boards  
14 of education nor to schools operated by county boards of  
15 education.

## CHAPTER 75

(Com. Sub. for Senate Bill No. 303—Originating in the Senate  
Committee on Forestry and Conservation)

AN ACT to amend article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto six new sections, designated sections two-n, two-o, two-p, two-q, eleven-a and eleven-b; and to further amend said article by amending and reenacting sections two, two-a, two-b, two-e, two-f, two-l and three thereof, all relating to hunting and fishing licenses.

[Passed March 14, 1959; in effect December 31, 1959. Approved by the Governor.]

### Article 7. Hunting and Fishing Licenses.

#### Section

2. Licenses conditioned on payment of fee; age exemption.
- 2-a. Class A; resident state-wide small game hunting license.
- 2-b. Class B; resident state-wide fishing license.
- 2-e. Class E; nonresident state-wide small game hunting license.
- 2-f. Class F; nonresident state-wide fishing license.
- 2-l. Class L; nonresident state-wide bow and arrow hunting license.
- 2-n. Class N; resident state-wide elk, deer and bear hunting license.
- 2-o. Class O; nonresident state-wide elk, deer and bear hunting license.
- 2-p. Class P; resident trout fishing license.
- 2-q. Class Q; nonresident trout fishing license.
3. Where license applications made; compensation of persons issuing licenses; alien permits.
- 11-a. Allocation of M, N, O and P License Fees.
- 11-b. License to catch and sell minnows or other bait fish; fee; duration; renewal.

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

That article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto six new sections, designated sections two-n, two-o, two-p, two-q, eleven-a and eleven-b; and by further amending said article by amending and reenacting sections two, two-a, two-b, two-e, two-f, two-l and three thereof, all to read as follows:

#### Section 2. *Licenses Conditioned on Payment of Fee; Age*

2 *Exemption.*—Licenses to hunt and fish shall be of the



3 kinds and classes and shall be conditioned upon the pay-  
4 ment of the fees set forth in this article.

5 A resident of the state sixty years of age or over shall  
6 not be required to obtain a license to fish with hook and  
7 line in the waters of the state during the fishing seasons.  
8 A resident of the state sixty-five years of age or over shall  
9 not be required to obtain a license to hunt within the state  
10 during the hunting season. An authenticated birth certifi-  
11 cate or verified evidence of age shall be carried by such  
12 person at all times while hunting or fishing and shall be  
13 in lieu of hunting and fishing licenses.

Sec. 2-a. *Class A; Resident State-wide Small Game*  
2 *Hunting License.*—A Class A license shall be a resident  
3 state-wide hunting license and shall entitle the licensee to  
4 hunt all game, except elk, bear and deer, in all counties  
5 of the state. It shall be issued only to citizens of the United  
6 States who are residents of this state. The fee therefor  
7 shall be three dollars: *Provided*, That in any case where a  
8 licensee purchases a Class A and a Class B license at the  
9 same time, the fee for a Class A license shall be two dollars  
10 and fifty cents.

Sec. 2-b. *Class B; Resident State-wide Fishing License.*—  
2 A Class B license shall be a resident state-wide fishing li-  
3 cense and shall entitle the licensee to fish for all fish, ex-  
4 cept trout, in all counties of the state. It shall be issued  
5 only to citizens of the United States, and unnaturalized  
6 persons possessing the permit mentioned in section three  
7 of this article, who are residents of this state. The fee  
8 therefor shall be three dollars: *Provided*, That in any case  
9 where a licensee purchases a Class A and a Class B license  
10 at the same time the fee for a Class B license shall be two  
11 dollars and fifty cents. For convenience, the commission  
12 may provide for the issuance, in those cases where both  
13 Class A and Class B licenses are issued to a single licensee  
14 at the same time, of both Class A and Class B licenses upon  
15 a single form, but regardless of such form, each shall be  
16 and remain a separate license.

Sec. 2-e. *Class E; Nonresident State-wide Small Game*  
2 *Hunting License.*—A Class E license shall be a nonresident

3 hunting license and shall entitle the licensee to hunt all  
4 game, except elk, bear and deer, in all counties of the state.  
5 It shall be issued only to citizens of the United States who  
6 are not residents of this state. The fee therefor shall be  
7 twenty dollars.

Sec. 2-f. *Class F; Nonresident State-wide Fishing License.*—A Class F license shall be a nonresident fishing license and shall entitle the licensee to fish for all fish, except trout, in all counties of the state. It shall be issued only to citizens of the United States, and to unnaturalized persons possessing the permit required by section three of this article, who are not residents of this state. The fee therefor shall be ten dollars.

Sec. 2-l. *Class L; Nonresident 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, 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 fifteen dollars.

Sec. 2-n. *Class M; Resident State-wide Elk, Deer and Bear Hunting License.*—A Class M license shall be a resident state-wide elk, deer and bear hunting license and shall entitle the licensee to hunt elk, deer and bear in those counties of the state as authorized by the director. It shall be issued only to citizens of the United States who are residents of this state. This license shall be issued in the form of a stamp, shall be in addition to a Class A license and shall be valid only when affixed thereto or to a combination A and B license. The fee therefor shall be one dollar.

Sec. 2-o. *Class N; Nonresident State-wide Elk, Deer and Bear Hunting License.*—A Class N license shall be a nonresident state-wide elk, deer and bear hunting license and shall entitle the licensee to hunt elk, deer and bear in those counties of this state as authorized by the director. It shall be issued only to citizens of the United States who are not residents of this state. This license shall be issued

8 in the form of a stamp, shall be in addition to a Class E  
9 license and shall be valid only when affixed thereto. The  
10 fee therefor shall be five dollars.

Sec. 2-p. *Class O; Resident Trout Fishing License.*—A  
2 Class O license shall be a resident state-wide trout fishing  
3 license and shall entitle the licensee to fish for trout in  
4 those counties of the state as authorized by the director.  
5 It shall be issued only to citizens of the United States, and  
6 unnaturalized persons possessing the permit mentioned  
7 in section three of this article, who are residents of this  
8 state. This license shall be issued in the form of a stamp,  
9 shall be in addition to a Class B license and shall be valid  
10 only when affixed thereto or to a combination A and B li-  
11 cense. The fee therefor shall be one dollar.

Sec. 2-q. *Class P; Nonresident Trout Fishing License.*—  
2 A Class P license shall be a nonresident trout fishing li-  
3 cense and shall entitle the licensee to fish for trout in those  
4 counties of the state as authorized by the director. It shall  
5 be issued only to citizens of the United States, and to un-  
6 naturalized persons possessing the permit required by  
7 section three of this article, who are nonresidents of this  
8 state. This license shall be issued in the form of a stamp,  
9 shall be in addition to a Class F license and shall be valid  
10 only when affixed thereto. The fee therefor shall be five  
11 dollars.

Sec. 3. *Where License Applications Made; Compensation of Persons Issuing Licenses; Alien Permits.*—Persons  
2 eligible for any class license shall make application there-  
3 for, either in person or by agent, in writing or orally, as  
4 follows:  
5

6 (1) For class A, B, E, F, H, I, J, K, M, N, O and P li-  
7 cense, to any county clerk or to any other person author-  
8 ized by the director to issue licenses.

9 (2) For Class D license, to the county clerk of any county  
10 bordering the Ohio river, or to any other person in such  
11 a county authorized by the director to issue licenses.

12 (3) For Class C license, to the commission; and for Class  
13 G and Class L licenses, to the commission, or its adminis-  
14 trative employees at state parks or state forests.

15 Every person making application for any license shall  
16 pay, in addition to the license fees prescribed therefor in  
17 the preceding sections of this article, an additional fee of  
18 fifteen cents as compensation for the person issuing the  
19 license: *Provided, however,* That no additional fee shall  
20 be collected by any agent for issuing a national forest  
21 hunting and trapping Class I license, a national forest  
22 fishing Class J license, and only one fee of fifteen cents  
23 shall be collected for issuing combination resident state-  
24 wide hunting and fishing Class A-B licenses. All such ad-  
25 ditional fees received by any county clerk shall be paid  
26 by him into the general county fund.

27 Aliens desiring to procure licenses shall first apply to  
28 the director for a permit to secure such license. If the di-  
29 rector satisfies himself that the applicant is legally en-  
30 titled to such license, and will observe the laws of this  
31 state, and particularly the provisions of this chapter, he  
32 may issue the permit. Permits, once issued, shall remain  
33 in force until revoked. No issuing officer shall be required  
34 to issue or deliver any license unless the applicant informs  
35 him that the licensee is duly qualified and eligible to re-  
36 ceive the class of license applied for, and payment of the  
37 required fee is made to such officer.

Sec. 11-a. *Allocation of M, N, O and P License Fees.—*

2 Notwithstanding any other provision of this article to the  
3 contrary, each year the director shall allocate, out of the  
4 total revenue obtained from all classes of licenses, an  
5 amount equal to the total revenue obtained from the sale  
6 of Class O and P licenses for the construction, maintenance  
7 and operation of new trout hatcheries, for the mainte-  
8 nance, operation and expansion of existing trout hatch-  
9 eries and for the propagation of trout and restocking of  
10 trout streams and an amount equal to the total revenue  
11 obtained from the sale of Class M and N licenses for the  
12 propagation and distribution of elk, deer, bear and turkey  
13 and for the purchase of public hunting lands: *Provided,*  
14 That any such purchase shall be subject to the terms and  
15 conditions set forth in section one, article eight of this  
16 chapter. No portion of said amounts so allocated shall be

- 17 expended for the enforcement of game, fish or other con-  
18 servation laws.

Sec. 11-b. *License to Catch and Sell Minnows or Other Bait Fish; Fee; Duration; Renewal.*—The commission shall have the power and authority to issue a license to any person to catch and sell minnows or other bait fish upon written application therefor, signed by the applicant. The fee for such license shall be ten dollars. All licenses issued under this section shall expire on the first day of January following the date of issue. Any such license may be renewed from year to year upon paying to the commission the sum of one dollar for each such renewal.

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## CHAPTER 76

(Senate Bill No. 255—By Mr. Bean, Mr. President,  
and Mr. Carrigan)

AN ACT to amend article ten, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section four-a, relating to the disposal of litter and certain other material in and near certain bodies of water and providing penalties.

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[Passed February 25, 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 10. General Criminal Provisions.

#### Section

- 4-a. Unlawful disposal of litter, etc., in waters; prima facie evidence of violation; exception; enforcement; penalty.

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

That article ten, 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 four-a, to read as follows:

Section 4-a. *Unlawful Disposal of Litter, etc., in Waters; Prima Facie Evidence of Violation; Exception; Enforcement; Penalty.*—It shall be unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, cans, bottles, papers, ashes, carcass of any dead animal, offal or any other offensive or unsightly matter into any river, stream, creek, lake or pond, or upon the surface of any land within one hundred yards thereof or in such location that high water or normal drainage conditions will cause material designated in this section to be washed into any river, stream, creek, lake or pond.

No portion of this section shall be construed to restrict a private owner or lessee in the use of his own private property or leased property or to prohibit the disposal of materials designated in this section in any manner authorized by law: *Provided, however,* That if any owner, renter or lessee, private or otherwise, knowingly permits such material, heretofore designated in this section, to be deposited, dumped or thrown in such location that high water or normal drainage conditions will cause such material to wash into any river, stream, creek, lake or pond, it shall be deemed prima facie evidence that such owner, renter, or lessee intended to violate this section: *Provided further,* That this section shall not apply to persons, firms or corporations subject to the jurisdiction of the state water resources commission under article eleven, chapter sixteen of this code.

In addition to enforcement by the state director of conservation, this section shall also be enforced by the United States forestry service and all other proper law enforcement agencies.

Any person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty nor more than five hundred dollars.

## CHAPTER 77

(Senate Bill No. 146—By Mr. Bean, Mr. President,  
and Mr. Moats)

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve, relating to the construction of slack-water dams with the approval and assistance of the director of the conservation commission and the state road commissioner.

[Passed March 5, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 12. Slack-Water Dams.

#### Section

1. Slack-water dams authorized in connection with public highways, streets, etc.; purposes.
2. Request by director of conservation commission; approval by public authority; surveys and plans; distribution of costs and expenses.
3. Petition to director of conservation commission for construction of reservoirs and dams.
4. Part payment of costs by petitioner condition precedent to construction.
5. Letting of contracts for dam projects.
6. Supervision and maintenance of projects.
7. Acquisition of property by director of conservation commission.
8. Notice by road commissioner and other public authorities.

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

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

- Section 1. *Slack-water Dams Authorized in Connection with Public Highways, Streets, etc.; Purposes.*—The state road commissioner, in constructing public highways, bridges and culverts, as provided by law, and any municipal corporation constructing or improving public streets, viaducts, bridges and culverts, either severally or jointly, upon request of the director of the conservation com-

8 mission and with the approval of the state road commis-  
9 sioner, may construct and maintain slack-water dams in  
10 connection with such public highways, streets, bridges,  
11 culverts or viaducts so as to create reservoirs, ponds,  
12 water parks, basins, lakes or other incidental works to  
13 conserve the water supply of the state.

Sec. 2. *Request by Director of Conservation Commis-  
2 sion; Approval by Public Authority; Surveys and Plans;  
3 Distribution of Costs and Expenses.*—The director of the  
4 conservation commission may request the public author-  
5 ity having charge of the construction of state highways,  
6 highway bridges, and culverts or municipal streets, via-  
7 ducts, bridges and culverts for the construction of slack-  
8 water dams in connection with the construction of any  
9 such public highway, street, bridge, viaduct or culvert  
10 whenever, in his opinion, the construction of such dam is  
11 desirable and feasible for the economical creation and  
12 construction of reservoirs, ponds, water parks, basins,  
13 lakes or other incidental works for the conservation of  
14 the water supply of the state.

15 The public authority having charge of such construc-  
16 tion may approve such request when, in its opinion, the  
17 construction of such dams will not unnecessarily delay or  
18 hinder the construction of the public highway, street,  
19 bridge, viaduct or culvert, or will not interfere with its  
20 value or use for highway purposes.

21 If such request is approved, the director of the conserva-  
22 tion commission, in cooperation with the state road com-  
23 missioner and the public authority participating in the  
24 project, shall make a survey and prepare plans, specifi-  
25 cations and estimates for the construction of such dams  
26 and the reservoir, pond, water park, basin, lake or other  
27 incidental works in connection therewith.

28 Upon approval of the plans and specifications and de-  
29 termination to proceed with the project, the director shall  
30 enter into an agreement with the public authority on the  
31 distribution of the cost and expense of the construction  
32 of such dams and incidental works in connection there-  
33 with. The portion of the cost to be paid by the conserva-  
34 tion commission shall be paid from any funds appropri-



35 ated for or paid into the commission and available for  
36 such purpose. No public authority shall proceed with the  
37 construction of such a project unless the plans have com-  
38 plied with the other requirements of law relative to the  
39 construction of dams and the director shall have satisfied  
40 the public authority that sufficient funds are available for  
41 the completion of the dam.

42 Such dams shall be constructed under and subject to  
43 any laws governing the construction of state, county or  
44 municipal highways, streets, viaducts, bridges or culverts.  
45 Any public authority undertaking construction pursuant  
46 to this article shall proceed in the same manner as pro-  
47 vided for the construction of public highway or street im-  
48 provements.

49 Nothing herein contained shall require the public au-  
50 thority so concerned to delay or postpone the construction  
51 of the principal public improvement, though approval of  
52 the combined project may have been given.

Sec. 3. *Petition to Director of Conservation Commission*  
2 *for Construction of Reservoirs and Dams.*—Any depart-  
3 ment or division of the state government or any county,  
4 municipal corporation, park board or district, or any or-  
5 ganization, club, corporation, or private person may peti-  
6 tion the director of the conservation commission for the  
7 construction of dams and reservoir projects in connec-  
8 tion with the construction of any public highway, bridge,  
9 culvert, street or viaduct.

10 Upon receipt of such a petition and its approval by the  
11 director of the conservation commission, the director shall  
12 proceed as authorized by section two of this article. If the  
13 public authority having charge of the construction of such  
14 public highway, street, bridge, viaduct or culvert approves  
15 the request, then the director of the conservation com-  
16 mission shall enter into an agreement with the public  
17 authority, organization or persons petitioning for the  
18 construction of such dam or reservoir on the apportion-  
19 ment of the cost and expense of construction. The cost  
20 and expense of such dam project shall include the cost of  
21 clearing and grubbing and the cost of property and  
22 damages incidental thereto. Such agreement shall also

23 contain provisions for the proper maintenance and re-  
24 pair of such projects after completion and also apportion  
25 the revenue derived therefrom between the conservation  
26 commission and the petitioner.

*Sec. 4. Part Payment of Costs by Petitioner Condition*

2 *Precedent to Construction.*—In all cases in which a public  
3 authority, private organization or person shall petition  
4 for the construction of a dam and reservoir project as  
5 authorized by this article, the director of the conservation  
6 commission, as a condition precedent to the construction  
7 of such project, shall require the petitioning authority,  
8 organization or person to pay his share of the cost and  
9 expense of such project into the hands of the treasurer  
10 of the state to be kept in a separate account for each  
11 such project and to be disbursed upon the order of the  
12 director of the conservation commission.

13 If the estimated cost paid into the state treasury is  
14 found to be insufficient, the deficiency shall be made up  
15 by the parties bearing the cost before any further work  
16 is done. If the deficiency is not made up within sixty days  
17 after notice to such parties, the cost paid in, less the  
18 amount of expense incurred by the director of the con-  
19 servation commission and the cooperating public authori-  
20 ties shall be refunded to the donor. After completion of  
21 the work, any amount remaining in the state treasury  
22 to the credit of the project shall likewise be refunded.

*Sec. 5. Letting of Contracts for Dam Projects.*—In the  
2 construction of dams, reservoirs and other incidental  
3 works pursuant to this article, the state road commissioner  
4 or the public authority of a municipality shall proceed  
5 as provided by law and shall enter into contracts as pro-  
6 vided by law.

*Sec. 6. Supervision and Maintenance of Projects.*—The  
2 director of the conservation commission shall have the  
3 supervision, care and control of all dams, reservoirs,  
4 ponds, water parks, basins, lakes or other incidental works  
5 constructed pursuant to this article and shall maintain  
6 and keep them in repair. The cost of such maintenance  
7 and repair shall be paid from any funds appropriated to  
8 the conservation commission for that purpose or paid

9 into the state treasury as agreed upon with the public or  
10 contracting authorities cooperating in the construction  
11 of such projects.

12 Such projects may also be maintained by any depart-  
13 ment or division of state government or other public  
14 authorities leasing or operating the projects, through  
15 agreements made with said director of the conservation  
16 commission. All rentals derived from the leases of such  
17 projects shall be used by said director in the maintenance  
18 or repair of all such projects. The costs and expenses of  
19 the reconstruction of any such projects shall be dis-  
20 tributed, unless otherwise agreed, on the same basis and  
21 pro rata share of the costs and expenses as was paid by the  
22 contracting authorities to the cost of the original project:  
23 *Provided, however,* That the state road commission shall  
24 not be required to contribute any portion of the cost of  
25 maintaining or repairing any dam, reservoir, pond, water  
26 park, basin, lake, or other incidental work when the  
27 maintenance of the road, bridge, or culvert would not  
28 have required such expenditure if it were not for the in-  
29 stallation of the project or projects by this article con-  
30 templated.

Sec. 7. *Acquisition of Property by Director of Conser-*  
2 *vation Commission.*—The title or lease to any such lands,  
3 waters or riparian rights shall be taken by the conserva-  
4 tion commission, subject to the approval of the governor  
5 and the attorney general, in the name of the state. The  
6 lease rentals or purchase price of any such lands, waters  
7 or riparian rights, as well as all costs and expenses of con-  
8 structing any such reservoirs, ponds, water parks, basins,  
9 lakes or other incidental works on such lands, may be paid  
10 for from any funds appropriated for the use of or paid into  
11 the conservation commission and available for such pur-  
12 pose. The director may accept contributions to such  
13 funds from individuals, associations, clubs, organizations  
14 and corporations to effectuate the purposes of this article.

Sec. 8. *Notice by Road Commissioner and Other Public*  
2 *Authorities.*—Upon request, by the director of the con-  
3 servation commission, the state road commissioner or  
4 other public authority shall furnish such director plans

5 under way or contemplated for the construction of new  
6 public highways, bridges, culverts, viaducts, or streets;  
7 and thereupon, it shall become the duty of the director of  
8 conservation to coordinate the plans of the conservation  
9 commission, if any, with the state road commission or  
10 other public authority to the end that such additional  
11 project shall not cause a delay in or interfere with the  
12 construction of the principal project, and to the end that  
13 such additional project shall, in all respects, be in con-  
14 formity with recognized road construction standards and  
15 practices.

## CHAPTER 78

(House Bill No. 461—By Mr. McCoy, of Pendleton, and  
Mr. Baker)

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, relating to the use, identification number, operation and equipment of vessels on any public waters within the territorial limits of this state, and authorizing the conservation commission of this state and the director thereof to exercise the powers granted by this article, and prescribing penalties for the violation thereof.

[Passed March 12, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 13. Motorboats.

#### Section

1. Declaration of policy.
2. Definitions.
3. Additional powers and duties of the director and the commissioner.
4. Identification numbers; application for numbers; fee; displaying; reciprocity; change of ownership; conformity with U. S. regulations; issuing agents; records; renewal of certificate; transfer of interest; abandonment, etc.; change of address; unauthorized numbers; information to be furnished assessor.
5. Classification and required lights and equipment; rules and regulations as to equipment; pilot rules.
6. Exemption from numbering provisions of this article.

7. Dealers' and manufacturers' certificate of number; fees.
8. Boat liveries.
9. Muffling devices.
10. Prohibited operation.
11. Collisions, accidents and casualties.
12. Transmittal of information.
13. Water skis and surfboards.
14. Regattas, races, marine parades, tournaments or exhibitions.
15. Local regulation.
16. Incapacity of operator.
17. General rules and regulations.
18. Enforcement.
19. Penalties.

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

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

Section 1. *Declaration of Policy.*—It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

Sec. 2. *Definitions.*—As used in this article, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto, nor to a vessel powered by a motor of five horsepower or less.

(3) "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(4) "Waters of this state" means any public waters within the territorial limits of this state.

22 (5) "Person" means an individual, partnership, firm,  
23 corporation, association, or other entity.

24 (6) "Operate" means to navigate or otherwise use a  
25 motorboat or a vessel.

26 (7) "Commission" means the conservation commission  
27 of West Virginia.

28 (8) "Director" means the director of conservation of  
29 the conservation commission of West Virginia.

Sec. 3. *Additional Powers and Duties of the Director  
2 and the Commissioner.*—The director, in addition to the  
3 other powers and duties granted by this chapter, shall  
4 have the authority to exercise the powers granted by  
5 this article, and the commission shall act as an advisory  
6 body to the director in the exercise of the powers granted  
7 by the provisions hereof as provided in section eleven,  
8 article one of this chapter.

Sec. 4. *Identification Numbers; Application for Num-  
2 bers; Fee; Displaying; Reciprocity; Change of Ownership;  
3 Conformity with U. S. Regulations; Issuing Agents; Rec-  
4 ords; Renewal of Certificate; Transfer of Interest; Aban-  
5 donment, etc.; Change of Address; Unauthorized Num-  
6 bers; Information to be Furnished Assessor.*—(a) The  
7 owner of each motorboat requiring numbering by this  
8 state shall file an application for a number with the di-  
9 rector on forms approved by him. The application shall  
10 be signed by the owner of the motorboat and shall be ac-  
11 companied by a fee of five dollars. All such fees shall be  
12 deposited in the state treasury to the credit of the con-  
13 servation fund. Upon receipt of the application in ap-  
14 proved form, the director shall enter the same upon the  
15 records of his office and issue to the applicant a license  
16 and a certificate of number stating the number awarded  
17 to the motorboat and the name and address of the owner.  
18 The owner shall paint on or attach to each side of the bow  
19 of the motorboat the identification number in such man-  
20 ner as may be prescribed by rules and regulations of the  
21 director in order that it may be clearly visible. The num-  
22 ber shall be maintained in legible condition. The certifi-  
23 cate of number shall be pocket size and shall be available

24 at all times for inspection on the motorboat for which  
25 issued, whenever such motorboat is in operation.

26 (b) The owner of any motorboat already covered by  
27 a number in full force and effect which has been awarded  
28 to it pursuant to then operative federal law or a federally-  
29 approved numbering system of another state shall record  
30 the number prior to operating the motorboat on the waters  
31 of this state in excess of the ninety-day reciprocity period  
32 provided for in section six, subsection one, of this article.  
33 Such recordation shall be in the manner and pursuant to  
34 the procedure required for the award of a number under  
35 subsection (a) of this section, except that no additional  
36 or substitute number shall be issued.

37 (c) Should the ownership of a motorboat change, a  
38 new application form with fee shall be filed with the  
39 director and a new certificate of number shall be awarded  
40 in the same manner as provided for in an original award  
41 of number.

42 (d) In the event that an agency of the United States  
43 government shall have in force an over-all system of  
44 identification numbering for motorboats within the  
45 United States, the numbering system employed pursuant  
46 to this article by the commission shall be in conformity  
47 therewith.

48 (e) The director may designate as issuing agent the  
49 clerk of any county court and such other persons in each  
50 county, as he deems advantageous to provide for the issu-  
51 ance of certificates of number in accordance with the  
52 provisions of this article. For services rendered in issuing  
53 such certificates, and collecting and paying over such  
54 numbering fees, each issuing agent shall charge and re-  
55 tain an additional fee of fifteen cents from the person  
56 obtaining the certificate of number. Every such issuing  
57 agent, unless already under bond with the commission  
58 as an agent for the collection of its monies, shall file a  
59 bond with the commission, payable to the state of West  
60 Virginia, in an amount to be fixed by the director at not  
61 more than one thousand dollars, before the supply of  
62 certificates of number is delivered to him, conditioned  
63 upon the faithful performance of his obligation to issue  
64 certificates only in conformance with the provisions of

65 this article and the regulations of the director. Each  
66 issuing agent, on the first day of each month, shall remit  
67 to the commission all monies collected for the commission  
68 during the preceding month, and shall accompany his  
69 remittance with a report showing the name of the county,  
70 the names and addresses of the persons paying the same,  
71 and the date of the receipt thereof.

72 (f) All records of the commission made or kept pur-  
73 suant to this section shall be public records.

74 (g) Such license shall be valid only until the last  
75 day of the calendar year in which the same is issued.  
76 If at the end of such year ownership has remained  
77 unchanged, such owner shall, upon application and pay-  
78 ment of a fee of two dollars, be granted a renewal of  
79 such certificate of number for an additional one-year  
80 period.

81 (h) The owner shall furnish the commission notice of  
82 the transfer of all or any part of his interest, other than  
83 the creation of a security interest, in a motorboat num-  
84 bered in this state pursuant to subsections (a) and (b)  
85 of this section, or of the destruction or abandonment of  
86 such motorboat, within fifteen days thereof. Such trans-  
87 fer, destruction, or abandonment shall terminate the cer-  
88 tificate of number for such motorboat, except that in the  
89 case of a transfer of a part interest which does not affect  
90 the owner's right to operate such motorboat, such trans-  
91 fer shall not terminate the certificate of number.

92 (i) Any holder of a certificate of number shall notify  
93 the commission within fifteen days, if his address no  
94 longer conforms to the address appearing on the certifi-  
95 cate and shall, as a part of such notification, furnish the  
96 commission with his new address. The director may pro-  
97 vide in his rules and regulations for the surrender of the  
98 certificate bearing the former address and its replacement  
99 with a certificate bearing the new address or for the alter-  
100 nation of an outstanding certificate to show the new ad-  
101 dress of the holder.

102 (j) No number other than the number awarded to a  
103 motorboat or granted reciprocity pursuant to this article  
104 shall be painted, attached, or otherwise displayed on either  
105 side of the bow of such motorboat.



106 (k) It shall be the duty of the director of conservation  
107 on or before January thirtieth of each year, commencing  
108 with the year one thousand nine hundred sixty, to forward  
109 to the assessor of each county a list of the names and  
110 addresses of all persons, firms and corporations owning  
111 vessels and operating the same or other boats registered  
112 with the director of conservation under the provisions of  
113 this article. In furnishing this information to each county  
114 assessor, the director of conservation shall include in his  
115 report such information as is made available to him in the  
116 reports and registrations he receives as to make, model,  
117 value and cost price of such vessels and other equipment  
118 required to be registered for use by said owner or operator  
119 thereof under the provisions of this article: *Provided,*  
120 *however,* That the director of conservation need not fur-  
121 nish such information to the assessor if the cost price of  
122 such vessel does not exceed two hundred dollars nor the  
123 cost of the motor does not exceed one hundred seventy-  
124 five dollars.

2 Sec. 5. *Classification and Required Lights and Equip-*  
3 *ment; Rules and Regulations as to Equipment; Pilot Rules.*

4 —(a) Motorboats subject to the provisions of this article  
5 shall be divided into four classes as follows:

6 Class A. Less than sixteen feet in length.

7 Class 1. Sixteen feet or over and less than twenty-six  
8 feet in length.

9 Class 2. Twenty-six feet or over and less than forty feet  
10 in length.

11 Class 3. Forty feet or over.

12 (b) Classes 1, 2 and 3 motorboats in all weathers from  
13 sunset to sunrise shall carry and exhibit the following  
14 lights when under way, and during such time no other  
15 lights which may be mistaken for those prescribed shall  
16 be exhibited.

17 (1) Every motorboat of Class 1 shall carry the follow-  
18 ing lights:

19 First. A bright white light aft to show all around the  
20 horizon.

21 Second. A combined lantern in the fore part of the  
vessel and lower than the white light aft, showing green

22 to starboard and red to port, so fixed as to throw the light  
23 from right ahead to two points abaft the beam on their  
24 respective sides.

25 (2) Every motorboat of Classes 2 and 3 shall carry the  
26 following lights:

27 First. A bright white light in the fore part of the vessel  
28 as near the stem as practicable, so constructed as to show  
29 an unbroken light over an arc of the horizon of twenty  
30 points of the compass, so fixed as to throw the light ten  
31 points on each side of the vessel; namely, from right ahead  
32 to two points abaft the beam on either side.

33 Second. A bright white light aft to show all around  
34 the horizon and higher than the white light forward.

35 Third. On the starboard side a green light so con-  
36 structed as to show an unbroken light over an arc of  
37 the horizon of ten points of the compass, so fixed as to  
38 throw the light from right ahead to two points abaft the  
39 beam on the starboard side. On the port side a red light  
40 so constructed as to show an unbroken light over an arc  
41 of the horizon of ten points of the compass, so fixed as  
42 to throw the light from right ahead to two points abaft  
43 the beam on the port side. The said side lights shall be  
44 fitted with inboard screens of sufficient height so set as  
45 to prevent these lights from being seen across the bow

46 (3) Motorboats of Class 1 when propelled by sail alone  
47 shall carry the combined lantern, but not the white light  
48 aft, prescribed by this section. Motorboats of Classes 2 and  
49 3 when so propelled, shall carry the colored side lights,  
50 suitably screened, but not the white lights, prescribed by  
51 this section. Motorboats of all classes, when so propelled,  
52 shall carry, ready at hand, a lantern or flashlight showing  
53 a white light which shall be exhibited in sufficient time to  
54 avert collision.

55 (4) Every white light prescribed by this section shall  
56 be of such character as to be visible at a distance of at  
57 least two miles. Every colored light prescribed by this  
58 section shall be of such character as to be visible at a  
59 distance of at least one mile. The word "visible" in this  
60 subsection, when applied to lights, shall mean visible on  
61 a dark night with clear atmosphere.

62 (5) When propelled by sail and machinery any motor-

63 boat shall carry the lights required by this section for a  
64 motorboat propelled by machinery only.

65 (c) Any vessel may carry and exhibit the lights re-  
66 quired by the Federal Regulations for Preventing Col-  
67 lisions at Sea, one thousand nine hundred forty-eight,  
68 Federal Act of October eleven, one thousand nine hun-  
69 dred fifty-one, (33 USC 143-147d) as amended, in lieu of  
70 the lights required by subsection (b) of this section.

71 (d) Every motorboat of Class 1, 2, or 3 shall be pro-  
72 vided with an efficient whistle or other sound-producing  
73 mechanical appliance.

74 (e) Every motorboat of Class 2 or 3 shall be provided  
75 with an efficient bell.

76 (f) Every motorboat shall carry at least one life pre-  
77 server, or lift belt, or ring buoy, or other device of the  
78 sort prescribed by regulations of the commission for  
79 each person on board, so placed as to be readily acces-  
80 sible: *Provided*, That every motorboat carrying passen-  
81 gers for hire shall carry so placed as to be readily acces-  
82 sible at least one life preserver of the sort prescribed  
83 by the regulations of the commission for each person on  
84 board.

85 (g) Every motorboat shall be provided with such num-  
86 ber, size, and type of fire extinguishers, capable of  
87 promptly and effectually extinguishing burning gasoline,  
88 as may be prescribed by the regulations of the commis-  
89 sion, which fire extinguishers shall be at all times kept  
90 in condition for immediate and effective use and shall be  
91 so placed as to be readily accessible.

92 (h) The provisions of subsections (d), (e) and (g)  
93 of this section shall not apply to motorboats while com-  
94 peting in any race conducted pursuant to section fourteen  
95 of this article or, if such boats be designed and intended  
96 solely for racing while engaged in such navigation as is  
97 incidental to the tuning up of the boats and engines for  
98 the race.

99 (i) Every motorboat shall have the carburetor or car-  
100 buretors of every engine therein (except outboard  
101 motors) using gasoline as fuel, equipped with such effi-  
102 cient flame arrestor, backfire trap, or other similar device  
103 as may be prescribed by the regulations of the commission.

104 (j) Every such motorboat and every such vessel, ex-  
105 cept open boats, using as fuel any liquid of a volatile  
106 nature, shall be provided with such means as may be  
107 prescribed by the regulations of the commission for prop-  
108 erly and efficiently ventilating the bilges of the engine  
109 and fuel tank compartments so as to remove any explosive  
110 or inflammable gases.

111 (k) The commission is hereby authorized to make rules  
112 and regulations modifying the equipment requirements  
113 contained in this section to the extent necessary to keep  
114 these requirements in conformity with the provisions of  
115 the federal navigation laws or with the navigation rules  
116 promulgated by the United States coast guard.

117 (l) The commission is hereby authorized to establish  
118 and maintain for the operation of vessels on the waters  
119 of this state pilot rules in conformity with the pilot rules  
120 contained in the federal navigation laws or the naviga-  
121 tion rules promulgated by the United States coast guard.

122 (m) No person shall operate or give permission for the  
123 operation of a vessel which is not equipped as required  
124 by this section or modification thereof.

Sec. 6. *Exemption From Numbering Provisions of This*  
2 *Article.*—A motorboat shall not be required to be num-  
3 bered under this article if it is:

4 (1) Already covered by a number in full force and  
5 effect which has been awarded to it pursuant to federal  
6 law or a federally-approved numbering system of another  
7 state: *Provided*, That such boat shall not have been within  
8 this state for a period in excess of ninety consecutive  
9 days.

10 (2) A motorboat from a country other than the United  
11 States temporarily using the waters of this state.

12 (3) Motorboats used exclusively for racing while par-  
13 ticipating in races, and the preparation therefor, which  
14 have been authorized pursuant to the provisions of section  
15 fourteen of this article.

Sec. 7. *Dealers' and Manufacturers' Certificate of Num-*  
2 *ber; Fees.*—Dealers' and manufacturers' certificate of  
3 number, containing the word "manufacturer" or "dealer",  
4 as appropriate, may be used in connection with the op-

5 eration of any motorboat in the possession of such dealer  
6 or manufacturer, when the boat is being used for demon-  
7 strative purposes. Application for a dealers' or manufac-  
8 turers' certificate of number shall be made upon a form  
9 provided by the commission, and shall contain such in-  
10 formation as may be required by the commission. Upon  
11 receipt of the application and upon the payment of a fee  
12 of five dollars for the initial certificate of number, and  
13 five dollars for each additional certificate of number, the  
14 commission shall issue to the applicant a manufacturers'  
15 or dealers' certificate of number which shall contain the  
16 word "manufacturer" or "dealer" in lieu of a description  
17 of the boat. The manufacturer or dealer may have the  
18 number awarded to him printed upon or attached to a  
19 removable sign or signs to be temporarily but firmly  
20 mounted upon or attached to the boat being demonstrated,  
21 so long as the display meets the requirements of the pro-  
22 visions of this article, and regulations issued hereunder.

Sec. 8. *Boat Liveries.*—(a) The owner of a boat livery  
2 shall cause to be kept a record of the name and address  
3 of the person or persons hiring any vessel which is de-  
4 signed or permitted by him to be operated as a motorboat,  
5 the identification number thereof, and the departure date  
6 and time, and the expected time of return. The record  
7 shall be preserved for at least six months.

8 (b) Neither the owner of a boat livery, nor his agent  
9 or employee shall permit any motorboat or any vessel  
10 designed or permitted by him to be operated as a motor-  
11 boat to depart from his premises unless it shall have been  
12 provided, either by owner or renter, with the equipment  
13 required pursuant to section five of this article and any  
14 rules and regulations made pursuant thereto.

Sec. 9. *Muffling Devices.*—The exhaust of every internal  
2 combustion engine used on any motorboat shall be effec-  
3 tively muffled by equipment so constructed and used as  
4 to muffle the noise of the exhaust in a reasonable manner.  
5 The use of cutouts is prohibited, except for motorboats  
6 competing, in a regatta or boat race approved as provided  
7 in section fourteen of this article, and for such motor-  
8 boats while on trial runs, during a period not to exceed

9 seventy-two hours immediately preceding such regatta or  
10 race and for such motorboats while competing in official  
11 trials for speed records during a period not to exceed  
12 seventy-two hours immediately following such regatta or  
13 race.

Sec. 10. *Prohibited Operation.*—(a) No person shall  
2 operate any motorboat or vessel, or manipulate any water  
3 skis, surfboard, or similar device in a reckless or negligent  
4 manner so as to endanger the life, limb, or property of  
5 any person.

6 (b) No person shall operate any motorboat or vessel,  
7 or manipulate any water skis, surfboard, or similar device  
8 while intoxicated or under the influence of any narcotic  
9 drug, barbituate or marijuana.

Sec. 11. *Collisions, Accidents and Casualties.*—(a) It  
2 shall be the duty of the operator of a vessel involved in  
3 a collision, accident, or other casualty, so far as he can  
4 do so without serious danger to his own vessel, crew,  
5 and passengers (if any), to render to other persons  
6 affected by the collision, accident, or other casualty such  
7 assistance as may be practicable and as may be necessary  
8 in order to save them from or minimize any danger caused  
9 by the collision, accident, or other casualty, and also to  
10 give his name, address, and identification of his vessel in  
11 writing to any person injured and to the owner of any  
12 property damaged in the collision, accident, or other  
13 casualty.

14 (b) In the case of a collision, accident, or other casualty  
15 involving a vessel, the operator thereof, if the collision,  
16 accident, or other casualty results in death or injury to  
17 a person or damage to property in excess of one hundred  
18 dollars, shall file with the commission a full description  
19 of the collision, accident, or other casualty, including such  
20 information as said commission may, by regulation, re-  
21 quire.

Sec. 12. *Transmittal of Information.*—In accordance  
2 with any request duly made by an authorized official or  
3 agency of the United States, any information compiled or  
4 otherwise available to the commission pursuant to section  
5 eleven, subsection (b) shall be transmitted to said official

6 or agency of the United States.

Sec. 13. *Water Skis and Surfboards.*—(a) No person  
2 shall operate a vessel on any waters of this state towing  
3 a person or persons on water skis, surfboard, or similar  
4 device, nor shall any person engage in water skiing, surf-  
5 boarding, or similar activity at any time between the  
6 hours from one hour after sunset to one hour before sun-  
7 rise.

8 (b) The provisions of subsection (a) of this section do  
9 not apply to a performer engaged in a professional ex-  
10 hibition, or a person or persons engaged in an activity  
11 authorized under section fourteen of this article.

12 (c) No person shall operate or manipulate any vessel,  
13 tow rope or other device by which the direction or loca-  
14 tion of water skis, surfboard, or similar device may be  
15 affected or controlled in such a way as to cause the water  
16 skis, surfboard, or similar device, or any person thereon  
17 to collide with or strike against any object or person.

Sec. 14. *Regattas, Races, Marine Parades, Tournaments*  
2 *or Exhibitions.*—(a) The department may authorize the  
3 holding of regattas, motorboat or other boat races, marine  
4 parades, tournaments or exhibitions on any waters of  
5 this state. It shall adopt and may, from time to time,  
6 amend regulations concerning the safety of motorboats  
7 and other vessels and persons thereon, either observers  
8 or participants. Whenever a regatta, motorboat or other  
9 boat race, marine parade, tournament or exhibition is  
10 proposed to be held, the person in charge thereof, shall,  
11 at least fifteen days prior thereto, file an application with  
12 the commission for permission to hold such regatta, motor-  
13 boat or other boat race, marine parade, tournament or  
14 exhibition. The application shall set forth the date, time  
15 and location where it is proposed to hold such regatta,  
16 motorboat or other boat race, marine parade, tournament  
17 or exhibition, and it shall not be conducted without au-  
18 thorization of the commission in writing.

19 (b) The provisions of this section shall not exempt  
20 any person from compliance with the applicable federal  
21 law or regulation, but nothing contained herein shall be  
22 construed to require the securing of a state permit pur-

23 suant to this section if a permit therefor has been ob-  
24 tained from an authorized agency of the United States.

Sec. 15. *Local Regulation.*—(a) The provisions of  
2 this article, and of other applicable laws of this state  
3 shall govern the operation, equipment, numbering and  
4 all other matters relating thereto whenever any vessel  
5 shall be operated on the waters of this state, or when  
6 any activity regulated by this article shall take place  
7 thereon, but nothing in this article shall be construed to  
8 prevent the adoption of any ordinance or local law relat-  
9 ing to operation and equipment of vessels the provisions  
10 of which are identical to the provisions of this article,  
11 amendments thereto or regulations issued thereunder:  
12 *Provided*, That such ordinances or local laws shall be  
13 operative only so long as and to the extent that they  
14 continue to be identical to provisions of this article,  
15 amendments thereto or regulations issued thereunder.

16 (b) Any subdivision of this state may, at any time,  
17 but only after public notice, make formal application to  
18 the commission for special rules and regulations with  
19 reference to the operation of vessels on any waters within  
20 its territorial limits and shall set forth therein the reasons  
21 which make such special rules or regulations necessary  
22 or appropriate.

23 (c) The director is hereby authorized to make special  
24 rules and regulations with reference to the operation of  
25 vessels on any waters within the territorial limits of any  
26 subdivision of this state.

Sec. 16. *Incapacity of Operator.*—No person who is the  
2 owner of any motorboat or has such in his charge or  
3 control shall act or permit the same to be operated by  
4 any person who by reason of any physical or mental dis-  
5 ability is incapable of operating such motorboat under  
6 all the prevailing circumstances.

Sec. 17. *General Rules and Regulations.*—The director  
2 is hereby authorized and empowered to prescribe, and to  
3 enforce:

4 (a) General rules and regulations to be observed in  
5 the operation or navigation of motorboats upon, over or  
6 through the waters of this state which he shall deem



7 necessary for the public health or safety of persons or  
8 property on or in such waters, or for the preservation  
9 of all forms of useful aquatic life, particularly as to speed,  
10 running, lights, signals, courses, channels, rights of way,  
11 and the disposal of oil, gas, gasoline or other wastes from  
12 such boats.

13 (b) Special rules and regulations for such particular,  
14 artificial or natural areas of water, for further limiting,  
15 restricting, or prohibiting the operation or navigation of  
16 motorboats thereof to protect the public health or to  
17 protect and preserve useful aquatic life.

Sec. 18. *Enforcement.*—The director shall be charged  
2 with the duty of enforcing the provisions of this article.  
3 Any person charged with the duty of enforcing the pro-  
4 visions of this article shall, while in the exercise thereof,  
5 have the authority to stop and board any vessel subject  
6 to the provisions of this article.

Sec. 19. *Penalties.*—Any person who shall violate any  
2 of the provisions of this article or the rules and regula-  
3 tions promulgated hereunder shall be deemed guilty of  
4 a misdemeanor, and, upon conviction thereof, shall be  
5 fined not less than twenty-five or more than five hundred  
6 dollars.

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## CHAPTER 79

(Senate Bill No. 37—By Mr. Jackson, of Logan, and Mr. Moats)

AN ACT to amend the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, by amending and reenact-  
ing sections one and two, article eleven, chapter sixteen  
thereof, and by adding thereto a new chapter, designated  
chapter twenty-a, all relating to the water resources of the  
state.

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[Passed March 11, 1959; in effect ninety days from passage. Approved by the  
Governor.]

*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 amending and reenacting sections one and two, article eleven, chapter sixteen thereof, and by adding thereto a new chapter, designated chapter twenty-a, all to read as follows:

## CHAPTER 16. PUBLIC HEALTH

### Article 11. State Water Resources Commission.

#### Section

#### 1. Definitions.

2. State water resources commission, a body corporate; members of commission; aid by division of sanitary engineering and college of engineering; expenses; reimbursement for expenditures.

Section 1. *Definitions.*—Terms used in this article are defined as follows:

(a) “Commission”, which heretofore meant the state water commission, on and after the effective date of this section shall mean the state water resources commission, a corporation created under the provisions of section two of this article.

(b) “Commissioner” shall mean a member of the commission.

(c) “Water” or “waters” shall mean all waters of any river, stream, watercourse, pond or lake.

(d) “Pollution” shall mean the discharge or deposit, directly or indirectly, of sewage, industrial wastes or other substances, in such condition, manner or quantity as may contaminate or alter the physical, chemical or biological properties of any of the waters of the state to such extent as to render such waters directly or indirectly detrimental to the public health or unreasonably and adversely affect such waters for present or future domestic, commercial, industrial, agricultural, recreational or other legitimate uses.

(e) “Person” shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, any county court, government institution, agency or political subdivision as well as any firm or association.

Sec. 2. *State Water Resources Commission, a Body Corporate; Members of Commission; Aid by Division of Sanitary Engineering and College of Engineering; Ex-*

4 *penses; Reimbursement for Expenditures.*—The state  
5 water resources commission shall be a corporation, and,  
6 as such may sue and be,sued, contract and be contracted  
7 with, and it shall have a common seal.

8 The commission shall consist of the director of health,  
9 the director of conservation, the superintendent of the  
10 state geological and economic survey, and their successors  
11 in office, and four other members to be appointed by the  
12 governor with the advice and consent of the Senate. Com-  
13 missioners in office at the effective date of this section  
14 shall continue in office until the new appointees have been  
15 appointed and qualified. The terms of office of the mem-  
16 bers of the commission to be appointed by the governor  
17 shall be for six years. The first appointments made under  
18 the provisions of this section shall be as follows: Two  
19 members for three years and two members for six years;  
20 as these terms expire the offices shall be filled for six-year  
21 terms. The members of the commission shall receive no  
22 salary or remuneration for their services as such commis-  
23 sioners but they shall be reimbursed, out of moneys ap-  
24 propriated for such purposes, all sums which they neces-  
25 sarily shall expend in the discharge of their duties as  
26 members of such commission. The director of the division  
27 of sanitary engineering in the state health department  
28 shall perform such services as said commission may re-  
29 quest of him in connection with its duties hereunder; he  
30 shall be reimbursed, out of moneys appropriated for such  
31 purposes, all sums which he necessarily shall expend in  
32 the performance of such services. Nothing contained in  
33 this article, however, shall be construed to limit or inter-  
34 fere with the power of the state health department to  
35 select, employ and direct the director of the division of  
36 sanitary engineering of said department, or any employee  
37 thereof who in any way may perform any services for  
38 the commission. The college of engineering at West Vir-  
39 ginia university, under the direction of the dean thereof,  
40 shall, insofar as it can, without interference with its usual  
41 and regular activities, aid and assist the commission in  
42 the study and research of questions connected with pollu-  
43 tion of waters. The dean of the college of engineering

44 shall be reimbursed out of moneys appropriated for such  
45 purposes, any and all sums which he necessarily shall ex-  
46 pend in the performance of any services he may render  
47 to the commission under the provisions hereof.

## CHAPTER 20-A. WATER RESOURCES

### Article 1. State Water Resources Commission.

#### Section

1. Definitions.
2. Personnel.
3. Surveys, investigations, inventories and reports regarding water resources and their use; aid from other agencies and persons.
4. Powers and duties of the commission generally.
5. Authority of commission to approve federal projects.
6. Enforcement; offenses.

Section 1. *Definitions.*—Terms used in this article are defined as follows:

(a) "Commission" shall mean the state water resources commission.

(b) "Commissioner" shall mean a member of the commission.

(c) "Water resources" shall mean any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused water on the surface of the ground, and water percolating, standing or flowing beneath the surface of the ground.

(d) "Domestic use" shall mean any use of water resources by occupants of land for personal need and for household purposes, including (1) uses for drinking, bathing, cooking and sanitation; (2) uses for maintaining poultry and animals kept for household sustenance; (3) uses for maintaining household pets, and (4) uses for heating and cooling private residences and for maintaining noncommercial lawns, gardens, or orchards appurtenant to private residences.

(e) "Commercial use" shall mean any use of water resources other than domestic use.

(f) "Person" shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, any county court, government institution, agency or political subdivision as well as any firm or association.

2       Sec. 2. *Personnel*.—The commission is authorized to  
3       employ such personnel as are required to carry out the  
4       purposes of this article.

2       Sec. 3. *Surveys, Investigations, Inventories and Reports*  
3       *Regarding Water Resources and Their Use; Aid From*  
4       *Other Agencies and Persons*.—The commission shall make  
5       surveys and investigations of the water resources of the  
6       state and, as soon as practicable, shall inventory the water  
7       resources of the state and to the extent practicable shall  
8       divide the state into watershed drainage areas in making  
9       this inventory. The commission shall investigate and  
10      study the problems of agriculture, industry, conservation,  
11      health, stream pollution, domestic and commercial uses  
12      and allied matters as they relate to water resources of  
13      the state, and shall make and formulate comprehensive  
14      plans and recommendations for the further development,  
15      improvement, protection, preservation, regulation and use  
16      of such water resources, giving proper consideration to  
17      the hydrologic cycle in which water moves. Annually,  
18      not later than the first of November, the commission shall  
19      prepare and publish a full report on the commission's  
20      work as to collection and evaluation of the information  
21      which has been obtained in accordance with the require-  
22      ments of this section and shall include in this report the  
23      plans and recommendations which have been formulated  
24      pursuant to the requirements of this section. The report  
25      shall include the commission's reasons for such plans and  
26      recommendations, as well as any changes in the law which  
27      are deemed desirable to effectuate such plans and recom-  
28      mendations. Such reports shall be made available to the  
29      public at a price to be determined by the commission.  
30      The commission may request and, if requested, shall  
31      receive from any agency of the state or any political sub-  
32      division thereof, or from any other person who engages in  
33      a commercial use or controls any of the water resources  
34      of the state such necessary information and data as will as-  
35      sist the commission in obtaining a complete picture of the  
36      water resources of the state and their existing control and  
37      commercial uses. The commission shall reimburse such  
38      agencies, political subdivisions and other persons for any

38 expenses which would not otherwise have been incurred  
39 in making such information and data available to the  
40 commission.

Sec. 4. *Powers and Duties of the Commission Generally.*

2 In order to effectuate the purposes of this article, the com-  
3 mission shall have the following duties and powers in ad-  
4 dition to those heretofore or by other sections of this  
5 article conferred on the commission:

6 (1) To enter into compacts and agreements concerning  
7 this state's share of waters in watercourses where a por-  
8 tion of such waters are contained within the territorial  
9 limits of a neighboring state or states, subject to the ap-  
10 proval of the Legislature;

11 (2) To cooperate with federal officers and agencies,  
12 other state agencies and officers, interstate agencies, and  
13 other interested persons in the conservation, improvement  
14 and development of water resources, and to this end the  
15 commission may receive money from such agencies and  
16 persons, on behalf of the state: *Provided*, That all moneys  
17 received as provided in this subsection shall be paid into a  
18 special fund which is hereby created in the state treasury  
19 and shall be expended, under the direction of the com-  
20 mission, solely for the purpose or purposes for which the  
21 grant, gift, or contribution shall have been made;

22 (3) To conduct, or contract for the conducting of, scien-  
23 tific investigations, experiments, and research and to col-  
24 lect data concerning the water resources of the state and  
25 pollution;

26 (4) To enter at all reasonable times upon any land,  
27 public or private, for the purpose of making surveys, ex-  
28 aminations, investigations and studies needed in the  
29 gathering of facts concerning water resources and their  
30 use or pollution thereof, subject to responsibility for any  
31 damage to the property entered;

32 (5) To hold public hearings, pursuant to rules and  
33 regulations established by the commission, to obtain  
34 the necessary information to carry out the purposes  
35 of this article, particularly with reference to the for-  
36 mulation of plans and recommendations required by  
37 the provisions of section three of this article and at

38 any such hearing, the commission or its duly authorized  
39 agents, shall have the power to administer oaths, to  
40 take testimony, to issue subpoenas and to compel the  
41 attendance of witnesses; and

42 (6) To advise all users of water resources as to the  
43 availability of water resources and the most practicable  
44 method of water diversion, use, development, and con-  
45 servation.

Sec. 5. *Authority of Commission to Approve Federal*  
2 *Projects.*—Whenever a federal law requires the approval  
3 or recommendation of a state agency or any political sub-  
4 division of the state in any matter relating to the water  
5 resources of the state, the commission, subject to approval  
6 of the Legislature, is hereby designated as the sole agency  
7 to give the approval or recommendation required by the  
8 federal law, unless the federal law specifically requires  
9 the approval or recommendation of some other state  
10 agency or political subdivision of the state.

Sec. 6. *Enforcement; Offenses.*—The commission shall  
2 have the right to compel compliance with, or to prevent  
3 violations and threatened violations of, the provisions of  
4 this article by injunction proceedings if the offender fails  
5 to comply with the terms of a cease and desist order  
6 served upon him by the commission.

7 Any person who violates any of the provisions of this  
8 article shall be guilty of a misdemeanor, and, upon con-  
9 viction thereof shall be fined not less than fifty nor  
10 more than three hundred dollars, and not less than one  
11 hundred nor more than five hundred dollars for each  
12 subsequent offense.

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## CHAPTER 80

(Senate Bill No. 319—By Mr. Gainer and Mr. Hedrick)

AN ACT to amend and reenact sections seven and nine, article  
twenty-three, chapter nineteen of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended,  
relating to taxes to be paid by and the financial responsi-

bility of licensees conducting horse racing within the state, and to the regulation and control of horse racing .

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[Passed March 14, 1959; in effect July 1, 1959. Approved by the Governor.]

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### Article 23. Horse Racing.

#### Section

7. Per diem tax on tracks; tax on pool contribution; how taxes paid; financial responsibility of licensees.
  9. Only pari-mutuel system of wagering permitted; commission of licensee on pari-mutuel pools; minors; auditor.
- 

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

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

- Section 7. *Per Diem Tax on Tracks; Tax on Pool Contribution; How Taxes Paid; Financial Responsibility of Licensees.*—A person operating any horse race track one mile or more in length shall pay each day upon which horse races are run a license tax of five hundred dollars; any race track less than one mile in length shall pay for each day upon which horse races are run a license tax of two hundred fifty dollars: *Provided*, That the per diem tax shall not apply to horse shows or county fairs at which racing is conducted for not more than six days. Any person licensed by the commission to conduct racing and to permit and conduct pari-mutuel wagering under this article shall, in addition to the afore-mentioned tax, pay to the racing commission of the state of West Virginia a tax of five and three-fourths per cent of the total contribution to all pari-mutuel pools conducted or made at any and every race meeting licensed under this article: *Provided, however*, That on and after the first day of July, one thousand nine hundred sixty, said tax shall be reduced to five per cent of said contribution. Such payments shall be made to the commission or its agent after the last race on each day and every day of each and every race meeting, and shall be made from all contributions to



24 all pari-mutuel pools to each and every race of the day,  
25 which payment shall be deposited with the treasurer of  
26 the state of West Virginia to the credit of the general  
27 revenue fund.

28 Any person making application for a license for a meet-  
29 ing to be held on any track in the state of West Virginia,  
30 shall, when required, furnish satisfactory evidence to the  
31 commission of his or their ability to pay license fees,  
32 purses, salaries of officials and other expenses incident to  
33 the meeting. In the event the applicant is not able to fur-  
34 nish such satisfactory evidence of his or their ability to  
35 pay such expenses and fees, then the commission may re-  
36 quire bond or other adequate security for not more than  
37 four successive days before such license is issued.

Sec. 9. *Only Pari-Mutuel System of Wagering Permitted; Commission of Licensee on Pari-Mutuel Pools; Minors; Auditor.*—A person licensed by the commission shall  
2 permit only the pari-mutuel system of wagering within  
3 the enclosure at which horse racing is held, and the com-  
4 mission deducted by the licensee from the said pari-  
5 mutuel pools shall not exceed fourteen and three-fourths  
6 per cent of the total pari-mutuel pools for the day, in-  
7 cluding the license fee of the gross amount handled here-  
8 inbefore provided for, plus the breakage, which shall be  
9 made and calculated to the dime. Such breakage shall  
10 be retained by the licensee: *Provided, however,* That  
11 on and after the first day of July, one thousand nine hun-  
12 dred sixty, the said commission so deducted shall not ex-  
13 ceed fourteen per cent.

16 No holder of such license shall permit or allow any per-  
17 son under the age of twenty-one years to wager thereat,  
18 knowing or having reason to believe that such person is  
19 under the age of twenty-one years. Any violation of this  
20 paragraph shall be punishable by revocation of license.

21 An auditor of pari-mutuel pools shall be appointed by  
22 the commission and shall be compensated by said commis-  
23 sion. He shall be an experienced public accountant. Said  
24 auditor shall have free access to the space or enclosure  
25 where the pari-mutuel pool system of wagering is con-  
26 ducted or calculated at any race meeting to which he shall  
27 be assigned for the purpose of ascertaining whether or not

28 said licensee is retaining only the commission provided  
29 for in said section. He shall also, for the same purposes  
30 only, have full and free access to all records and papers  
31 pertaining to such pari-mutuel pool system of wagering,  
32 and shall report to the commission in writing, under oath,  
33 whether or not the licensee has retained any commissions  
34 in excess of those permitted under this article.

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## CHAPTER 81

(Senate Bill No. 203—By Mr. Nuckols)

AN ACT to amend and reenact section nine, article seven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the standard valuation law for life policies.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Agents, Solicitors and Brokers.

#### Section

9. Standard valuation law for life policies.

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

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

#### Section 9. *Standard Valuation Law for Life Policies.*—

2 (1) The commissioner shall annually value, or cause to be  
3 valued, the reserve liabilities (hereinafter called re-  
4 serves) for all outstanding life insurance policies and an-  
5 nuity and pure endowment contracts of every life insurer  
6 transacting insurance in this state, except that in the case  
7 of an alien insurer such valuation shall be limited to its  
8 United States business, and may certify the amount of any  
9 such reserves, specifying the mortality table or tables,  
10 rate or rates of interest and methods (net level premium  
11 method or other) used in the calculation of such reserves.

12 All valuations made by him or by his authority shall be  
13 made upon the net premium basis.

14 In every case the standard of valuation employed shall  
15 be stated in his annual report.

16 In calculating such reserves, he may use group methods  
17 and approximate averages for fractions of a year or other-  
18 wise. In lieu of the valuation of the reserves herein re-  
19 quired of any foreign or alien insurer, he may accept any  
20 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 been  
29 computed in the manner prescribed by the law of that  
30 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 of  
40 article thirteen of this chapter). All valuations shall be  
41 according to the standard of valuations adopted by the  
42 insurer for the obligations to be valued. Any insurer may  
43 adopt different standards for obligations of different dates  
44 or classes, but if the total value determined by any such  
45 standard for the obligations for which it has been adopted  
46 shall be less than that determined by the legal minimum  
47 standard hereinafter prescribed, or if the insurer adopts  
48 no standard, said legal minimum standard shall be used.

49 The legal minimum standard for contracts issued before  
50 the first day of January, in the year one thousand nine  
51 hundred one, shall be actuaries' or combined experience  
52 table of mortality with interest at four per cent per an-

53 num, and for contracts issued on or after said date shall  
54 be the "American Experience Table" of mortality with  
55 interest at three and one-half per cent per annum. Poli-  
56 cies issued by insurers doing business in this state may  
57 provide for not more than one year preliminary term in-  
58 surance: *Provided, however,* That if the premium charged  
59 for term insurance under a limited payment life prelimi-  
60 nary term policy providing for the payment of all pre-  
61 miums thereof in less than twenty years from the date of  
62 the policy, or under an endowment preliminary term pol-  
63 icy, exceeds that charged for like insurance under twenty  
64 payment life preliminary term policies of the same in-  
65 surer, the reserve thereon at the end of any year, includ-  
66 ing the first, shall not be less than the reserve on a twenty  
67 payment life preliminary term policy issued in the same  
68 year and at the same age, together with an amount which  
69 shall be equivalent to the accumulation of a net level pre-  
70 mium sufficient to provide for a pure endowment at the  
71 end of the premium payment period, equal to the differ-  
72 ence between the value at the end of such period of such  
73 a twenty payment life preliminary term policy and a full  
74 reserve at such time of such a limited payment life or en-  
75 dowment policy.

76 The commissioner may vary the standards of interest  
77 and mortality in the case of alien insurers and in particu-  
78 lar cases of invalid lives and other extra hazards.

79 Reserves for all such policies and contracts may be cal-  
80 culated, at the option of the insurer, according to any  
81 standards which produce greater aggregate reserves for  
82 all such policies and contracts than the minimum reserves  
83 required by this subsection.

84 (3) This subsection shall apply to only those policies  
85 and contracts issued on or after the original operative date  
86 of the Standard Nonforfeiture Law (now section thirty  
87 of article thirteen of this chapter).

88 (a) The minimum standard for the valuation of all such  
89 policies and contracts shall be the commissioner's reserve  
90 valuation method defined in paragraph (b), three and one-  
91 half per cent interest, and the following tables:

92 (i) For all ordinary policies of life insurance issued on  
93 the standard basis, excluding any disability and accidental

94 death benefits in such policies,—the Commissioners 1941  
95 Standard Ordinary Mortality Table for such policies is-  
96 sued prior to the operative date of subsection four-a of  
97 section thirty, article thirteen of this chapter, and the  
98 Commissioners 1958 Standard Ordinary Mortality Table  
99 for such policies issued on or after such operative date:  
100 *Provided*, That for any category of such policies issued on  
101 female risks all modified net premiums and present values  
102 referred to in this section may be calculated according to  
103 an age not more than three years younger than the actual  
104 age of the insured.

105 (ii) For all industrial life insurance policies issued on  
106 the standard basis, excluding any disability and accidental  
107 death benefits in such policies,—the 1941 Standard In-  
108 dustrial Mortality Table.

109 (iii) For annuity and pure endowment contracts, ex-  
110 cluding any disability and accidental death benefits in  
111 such policies,—the 1937 Standard Annuity Mortality Ta-  
112 ble.

113 (iv) For total and permanent disability benefits in or  
114 supplementary to ordinary policies or contracts—Class  
115 (3) Disability Table (1926) which, for active lives, shall  
116 be combined with a mortality table permitted for calcu-  
117 lating the reserves for life insurance policies.

118 (v) For accidental death benefits in or supplementary  
119 to policies—the Inter-Company Double Indemnity Mor-  
120 tality Table combined with a mortality table permitted  
121 for calculating the reserves for life insurance policies.

122 (vi) For group life insurance, life insurance issued on  
123 the sub-standard basis and other special benefits—such  
124 tables as may be approved by the commissioner.

125 (b) Reserves according to the commissioner's reserve  
126 valuation method, for the life insurance and endowment  
127 benefits of policies providing for a uniform amount of in-  
128 surance and requiring the payment of uniform premiums  
129 shall be the excess, if any, of the present value, at the date  
130 of valuation, of such future guaranteed benefits provided  
131 for by such policies, over the then present value of any  
132 future modified net premiums therefor. The modified net  
133 premiums for any such policy shall be such uniform per-  
134 centage of the respective contract premiums for such ben-

135 efits that the present value, at the date of issue of the pol-  
136 icy, of all such modified net premiums shall be equal to  
137 the sum of the then present value of such benefits pro-  
138 vided for by the policy and the excess of (A) over (B), as  
139 follows:

140 (A) A net level annual premium equal to the present  
141 value, at the date of issue, of such benefits provided for  
142 after the first policy year, divided by the present value,  
143 at the date of issue, of an annuity of one per annum pay-  
144 able on the first and each subsequent anniversary of such  
145 policy on which a premium falls due: *Provided, however,*  
146 That such net level annual premium shall not exceed the  
147 net level annual premium on the nineteen year premium  
148 whole life plan for insurance of the same amount at an age  
149 one year higher than the age at issue of such policy.

150 (B) A net one year term premium for such benefits pro-  
151 vided for in the first policy year.

152 Reserves according to the commissioner's reserve valu-  
153 ation method for (i) life insurance policies providing for  
154 a varying amount of insurance or requiring the payment  
155 of varying premiums, (ii) annuity and pure endowment  
156 contracts, (iii) disability and accidental death benefits in  
157 all policies and contracts, and (iv) all other benefits, ex-  
158 cept life insurance and endowment benefits in life insur-  
159 ance policies, shall be calculated by a method consistent  
160 with the principles of this paragraph (b).

161 (c) In no event shall an insurer's aggregate reserves for  
162 all life insurance policies, excluding disability and acci-  
163 dental death benefits, be less than the aggregate reserves  
164 calculated in accordance with the method set forth in  
165 paragraph (b) and the mortality table or tables and rate  
166 or rates of interest used in calculating nonforfeiture bene-  
167 fits for such policies.

168 (d) Reserves for any category of policies, contracts or  
169 benefits as established by the commissioner may be calcu-  
170 lated, at the option of the insurer, according to any stand-  
171 ards which produce greater aggregate reserves for such  
172 category than those calculated according to the minimum  
173 standard herein provided, but the rate or rates of interest  
174 used shall not be higher than the corresponding rate or  
175 rates of interest used in calculating any nonforfeiture

176 benefits provided for therein: *Provided, however,* That  
177 reserves for participating life insurance policies, may,  
178 with the consent of the commissioner, be calculated ac-  
179 cording to a rate of interest lower than the rate of interest  
180 used in calculating the nonforfeiture benefits in such poli-  
181 cies, with the further proviso that if such lower rate differs  
182 from the rate used in the calculation of the nonforfeiture  
183 benefits by more than one-half per cent the insurer issuing  
184 such policies shall file with the commissioner a plan pro-  
185 viding for such equitable increases, if any, in the cash  
186 surrender values and nonforfeiture benefits in such poli-  
187 cies as the commissioner shall approve.

188 (e) If the gross premium charged by any life insurer  
189 on any policy or contract is less than the net premium for  
190 the policy or contract according to the mortality table,  
191 rate of interest and method used in calculating the re-  
192 serve thereon, there shall be maintained on such policy  
193 or contract a deficiency reserve in addition to all other  
194 reserves required by law. For each such policy or contract  
195 the deficiency reserve shall be the present value, accord-  
196 ing to such standard, of an annuity of the difference be-  
197 tween such net premium and the premium charged for  
198 such policy or contract, running for the remainder of the  
199 premium-paying period.

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## CHAPTER 82

(Senate Bill No. 205—By Mr. Nuckols)

AN ACT to amend article twelve, 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 seven-a, prohibiting countersignatures by salaried employees of insurance companies.

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[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 12. Burial Insurance.

#### Section

7-a. Countersignature by salaried employee prohibited.

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

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

Section 7-a. *Countersignature by Salaried Employee*

- 2 *Prohibited.*—No salaried employee of any foreign or alien  
3 insurer shall countersign any contract of insurance sub-  
4 mitted by a licensed nonresident broker covering a subject  
5 of insurance, resident, located or to be performed in this  
6 state. This section shall not apply if all West Virginia  
7 agents of the insurer are salaried employees, nor to life or  
8 health and accident and sickness insurance contracts.

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## CHAPTER 83

(Senate Bill No. 189—By Mr. Nuckols)

AN ACT to amend and reenact section twenty-four, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment of commissions to insurance agents, brokers, solicitors and excess line.

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{Passed March 5, 1959; in effect ninety days from passage. Approved by the Governor.}

### Article 12. Burial Insurance.

#### Section

24. Payment of commissions.

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

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

Section 24. *Payment of Commissions.*—(a) The entire

- 2 commission payable by any insurer licensed to transact



3 insurance in this state on any insurance policy shall be  
4 paid directly to the licensed resident agent who counter-  
5 signs the policy. The countersigning agent shall not pay  
6 any part of such commission to any person other than a  
7 licensed agent or broker: *Provided*, That the portion of  
8 such commission retained by the countersigning resident  
9 agent shall not be less than ten percent of the gross policy  
10 premium or fifty percent of the commission payable by  
11 the insurer as provided herein, whichever is the lesser  
12 amount. The term "commission" as used herein shall in-  
13 clude engineering fees, service fees or any other compen-  
14 sation incident to the issuance of a policy payable by or to  
15 any insurer, agent or broker. It shall be unlawful for any  
16 insurer or agent to pay, and any person to accept, directly  
17 or indirectly, any commission except as provided in this  
18 section.

19 (b) This section shall not apply to reinsurance, or life  
20 insurance; nor to excess line insurance procured in ac-  
21 cordance with the provisions of this article relating there-  
22 to; nor to credit insurance, any contract of insurance  
23 covering the rolling stock of any railroad or covering any  
24 vessel, aircraft or motor carrier used in interstate or for-  
25 eign commerce, any liability or other risks incident to the  
26 ownership, maintenance or operation thereof, any con-  
27 tract of insurance covering any property in interstate or  
28 foreign commerce, or any liability or risks incident there-  
29 to.

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## CHAPTER 84

(Senate Bill No. 207—By Mr. Nuckols)

AN ACT to amend article twelve, 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 twenty-eight, relating to issuance of service representative permits by insurance commissioner to non-residents.

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[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

**Article 12. Burial Insurance.****Section**

28. Service representative permits.

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

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

Section 28. *Service Representative Permits.*—Individual nonresidents of West Virginia, employed on salary by an insurer, who enter the state to assist and advise resident agents in the solicitation, negotiation, making or procuring of contracts of insurance on risks resident, located or to be performed in West Virginia shall obtain a service representative permit. The commissioner may, upon receipt of a properly prepared application, issue such permit without requiring a written examination therefor. The fee for a service representative permit shall be five dollars and the permit shall expire at midnight on March thirty-first next following the date of issuance. Issuance of a service representative permit shall not entitle the holder to countersign policies. Such representative shall not in any manner solicit, negotiate, make or procure insurance in this state except when in the actual company of the licensed resident agent whom he has been assigned to assist. All fees collected under this section shall be deposited in the fund for the purposes set forth in section thirteen of article three of this chapter.

## CHAPTER 85

(Senate Bill No. 204—By Mr. Nuckols)

AN ACT to amend and reenact section thirty, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the standard nonforfeiture law for life insurance.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 13. Group Accident and Health Insurance.

#### Section

#### 30. Standard nonforfeiture law.

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

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

Section 30. *Standard Nonforfeiture Law.*—(1) In the case of policies issued on or after the original operative date of this provision, no policy of life insurance, except as stated in subsection six, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified;

(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the insurer will pay, in lieu of any paid-up 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 in-

30 surer will pay, upon surrender of the policy within thirty  
31 days after any policy anniversary, a cash surrender value  
32 of such amount as may be hereinafter specified;

33 (e) A statement of the mortality table and interest rate  
34 used in calculating the cash surrender values and the  
35 paid-up nonforfeiture benefits available under the policy,  
36 together with a table showing the cash surrender value, if  
37 any, and paid-up nonforfeiture benefits, if any, available  
38 under the policy on each policy anniversary either during  
39 the first twenty policy years or during the term of the  
40 policy, whichever is shorter, such values and benefits to  
41 be calculated upon the assumption that there are no divi-  
42 dends or paid-up additions credited to the policy and that  
43 there is no indebtedness to the insurer on the policy;

44 (f) A statement that the cash surrender values and the  
45 paid-up nonforfeiture benefits available under the policy  
46 are not less than the minimum values and benefits re-  
47 quired by or pursuant to the insurance law of the state in  
48 which the policy is delivered; an explanation of the man-  
49 ner in which the cash surrender values and the paid-up  
50 nonforfeiture benefits are altered by the existence of any  
51 paid-up additions credited to the policy or any indebted-  
52 ness to the company on the policy; if a detailed statement  
53 of the method of computation of the values and benefits  
54 shown in the policy is not stated therein, a statement that  
55 such method of computation has been filed with the in-  
56 surance supervisory official of the state in which the policy  
57 is delivered; and a statement of the method to be used in  
58 calculating the cash surrender value and paid-up nonfor-  
59 feiture benefit available under the policy on any policy  
60 anniversary beyond the last anniversary for which such  
61 values and benefits are consecutively shown in the policy.

62 Any of the foregoing provisions or portions thereof, not  
63 applicable by reason of the plan of insurance may, to the  
64 extent inapplicable, be omitted from the policy.

65 The insurer shall reserve the right to defer the payment  
66 of any cash surrender value for a period of six months  
67 after demand therefor with surrender of the policy.

68 (2) Any cash surrender value available under the policy  
69 in the event of default in a premium payment due on any  
70 policy anniversary, whether or not required by subsec-

tion 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 subsections four and four-a, 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 per cent 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 per cent of the adjusted premium for the first policy year; (iv) twenty-five per cent of either the adjusted premium for the

112 first policy year or the adjusted premium for a whole life  
113 policy of the same uniform or equivalent uniform amount  
114 with uniform premiums for the whole of life issued at the  
115 same age for the same amount of insurance, whichever  
116 is less: *Provided, however,* That in applying the percent-  
117 ages specified in (iii) and (iv) above, no adjusted pre-  
118 mium shall be deemed to exceed four per cent of the  
119 amount of insurance or level amount equivalent thereto.  
120 The date of issue of a policy for the purpose of this sub-  
121 section shall be the date as of which the rated age of the  
122 insured is determined.

123 In the case of a policy providing an amount of insurance  
124 varying with duration of the policy, the equivalent uni-  
125 form amount thereof for the purpose of this subsection  
126 shall be deemed to be the level amount of insurance pro-  
127 vided by an otherwise similar policy, containing the same  
128 endowment benefit or benefits, if any, issued at the same  
129 age and for the same term, the amount of which does not  
130 vary with duration and the benefits under which have the  
131 same present value at the date of issue as the benefits  
132 under the policy.

133 Except as otherwise provided in subsection four-a, all  
134 adjusted premiums and present values referred to in this  
135 section shall for all policies of ordinary insurance be cal-  
136 culated on the basis of the Commissioners 1941 Standard  
137 Ordinary Mortality Table: *Provided,* That for any cate-  
138 gory of ordinary insurance issued on female risks, ad-  
139 justed premiums and present values may be calculated  
140 according to an age not more than three years younger  
141 than the actual age of the insured. Such calculations for  
142 all policies of industrial insurance shall be made on the  
143 basis of the 1941 Standard Industrial Mortality Table. All  
144 calculations shall be made on the basis of the rate of in-  
145 terest, not exceeding three and one-half per cent per an-  
146 num, specified in the policy for calculating cash surrender  
147 values and paid-up nonforfeiture benefits: *Provided,* That  
148 in calculating the present value of any paid-up term in-  
149 surance with accompanying pure endowment, if any, of-  
150 fered as a nonforfeiture benefit, the rate of mortality as-  
151 sumed may be not more than one hundred and thirty per  
152 cent of the rates of mortality according to such applicable

153 table: *Provided further*, That for insurance issued on a  
154 substandard basis, the calculation of any such adjusted  
155 premiums and present values may be based on such other  
156 table of mortality as may be specified by the insurer and  
157 approved by the commissioner.

158 (4-a) In the case of ordinary policies issued on or after  
159 the operative date of this subsection four-a as defined  
160 herein, all adjusted premiums and present values referred  
161 to in this section shall be calculated on the basis of the  
162 Commissioners 1958 Standard Ordinary Mortality Table  
163 and the rate of interest, not exceeding three and one-half  
164 per cent per annum, specified in the policy for calculating  
165 cash surrender values and paid-up nonforfeiture benefits:  
166 *Provided*, That for any category of ordinary insurance is-  
167 sued on female risks, adjusted premiums and present  
168 values may be calculated according to an age not more  
169 than three years younger than the actual age of the in-  
170 sured: *Provided, however*, That in calculating the present  
171 value of any paid-up term insurance with accompanying  
172 pure endowment, if any, offered as a nonforfeiture bene-  
173 fit, the rates of mortality assumed may be not more than  
174 those shown in the Commissioners 1958 Extended Term  
175 Insurance Table: *Provided further*, That for insurance is-  
176 sued on a substandard basis, the calculation of any such  
177 adjusted premiums and present values may be based on  
178 such other table of mortality as may be specified by the  
179 company and approved by the commissioner.

180 After the effective date of this subsection four-a, any  
181 company may file with the commissioner a written notice  
182 of its election to comply with the provisions of this sub-  
183 section after a specified date before January first, one  
184 thousand nine hundred sixty-six. After the filing of  
185 such notice, then upon such specified date (which shall  
186 be the operative date of this subsection for such company),  
187 this subsection shall become operative with respect to the  
188 ordinary policies thereafter issued by such company. If a  
189 company makes no such election, the operative date of  
190 this subsection for such company shall be January first,  
191 one thousand nine hundred sixty-six.

192 (5) Any cash surrender value and any paid-up nonfor-  
193 feiture benefit, available under the policy in the event of

194 default in a premium payment due at any time other than  
195 on the policy anniversary, shall be calculated with allow-  
196 ance for the lapse of time and the payment of fractional  
197 premiums beyond the last preceding policy anniversary.  
198 All values referred to in subsections two, three, four and  
199 four-a may be calculated upon the assumption that any  
200 death benefit is payable at the end of the policy year of  
201 death. The net value of any paid-up additions, other than  
202 paid-up term additions, shall be not less than the divi-  
203 dends paid to provide such additions. Notwithstanding  
204 the provisions of subsection two, additional benefits pay-  
205 able (a) in the event of death or dismemberment by acci-  
206 dent or accidental means, (b) in the event of total and  
207 permanent disability, (c) as reversionary or deferred  
208 reversionary annuity benefits, (d) as term insurance ben-  
209 efits provided by a rider or supplemental policy provision,  
210 to which, if issued as a separate policy, this subsection  
211 would not apply and (e) as other policy benefits addi-  
212 tional to life insurance and endowment benefits, and pre-  
213 miums for all such additional benefits, shall be disre-  
214 garded in ascertaining cash surrender values and nonfor-  
215 feiture benefits required by this section, and no such addi-  
216 tional benefits shall be required to be included in any  
217 paid-up nonforfeiture benefits.

218 (6) This section shall not apply to any reinsurance,  
219 group insurance, pure endowment, annuity or reversion-  
220 ary annuity contract, nor to any term policy of uniform  
221 amount, or renewal thereof, of fifteen years or less ex-  
222 piring before age sixty-six, for which uniform premiums  
223 are payable during the entire term of the policy, nor to  
224 any term policy of decreasing amount on which each ad-  
225 justed premium, calculated as specified in subsections four  
226 and four-a, is less than the adjusted premium so calcu-  
227 lated on a policy issued at the same age and for the same  
228 initial amount of insurance for a term defined as follows—  
229 for ages at issue fifty and under the term shall be fifteen  
230 years, thereafter, the terms shall decrease one year for  
231 each year of age beyond fifty, nor to any policy for which  
232 shall be delivered outside this state through an agent or  
233 other representative of the insurer issuing the policy.



## CHAPTER 86

(Senate Bill No. 192—By Mr. Nuckols)

AN ACT to amend article seventeen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven, relating to the exclusion of insurance coverage for nuclear reaction, nuclear radiation or radioactive contamination.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 17. Fire and Marine Insurance.

#### Section

#### 11. Exclusion of nuclear perils.

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

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

Section 11. *Exclusion of Nuclear Perils.*—Insurers issuing the standard policy pursuant to section two or any permissible variation thereof are authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination, or any combination or all of said causes, whether directly or indirectly resulting from an insured peril under said policy: *Provided, however,* That nothing therein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction, nuclear radiation or radioactive contamination.

## CHAPTER 87

(Senate Bill No. 241—By Mr. Martin and Mr. Nuckols)

AN ACT to amend and reenact sections seventeen, eighteen and twenty-two, article twenty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fraternal benefit societies and authorizing the provision by such societies of a family plan for benefits.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 23. Fraternal Benefit Societies.

#### Section

- 17. Benefits.
- 18. Benefits on lives of children.
- 22. The contract.

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

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

- Section 17. *Benefits.*—(1) 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 or accident;
  - (e) hospital, medical or nursing benefits due to sickness or bodily infirmity or accident;
  - (f) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars.
- (2) Such benefits may be provided on the lives of members or, upon application of a member, on the lives of the member's family, including the member, the member's

16 spouse and minor children, in the same or separate certi-  
17 ficates.

Sec. 18. *Benefits on Lives of Children.*—(a) A society  
2 may provide for benefits on the lives of children under  
3 the minimum age for adult membership but not greater  
4 than twenty-one years of age at time of application  
5 therefor, upon the application of some adult person, as  
6 its laws or rules may provide, which benefits shall be in  
7 accordance with the provisions of paragraph (1) of sec-  
8 tion seventeen of this article. A society may, at its option,  
9 organize and operate branches for such children. Mem-  
10 bership and initiation in local lodges shall not be required  
11 of such children, nor shall they have a voice in the man-  
12 agement of the society.

13 (b) A society shall have power to provide for the desig-  
14 nation and changing of designation of beneficiaries in the  
15 certificates providing for such benefits and to provide in  
16 all other respects for the regulation, government and  
17 control of such certificates and all rights, obligations and  
18 liabilities incident thereto and connected therewith.

Sec. 22. *The Contract.*—(a) Every society licensed in  
2 this state shall issue to each benefit member a certificate  
3 specifying the amount of benefits provided thereby. The  
4 certificate, together with any riders or endorsements  
5 attached thereto, the charter or articles of incorporation,  
6 the constitution and laws of the society, the application  
7 for membership, and declaration of insurability, if any,  
8 signed by the applicant, and all amendments to each  
9 thereof, shall constitute the agreement, as of the date of  
10 issuance, between the society and the member, and the  
11 certificate shall so state. A copy of the application for  
12 membership and of the declaration of insurability, if any,  
13 shall be endorsed upon or attached to the certificate.

14 (b) All statements purporting to be made by the mem-  
15 ber shall be representations and not warranties. Any  
16 waiver of this provision shall be void.

17 (c) Any changes, additions or amendments to the  
18 charter or articles of incorporation, constitution or laws  
19 duly made or enacted subsequent to the issuance of the  
20 certificate, shall bind the member and the beneficiaries,

21 and shall govern and control the agreement in all respects  
22 the same as though such changes, additions or amend-  
23 ments had been made prior to and were in force at the  
24 time of the application for membership, except that no  
25 change, addition, or amendment shall destroy or diminish  
26 benefits which the society contracted to give the member  
27 as of the date of issuance.

28 (d) Copies of any of the documents mentioned in this  
29 section, certified by the secretary or corresponding officer  
30 of the society, shall be received as evidence of the terms  
31 and conditions thereof.

32 (e) A society shall provide in its constitution or laws  
33 and in its certificates that if its reserves as to all or any  
34 class of certificates become impaired its board of directors  
35 or corresponding body may require that there shall be  
36 paid by the member to the society the amount of the  
37 member's equitable proportion of such deficiency as as-  
38 certained by its board, and that if the payment be not  
39 made it shall stand as an indebtedness against the certifi-  
40 cate and draw interest not to exceed five per cent per  
41 annum compounded annually.

## CHAPTER 88

(Senate Bill No. 122—By Mr. Vassar)

AN ACT to amend and reenact sections one, two, three, five, six, seven and eleven, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to hospital service corporations, medical service corporations, and dental service corporations.

[Passed February 23, 1930; in effect ninety days from passage. Approved by the Governor.]

### Article 24. Hospital Service Corporations and Medical Service Corporations.

#### Section

1. Declaration of policy.
2. Definitions.

3. Corporations affected; eligibility of hospitals, physicians and dentists.
5. Licenses.
6. Supervision by commissioner; approval of contracts, forms, rates and fees.
7. Required provisions in contracts made by the corporations with hospitals, physicians, dentists and other health agencies.
11. Reciprocity with other service plans defined; payment authorized.

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

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

Section 1. *Declaration of Policy.*—In view of the desirability of making available to the people of this state increased hospital, medical, dental 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, medical service corporations and dental 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 public who subscribe for the services offered by such corporations.

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

- (a) "Corporation" shall mean either a hospital service corporation, a medical service corporation or a dental service corporation.
- (b) "Hospital service corporation" shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one, 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

15 specified in the contract made by the subscriber with the  
16 corporation.

17 (d) "Medical service corporation" shall mean a non-  
18 profit, nonstock corporation, organized in accordance with  
19 the provisions of article one, chapter thirty-one of this  
20 code, for the sole purpose of contracting with the public  
21 and with duly licensed physicians and duly licensed den-  
22 tists for medical or surgical services and with other health  
23 agencies for other health services to be furnished to sub-  
24 scribers under terms of their contracts with the corpora-  
25 tion, and controlled by a board of directors, the majority  
26 of whom are duly licensed physicians.

27 (e) "Medical service" shall mean only such medical,  
28 surgical, or other health care, to be provided by duly li-  
29 censed physicians, duly licensed dentists or other health  
30 agencies, or such payment therefor, as may be specified  
31 in the contract made by the subscriber with the corpora-  
32 tion.

33 (f) "Dental service corporation" shall mean a non-  
34 profit, nonstock corporation, organized in accordance with  
35 the provisions of article one, chapter thirty-one of  
36 this code, for the sole purpose of contracting with  
37 the public and with duly licensed dentists for dental  
38 services to be furnished to subscribers under terms of  
39 their contracts with the corporations, and controlled by  
40 a board of directors, the majority of whom are duly li-  
41 censed dentists.

42 (g) "Dental service" shall mean only such dental care,  
43 to be provided by duly licensed dentists, duly licensed  
44 physicians, or such payment therefor, as may be specified  
45 in the contract made by the subscriber with the corpora-  
46 tion.

47 (h) "Service" shall mean such hospital, medical, dental  
48 or other health service as shall be provided under the  
49 terms of the contracts issued by the corporation to sub-  
50 scribers.

51 (i) "Commissioner" shall mean the insurance commis-  
52 sioner of West Virginia.

Sec. 3. *Corporations Affected; Eligibility of Hospitals,*  
2 *Physicians and Dentists.*—(a) Every such corporation

3 operating within this state shall be subject to the pro-  
4 visions of this article.

5 (b) Every hospital or other health agency in this state  
6 meeting the standards prescribed by the board of directors  
7 of each such corporation shall be eligible for participation  
8 in any hospital service plan operating in this state. Every  
9 duly licensed physician, duly licensed dentist or other  
10 health agency in this state meeting the standards pre-  
11 scribed by the board of directors of each such corporation  
12 shall be eligible for participation in any medical service  
13 plan operating in this state. Every duly licensed dentist  
14 or duly licensed physician in this state meeting the stand-  
15 ards prescribed by the board of directors of each such  
16 corporation shall be eligible for participation in any dental  
17 service plan operating in this state. The board of directors  
18 of every such corporation may also prescribe standards for  
19 hospitals, physicians, dentists and other health agencies  
20 located in states adjoining this state, and all such hos-  
21 pitals, physicians, dentists and other health agencies meet-  
22 ing such standards shall be eligible for participation in  
23 such plans.

Sec. 5. *Licenses.*—(a) No such corporation shall enter  
2 into any contract with a subscriber until it has obtained  
3 from the commissioner a license as provided in this sec-  
4 tion. Application for a license shall be made on forms to  
5 be prescribed and furnished by the commissioner.

6 (b) Such application shall be accompanied by a copy of  
7 the following documents: (1) Certificate of incorporation;  
8 (2) by-laws; (3) contracts between the corporation and  
9 participating hospitals, physicians, dentists or other health  
10 agencies; (4) proposed contracts to be issued to sub-  
11 scribers, setting forth the hospital, medical or dental serv-  
12 ice, to which subscribers are entitled, and the table of  
13 rates to be charged for such service; and (5) financial  
14 statement showing the amount of contributions paid, or  
15 agreed to be paid, to the corporation for working capital,  
16 the name or names of each contributor and the terms of  
17 each contribution.

18 (c) Within thirty days after receipt of an application,  
19 the commissioner shall, upon payment to him of a license

20 fee of one hundred dollars, issue a license authorizing the  
21 corporation to transact business in this state in the area  
22 to be served by it, if he is satisfied (1) that the applicant  
23 is incorporated in this state under the provisions of article  
24 one, chapter thirty-one of this code, as a bona fide non-  
25 profit corporation, (2) that the contracts between the cor-  
26 poration and participating hospitals, physicians, dentists  
27 and other health agencies contain all the terms required  
28 by section seven of this article, (3) that the working capi-  
29 tal available to the corporation will be sufficient to pay  
30 all operating expenses, other than payment for hospital,  
31 medical or dental services, for a reasonable period after  
32 the issuance of the license, and (4) that the proposed plan  
33 will serve the best interests of all of the people of the area  
34 in which the corporation intends to operate, regardless of  
35 their race, color or economic status. Any license so issued  
36 may be renewed annually upon payment to the commis-  
37 sioner of a renewal fee of one hundred dollars.

38 (d) The term of such license, renewal, refusal to li-  
39 cense, revocation, suspension, or penalty in lieu thereof,  
40 shall be governed by the provisions of sections eight, nine,  
41 ten and eleven, article three of this chapter, in the same  
42 manner that such sections are applicable to insurers gen-  
43 erally.

44 (e) No such corporation shall include in its name the  
45 words "insurance", "casualty", "surety", "health and acci-  
46 dent", "accident and sickness", "mutual", or any other  
47 words descriptive of the insurance business; nor shall  
48 such name be so similar to that of any insurer which was  
49 licensed to transact insurance in this state when such  
50 corporation was formed as to tend, in the opinion of the  
51 commissioner, to confuse the public.

*Sec. 6. Supervision by Commissioner; Approval of Con-*

2 *tracts, Forms, Rates and Fees.*—(a) It shall be the duty of  
3 the commissioner to enforce the provisions of this article.

4 (b) No such corporation shall deliver or issue for de-  
5 livery any subscriber's contract, changes in the terms of  
6 such contract, application, rider or endorsement, until a  
7 copy thereof and the rates pertaining thereto have been  
8 filed with and approved by the commissioner. All such



9 forms filed with the commissioner shall be deemed ap-  
10 proved after the expiration of thirty days from the date  
11 of such filing unless the commissioner shall have disap-  
12 proved the same, stating his reasons for such disapproval  
13 in writing, except that such period may be extended for  
14 an additional period not to exceed fifteen days upon writ-  
15 ten notice thereof from the commissioner to the applicant.  
16 Such forms may be used prior to the expiration of such  
17 periods if written approval thereof has been received from  
18 the commissioner.

19 (c) No rates to be charged subscribers shall be used or  
20 established by any such corporation unless and until the  
21 same have been filed with the commissioner and approved  
22 by him. The procedure for such filing and approval shall  
23 be the same as that prescribed in paragraph (b) of this  
24 section for the approval of forms. The commissioner shall  
25 approve all such rates which are not excessive, inadequate  
26 or unfairly discriminatory.

27 (d) The commissioner shall pass upon the actuarial  
28 soundness of the schedule of fees to be paid hospitals,  
29 physicians, dentists and other health agencies.

Sec. 7. *Required Provisions in Contracts Made by the*  
2 *Corporations with Hospitals, Physicians, Dentists and*  
3 *Other Health Agencies.*—Each contract made by the cor-  
4 poration with participating hospitals, physicians, dentists  
5 and other health agencies shall contain the following pro-  
6 visions:

7 (a) That the hospital, physician, dentist or other health  
8 agency will render to any subscriber such service as he  
9 may be entitled to under the terms and conditions of the  
10 contract issued to the subscriber by the corporation.

11 (b) That in submitting bills to the corporation for serv-  
12 ices rendered to subscribers under the terms of their con-  
13 tracts, the hospitals, physicians, dentists and other health  
14 agencies will make only such charges as are set forth in an  
15 agreed schedule of fees to be paid by the corporation.

16 (c) That, in case of a deficit in available funds of the  
17 corporation, each participating hospital, physician, dentist  
18 or other health agency will, on the basis stated in this sec-  
19 tion, accept a pro rata share of available funds in full set-  
20 tlement of any bill submitted.

21 (d) That, in the event a surplus remains after an annual  
22 accounting of the financial condition of the corporation,  
23 such surplus may be used by the corporation, upon an af-  
24 firmative vote of a majority of its board of directors, for  
25 the following purposes, in the order of priority stated be-  
26 low:

27 (1) To liquidate on a pro rata basis any losses incurred  
28 by hospitals, physicians, dentists or other health agency  
29 upon the settlement of bills in previous years.

30 (2) To return the original contributions for working  
31 capital, or any part thereof, on a pro rata basis.

32 (3) To reduce rates charged subscribers, or to expand  
33 the services rendered them.

Sec. 11. *Reciprocity with Other Service Plans Defined;*  
2 *Payment Authorized.*—Hospital, medical and dental serv-  
3 ice corporations licensed and operating under provisions  
4 of this article are hereby authorized to promote and en-  
5 courage reciprocity with other licensed hospital, medical  
6 and dental plans, both within and without this state, in  
7 expanding their services to subscribers. In the event that  
8 a subscriber to a plan requires emergency hospital, medi-  
9 cal or dental service, or, in the event that the particular  
10 services that he receives are not available through the  
11 plan to which he subscribes, such plan is hereby author-  
12 ized to make payment on behalf of such subscriber for  
13 such service on a basis not to exceed its schedule of fees  
14 to be paid hospitals, physicians or dentists previously ap-  
15 proved by the commissioner and on file in his office.

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## CHAPTER 89

(Senate Bill No. 306—By Mr. Ballard)

AN ACT to amend chapter seventeen of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended,  
by adding thereto a new article, designated article twenty-  
three, relating to the establishment, maintenance, opera-  
tion and licensing of junk yards; date said article becomes  
enforceable; and prescribing penalties for the violation  
thereof.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 23. Junk Yards.

### Section

1. Definitions.
2. License required; restrictions as to location; existing junk yards.
3. Issuance of license; fee; term; renewal.
4. Requirements as to fences.
5. Penalties; injunction.
6. Date of enforcement.
7. Reference to other statutes.

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

That chapter seventeen 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-three, to read as follows:

#### Section 1. *Definitions.*—As used in this article:

- 2 "Junk" shall mean old or scrap copper, brass, rope, rags,
- 3 batteries, paper, rubber, junked, dismantled or wrecked
- 4 automobiles or parts thereof, iron, steel and other old or
- 5 scrap ferrous or nonferrous materials.
- 6 "Junk yard" shall mean an establishment or place of
- 7 business which is maintained or operated for the purpose
- 8 of storing, keeping, buying or selling such junk, or for
- 9 the maintenance or operation of an automobile graveyard.
- 10 "Person" shall include an individual, partnership, as-
- 11 sociation or corporation.
- 12 "Fence" shall mean an enclosure at least six feet in
- 13 height so constructed and maintained as to obscure the
- 14 junk in said enclosure from ordinary view to those per-
- 15 sons passing upon the public highways in this state.
- 16 "Commissioner" shall mean the state road commissioner
- 17 of West Virginia.

#### Sec. 2. *License Required; Restrictions as to Location;*

- 2 *Existing Junk Yards.*—No junk yard shall be operated or
- 3 maintained outside a municipality without a license and
- 4 no license shall be granted a dealer who maintains a junk
- 5 yard outside a municipality within one thousand feet of
- 6 any primary or interstate highway. If a junk yard is op-

7 erated or maintained within three hundred feet of any  
8 secondary highway the view thereof from such highway  
9 shall be obscured by natural objects or a fence as herein  
10 defined: *Provided, however,* That a dealer who was main-  
11 taining or operating a junk yard prior to January one, one  
12 thousand nine hundred fifty-nine, outside a municipality  
13 shall be granted a license if his junk yard is operated or  
14 maintained more than one hundred feet from any primary,  
15 interstate or secondary highway right-of-way and the  
16 view thereof from such highway is obscured by natural  
17 objects or a fence as herein defined: *Provided further,*  
18 That nothing granted herein shall be construed to permit  
19 any dealer operating or maintaining a junk yard prior to  
20 January one, one thousand nine hundred fifty-nine, to  
21 enlarge, expand or increase the size of said junk yard.

Sec. 3. *Issuance of License; Fee; Term; Renewal.*—The  
2 commissioner shall have the sole authority to issue licenses  
3 for the establishment, maintenance and operation of junk  
4 yards within the limits herein defined and shall charge  
5 therefor a fee of twenty-five dollars payable annually in  
6 advance. All licenses issued under this section shall ex-  
7 pire on the first day of January following the date of issue.  
8 A license may be renewed from year to year upon paying  
9 to the commissioner the sum of twenty-five dollars for  
10 each such renewal.

Sec. 4. *Requirements as to Fences.*—A fence constructed  
2 under this article shall be kept in good order and repair  
3 and at all times painted and no advertisement shall be  
4 permitted thereon other than the name of the person in  
5 whose name the license has been issued and the nature of  
6 the business conducted therein.

Sec. 5. *Penalties; Injunction.*—Any person violating  
2 any provision of this article, whether as principal or em-  
3 ployee, shall be deemed guilty of a misdemeanor, and,  
4 upon conviction thereof shall be penalized by a fine of  
5 not less than one hundred dollars or more than one thou-  
6 sand dollars; and such person shall be guilty of a separate  
7 offense for each month during a portion of which any  
8 violation of this article is committed, continued or per-  
9 mitted, and, in addition to other remedies provided in this

10 chapter, the state road commissioner or the county court  
11 of the county in which such junk yard is located may ap-  
12 ply to the circuit court, or other court of competent juris-  
13 diction of the county in which said junk yard may be, for  
14 an injunction to abate such nuisance.

Sec. 6. *Date of Enforcement.*—The provisions of this  
2 article shall not be enforceable until and after the first  
3 day of July, one thousand nine hundred sixty.

Sec. 7. *Reference to Other Statutes.*—Nothing herein  
2 contained shall be construed to affect, set aside, or alter  
3 the provisions of section seven, article twelve, chapter  
4 eleven of this code.

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## CHAPTER 90

(House Bill No. 365—By Mr. Yancey and Mr. Wells)

AN ACT to amend article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections eighteen and nineteen, relating to the collection of fees in advance by justices of the peace and constables.

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[Passed March 11, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 17. Fees, Fines and Costs.

#### Section

18. Fees to be collected in advance by justices in civil cases; penalty.  
19. Fees to be collected in advance by constables in civil cases; penalty.

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

That article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections eighteen and nineteen, to read as follows:

Section 18. *Fees to be Collected in Advance by Justices in Civil Cases; Penalty.*—It shall be unlawful for any justice of the peace to perform any of the services for which he is entitled to a fee under section one of this article and for which thereunder he is required to charge and collect in advance from the party or parties requesting such service or services the fee or fees therein set forth, or to issue any civil process or summons in or commencing any civil action, without charging and collecting such fee or fees from the party or parties requesting such service or services in advance of and before performing such service or services and before issuing any civil process or summons in or commencing any civil action in connection therewith.

Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in the county jail not more than sixty days, or both.

Sec. 19. *Fees to be Collected in Advance by Constables in Civil Cases; Penalty.*—It shall be unlawful for any constable or special constable to perform any of the services set forth in this article in section two, subsections one through seven, inclusive, and subsections nine through fourteen, inclusive, for which he is entitled to a fee thereunder and for which thereunder he is required to charge and collect in advance from the party or parties requesting such service or services the fee or fees therein set forth, or to serve or in any manner execute any civil process or summons in or commencing any civil action, without charging and collecting such fee or fees from such party or parties in advance of and before performing such service or services and before serving or in any manner executing any civil process or summons in or commencing any civil action in connection therewith.

Any person violating any provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in the county jail not more than sixty days, or both.

## CHAPTER 91

(Senate Bill No. 82—By Mr. Martin)

AN ACT to amend article one, chapter four 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 legal actions or proceedings in which a member of the Legislature may be a party, witness or attorney.

[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### **Article I. Officers, Members and Employees; Appropriations; Investigations; Display of Flag; Records.**

#### **Section**

17. Members not required to attend court before, during or after sessions.

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

That article one, chapter four 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. *Members Not Required to Attend Court Before, During or After Sessions.*—No member of the Legislature, without his consent, may be required to appear in any action or proceeding in any court of the state of West Virginia and/or any court sitting in said state as a party, witness or attorney within ten days immediately before, at any time during any session of the Legislature, and within thirty days thereafter. Any sentence, judgment, order or decree made contrary to the provisions of this section, in any action or proceeding, without the consent of such member of the Legislature who is a party or attorney therein, if in a court having regular terms, shall be set aside upon the application by motion of any party to the action or proceeding or by the attorney of such

15 party, if made at the next regular term of such court com-  
16 mencing after the adjournment of such session of the  
17 Legislature; and, if in a court not having regular terms  
18 or by a justice of the peace, shall be set aside upon such  
19 application if made within thirty days next following  
20 such adjournment. Such sentences, judgments, orders and  
21 decrees shall not be invalid by reason of the provision  
22 hereof until and unless set aside in the manner and within  
23 the time limits herein prescribed.

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## CHAPTER 92

(House Bill No. 392—By Mr. Seibert)

AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article seven, to provide for the continuity of the state Legislature in the event of an attack by an enemy of the United States.

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[Passed March 10, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Emergency Interim Legislative Succession Act.

#### Section

1. Short title.
2. Declaration of policy.
3. Definitions.
4. Designation of emergency interim successors to legislators.
5. Status, qualifications and term of emergency interim successors.
6. Contingent method of designating emergency interim successors.
7. Recording and publication.
8. Oath of emergency interim successors.
9. Duty of emergency interim successors.
10. Place of legislative session.
11. Assumption of powers and duties of legislator by emergency interim successor.
12. Privileges, immunities and compensation of emergency interim successors.
13. Separability.

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

That chapter fifteen 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. *Short Title.*—This article shall be known as the “Emergency Interim Legislative Succession Act.”

Sec. 2. *Declaration of Policy.*—The Legislature declares: (1) That recent technological developments make possible an enemy attack of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the Legislature; (2) that to conform in time of attack to existing legal requirements pertaining to the Legislature would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted Legislature; and (3) that it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the Legislature.

Sec. 3. *Definitions.*—As used in this article:

(a) “Attack” means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or methods.

(b) “Unavailable” means absent from the place of session (other than on official business of the Legislature), or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Sec. 4. *Designation of Emergency Interim Successors to Legislators.*—Each legislator shall designate not fewer than three nor more than seven emergency interim successors to his powers and duties and specify their order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

Sec. 5. *Status, Qualifications and Term of Emergency*

2 *Interim Successors.*—An emergency interim successor is  
3 one who is designated for possible temporary succession  
4 to the powers and duties, but not the office, of a legislator.  
5 No person shall be designated or serve as an emergency  
6 interim successor unless he may under the constitution  
7 and statutes hold the office of the legislator to whose  
8 powers and duties he is designated to succeed, but no con-  
9 stitutional or statutory provision prohibiting a legislator  
10 from holding another office or prohibiting the holder of  
11 another office from being a legislator shall be applicable  
12 to an emergency interim successor. An emergency interim  
13 successor shall serve at the pleasure of the legislator  
14 designating him or of any subsequent incumbent of the  
15 legislative office.

Sec. 6. *Contingent Method of Designating Emergency*

2 *Interim Successors.*—Prior to an attack, if a legislator  
3 fails to designate the required minimum number of emer-  
4 gency interim successors within thirty days following the  
5 effective date of this article or, after such period, if for any  
6 reason the number of emergency interim successors for  
7 any legislator falls below the required minimum and re-  
8 mains below such minimum for a period of thirty days,  
9 then the floor leader of the same political party in the  
10 same house as such legislator shall promptly designate as  
11 many emergency interim successors as are required to  
12 achieve such minimum number, but the emergency in-  
13 terim successors so designated shall not have a rank in  
14 order of succession higher than that of any remaining  
15 emergency interim successor previously designated by a  
16 legislator for succession to his own powers and duties.  
17 Each emergency interim successor designated by the re-  
18 spective floor leaders shall serve at the pleasure of the  
19 person designating him, but the legislator for whom the  
20 emergency interim successor is designated or any subse-  
21 quent incumbent of his office may change the rank in  
22 order of succession or replace at his pleasure any emer-  
23 gency interim successor so designated.

Sec. 7. *Recording and Publication.*—Each designation

2 of an emergency interim successor shall become effective

3 when the legislator or floor leader designated in section  
4 six making the designation files with the secretary of state  
5 the successor's name, address and rank in order of suc-  
6 cession. The removal of an emergency interim successor  
7 or change in order of succession shall become effective  
8 when the legislator or floor leader designated in section  
9 six so acting, files this information with the secretary of  
10 state. All such data shall be open to public inspection.  
11 The secretary of state shall inform the governor, the state  
12 office of civil defense, the clerk of the house concerned and  
13 all emergency interim successors, of all such designations,  
14 removals and changes in order of succession. The clerk of  
15 each house shall enter all information regarding emer-  
16 gency interim successors for the house in its public journal  
17 at the beginning of each legislative session and shall enter  
18 all changes in membership or order of succession as soon  
19 as possible after their occurrence.

Sec. 8. *Oath of Emergency Interim Successors.*—

2 Promptly after designation each emergency interim suc-  
3 cessor shall take the oath required for the legislator to  
4 whose powers and duties he is designated to succeed. No  
5 other oath shall be required.

Sec. 9. *Duty of Emergency Interim Successors.*—

2 Each emergency interim successor shall keep himself generally  
3 informed as to the duties, procedures, practices and cur-  
4 rent business of the Legislature, and each legislator shall  
5 assist his emergency interim successors to keep them-  
6 selves so informed.

Sec. 10. *Place of Legislative Session.*—

2 Whenever in the event of an attack, or upon finding that an attack may be  
3 imminent, the governor deems the place of session then  
4 prescribed to be unsafe, he may change it to any place  
5 within or without the state which he deems safer and con-  
6 venient.

Sec. 11. *Assumption of Powers and Duties of Legislator*

2 *by Emergency Interim Successor.*—If in the event of an  
3 attack a legislator is unavailable, his emergency interim  
4 successor highest in order of succession who is not un-

5 available shall, except for the power and duty to appoint  
6 emergency interim successors, exercise the powers and  
7 assume the duties of such legislator. An emergency in-  
8 terim successor shall exercise these powers and assume  
9 these duties until the incumbent legislator, and emer-  
10 gency interim successor higher in order of succession, or  
11 a legislator appointed or elected and legally qualified can  
12 act. Each house of the Legislature shall, in accordance  
13 with its own rules, determine who is entitled under the  
14 provisions of this article to exercise the powers and assume  
15 the duties of its members. All constitutional and statu-  
16 tory provisions pertaining to ouster of a legislator shall  
17 be applicable to an emergency interim successor who is  
18 exercising the powers and assuming the duties of a  
19 legislator.

Sec. 12. *Privileges, Immunities and Compensation of  
2 Emergency Interim Successors.*—When an emergency in-  
3 terim successor exercises the powers and assumes the  
4 duties of a legislator, he shall be accorded the privileges  
5 and immunities, compensation, allowances and other per-  
6 quisites of office to which a legislator is entitled. In the  
7 event of an attack, each emergency interim successor,  
8 whether or not called upon to exercise the powers and  
9 assume the duties of a legislator, shall be accorded the  
10 privileges and immunities of a legislator while traveling  
11 to and from a place of session and shall be compensated  
12 for his travel in the same manner and amount as a legis-  
13 lator. This section shall not in any way affect the privi-  
14 leges, immunities, compensation, allowances or other per-  
15 quisites of office of an incumbent legislator.

Sec. 13. *Separability.*—The various provisions of this  
2 article shall be construed as separable and severable, and  
3 should any of the provisions or parts thereof be con-  
4 strued or held unconstitutional or for any reason be in-  
5 valid, the remaining provisions of this article shall not be  
6 thereby affected.

## CHAPTER 93

(House Bill No. 308—By Mr. Myles and Mr. Graziani)

AN ACT to amend and reenact section four, article five-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the notice to be given a judgment debtor.

[Passed March 3, 1959; in effect from passage. Approved by the Governor.]

### Article 5-a. Suggestions of Salary and Wages of Persons Engaged in Private Employment.

#### Section

#### 4. Notice to the judgment debtor.

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

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

Section 4. *Notice to the Judgment Debtor.*—A certified  
2 copy of an execution issued under this article against  
3 salary or wages shall be served upon the judgment debtor.  
4 Such service shall be made by the court or the clerk of  
5 the court who issued the execution by enclosing the copy  
6 in a postpaid wrapper addressed to the judgment debtor  
7 or his agent authorized to accept service of process and  
8 forwarding the same by certified mail, return receipt re-  
9 quested. The day and hour of such mailing shall be clearly  
10 noted on the face of the original execution and the officer  
11 to whom it is delivered for collection shall not make  
12 service upon the suggestee until the expiration of five  
13 days from that time. The fee for service of notice under  
14 this section shall be twenty-five cents without any addi-  
15 tional allowance for postage, certification fee, or other  
16 expenses incurred in effecting service.

## CHAPTER 94

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

AN ACT to amend and reenact section sixteen, article thirteen, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to expenses and fees of trustees, commissioners of accounts, appraisers and attorneys for trustees in assignments for the benefit of creditors.

[Passed February 13, 1959; in effect from passage. Approved by the Governor.]

### Article 13. Assignment by Insolvent for the Benefit of All Creditors.

#### Section

16. Expenses and fees of trustee, commissioner, appraisers and attorneys for trustee.

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

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

- Section 16. *Expenses and Fees of Trustee, Commissioner, Appraisers and Attorneys for Trustee.*—Trustees shall be allowed their reasonable and necessary disbursements for the costs and expenses and shall receive for their services commissions on all moneys disbursed or turned over by them to any person, including lienholders and secured creditors, which commissions shall be ten per cent on the first fifteen hundred dollars or less, five per cent on moneys in excess of fifteen hundred dollars and less than ten thousand dollars, three per cent on moneys in excess of ten thousand dollars and less than twenty-five thousand dollars, and two per cent on moneys in excess of twenty-five thousand dollars, or such addi-

14 tional compensation as a majority in number and amount  
15 of the creditors present at the meeting provided for in  
16 section ten of this article, or at a subsequent meeting  
17 held for the purpose of fixing compensations, shall allow,  
18 but the compensation shall in no case be less than fifty  
19 dollars. Commissioners of accounts shall be allowed their  
20 reasonable and necessary disbursements for costs and ex-  
21 penses and shall receive for their services such compen-  
22 sation as the court shall from time to time prescribe.  
23 The commissioner shall indicate, in writing, the compen-  
24 sation he believes he is entitled to receive for services  
25 performed. Appraisers shall receive for their services a  
26 fair and reasonable allowance which shall be fixed by the  
27 commissioner upon a petition therefor showing the amount  
28 of time spent by the appraisers in the performance of  
29 their duties. Attorneys for the trustee shall receive for  
30 their service a fair and reasonable allowance which shall  
31 be fixed by the commissioner upon petition showing the  
32 service rendered by them.

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## CHAPTER 95

(Senate Bill No. 155—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section one, article four, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voluntary hospitalization.

[Passed March 3, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 4. Voluntary Hospitalization.

#### Section

##### 1. Admissions.

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

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

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 or to one of the clinics attached thereto on his own application. Such admissions shall be subject to the rules of the department of mental health: *Provided, however,* That any such person admitted to the clinics shall be charged a minimum fee of seven dollars per day.

## CHAPTER 96

(Senate Bill No. 156—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section two, article eight, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment by counties toward the maintenance of patients in mental institutions.

[Passed February 27, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 8. Maintenance of Mentally Ill Patients.

#### Section

2. When and how counties to pay.

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

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

Section 2. *When and How Counties to Pay.*—If the state mental institution is unable to collect a minimum of one hundred fifty 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 annually pay into the state treasury for credit to the appropriate institution the difference between the amount, if any, collected by the institution and the sum of one hundred fifty dollars.



10 At every levy term of each county court it shall estimate  
11 for and levy a sufficient amount to meet all such expenses.  
12 The superintendent of such institution, on or before the  
13 tenth day of January of each year, shall certify to the  
14 auditor a list of all the patients in the institution during  
15 the whole or any part of the preceding year for which the  
16 counties are to pay, showing on such list under the name  
17 of the county, the number from each county and length  
18 of time they were in the institution during the year, and  
19 showing the amount due from each county for each pa-  
20 tient, and the total amount due from each county for the  
21 year. As soon as such list is received by the auditor he  
22 shall charge to each county the amount appearing to be  
23 due from the certificates of the superintendents. Within  
24 ten days after the receipt of such certificates the auditor  
25 shall make out a copy thereof for each county and certify  
26 the same to the county court thereof, which list shall show  
27 the name of each patient in such hospital from the county  
28 during the year, the length of time he was in such institu-  
29 tion during the year, the amount charged for each patient,  
30 and the total amount charged on account of all such pa-  
31 tients from the county; and such total amount shall consti-  
32 tute a debt against the county due the state. Whenever  
33 there is in the state treasury a sum of money due any  
34 county from any source, the same shall be at once applied  
35 on the debt aforesaid against the county, and the fact of  
36 such application of such fund shall be reported by the  
37 auditor to the county court of the county, which report  
38 shall be a receipt for the amount therein named.  
39 The provisions of this section shall apply only to the  
40 state mental hospitals proper, and not to the clinics at-  
41 tached thereto.

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## CHAPTER 97

(House Bill No. 60—By Mr. Speaker, Mr. Pauley)

AN ACT to amend and reenact sections seven and nine, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by

chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, relating to the employment, appointment, tenure and number of mine inspectors, and the duties of the mine inspectors' examining board.

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[Passed March 9, 1959; in effect ninety days from passage. Approved by the Governor.]

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## **Article 1. Department of Mines.**

### **Section**

7. Mine inspectors; districts and divisions; employment; tenure; oath; bond.
9. Mine inspectors' examining board.

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

That sections seven and nine, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, be amended and reenacted to read as follows:

Section 7. *Mine Inspectors; Districts and Divisions; Employment; 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 designate their places of abode, at points convenient to the mines of their district or division.

Mine inspectors serving as such on the first day of July, one thousand nine hundred fifty-eight may continue to serve for a probationary period not exceeding one year and if eligible as prescribed by section eight of this article, may qualify for appointment during such probationary period in accordance with the provisions of said

19 section eight: *Provided, however,* That in the event the  
20 mine inspectors' examining board is unable to provide an  
21 adequate register of certified eligible candidates for  
22 appointment prior to the first day of July, one thousand  
23 nine hundred fifty-nine, said mine inspectors serving  
24 on a probationary basis as aforesaid may at the discretion  
25 of the director continue to serve at the will and pleasure  
26 of the director until such time as an eligible candidate  
27 has been furnished, said additional period of service not  
28 to extend beyond midnight on the thirty-first day of  
29 December, one thousand nine hundred fifty-nine.

30 Except as in the next preceding paragraph provided, all  
31 mine inspectors appointed after the mine inspectors'  
32 examining board has certified to the director of the depart-  
33 ment of mines an adequate register of qualified eligible  
34 candidates in accordance with section eight of this article,  
35 so long as such register contains the names of at least  
36 three qualified eligible candidates, shall be appointed  
37 from the names on such register. Each original appoint-  
38 ment shall be made by the director of the department of  
39 mines for a probationary period of not more than one  
40 year.

41 The director of the department of mines shall make  
42 each appointment from among the three qualified eligible  
43 candidates on the register having the highest grades or  
44 from mine inspectors serving on the first day of July, one  
45 thousand nine hundred fifty-eight, and since that date on  
46 a probationary basis as hereinbefore provided and who  
47 qualify according to section eight of this article: *Pro-*  
48 *vided, however,* That the director of the department of  
49 mines may, for good cause, at least thirty days prior  
50 to making an appointment, strike any name from the  
51 register. Upon striking any name from the register the  
52 director of the department of mines shall immediately  
53 notify in writing each member of the mines inspectors'  
54 examining board of his action, together with a detailed  
55 statement of the reasons therefor. Thereafter, the mine  
56 inspectors' examining board, after hearing, if it finds  
57 that the action of the director of the department of mines  
58 was arbitrary or unreasonable, may order the name of

59 any candidate so stricken from the register to be rein-  
60 stated thereon. Such reinstatement shall be effective from  
61 the date of removal from the register.

62 Any candidate passed over for appointment for three  
63 years shall be automatically stricken from the register.

64 After having served for a probationary period of one  
65 year to the satisfaction of the director of the department  
66 of mines, a mine inspector shall have permanent tenure  
67 until he becomes sixty-five years of age, subject only to  
68 dismissal for cause in accordance with the provisions of  
69 section eight of this article. No mine inspector while in  
70 office shall be directly or indirectly interested as owner,  
71 lessor, operator, stockholder, superintendent or engineer  
72 of any coal mine. Before entering upon the discharge of  
73 his duties as a mine inspector, he shall take the oath of  
74 office prescribed by the constitution, and shall execute a  
75 bond in the penalty of two thousand dollars, with security  
76 to be approved by the director of the department of  
77 mines, conditioned upon the faithful discharge of his  
78 duties, a certificate of which oath and bond shall be filed  
79 in the office of the secretary of state.

Sec. 9. *Mine Inspectors' Examining Board.*—There  
2 shall be a mine inspectors' examining board consisting of  
3 five members who, except for the public representative on  
4 such board, shall be appointed by the governor, by and  
5 with the advice and consent of the senate. Members so  
6 appointed may be removed only for the same causes and  
7 in like manner as elective state officers. One of the mem-  
8 bers of the board shall be a representative of the public  
9 who shall be the director of the school of mines at West  
10 Virginia university. Two members of the board shall be  
11 persons who by reason of previous training and experi-  
12 ence may reasonably be said to represent the viewpoint  
13 of coal mine operators and two members shall be persons  
14 who by reason of previous training and experience may  
15 reasonably be said to represent the viewpoint of coal mine  
16 workers.

17 The director of the department of mines shall be an  
18 ex officio member of the board, and shall serve as secre-  
19 tary of the board without additional compensation, but he

20 shall have no right to vote with respect to any matter  
21 before the board.

22 The members of the board, except the public representa-  
23 tive, shall be appointed for overlapping terms of eight  
24 years, except that the original appointments shall be for  
25 terms of two, four, six and eight years, respectively. Any  
26 member whose term expires may be reappointed by the  
27 governor.

28 Each member of the board shall receive forty dollars  
29 per diem while actually engaged in the performance of  
30 the work of the board; and shall receive mileage at the  
31 rate of ten cents for each mile actually traveled going  
32 from the home of the member to the place of the meeting  
33 of the board and returning therefrom, which shall be paid  
34 out of the state treasury upon a requisition upon the state  
35 auditor, properly certified by such members of the board.

36 The public member shall serve as chairman of the  
37 board. Members of the board, before performing any duty  
38 shall take and subscribe to the oath required by article  
39 four, section five of the constitution of West Virginia.

40 The mine inspectors' examining board shall meet at  
41 such times and places as shall be designated by the chair-  
42 man. It shall be the duty of the chairman to call a meet-  
43 ing of the board on the written request of three members  
44 or the director of the department of mines. Notice of each  
45 meeting shall be given in writing to each member by the  
46 secretary at least five days in advance of the meeting.  
47 Three members shall constitute a quorum for the trans-  
48 action of business.

49 In addition to other duties expressly set forth else-  
50 where in this article, the board shall:

51 (1) Establish, and from time to time revise, forms of  
52 application for employment as mine inspector and forms  
53 for written examinations to test the qualification of candi-  
54 dates for that position;

55 (2) Adopt and promulgate reasonable rules and regu-  
56 lations relating to the examination, qualification and cer-  
57 tification of candidates for appointment as mine in-  
58 spectors, and hearings for removal of inspectors, required  
59 to be held by this article. All of such rules and regula-

60 tions shall be printed and a copy thereof furnished by the  
61 secretary of the board to any person upon request;

62 (3) Conduct, after public notice of the time and place  
63 thereof, examinations of candidates for appointment as  
64 mine inspector. By unanimous agreement of all members  
65 of the board, one or more members of the board or an  
66 employee of the department of mines may be designated  
67 to give to a candidate the written portion of the examina-  
68 tion;

69 (4) Prepare and certify to the director of the depart-  
70 ment of mines a register of qualified eligible candidates  
71 for appointment as mine inspectors. The register shall  
72 list all qualified eligible candidates in the order of their  
73 grades, the candidate with the highest grade appearing at  
74 the top of the list. After each meeting of the board held  
75 to examine such candidates, and at least annually, the  
76 board shall prepare and submit to the director of the de-  
77 partment of mines a revised and corrected register of  
78 qualified eligible candidates for appointment as mine in-  
79 spector, deleting from such revised register all persons  
80 (a) who are no longer residents of West Virginia, (b) who  
81 have allowed a calendar year to expire without, in  
82 writing, indicating their continued availability for such  
83 appointment, (c) who have been passed over for appoint-  
84 ment for three years, (d) who have become ineligible for  
85 appointment since the board originally certified that such  
86 person was qualified and eligible for appointment as mine  
87 inspector, or (e) who, in the judgment of at least four  
88 members of the board, should be removed from the  
89 register for good cause;

90 (5) Cause the secretary of the board to keep and  
91 preserve the written examination papers, manuscripts,  
92 grading sheets, and other papers of all applicants for  
93 appointment as mine inspector for such period of time  
94 as may be established by the board. Specimens of the  
95 examinations given, together with the correct solution  
96 of each question, shall be preserved permanently by  
97 the secretary of the board;

98 (6) Issue a letter or written notice of qualification to  
99 each successful eligible candidate;

100 (7) Hear and determine proceedings for the removal  
101 of mine inspectors in accordance with the provisions of  
102 this article;

103 (8) Hear and determine appeals of mine inspectors  
104 from suspension orders made by the director pursuant  
105 to the provisions of section four (5) of this article:  
106 *Provided, however,* That an aggrieved inspector in order  
107 to appeal from any order of suspension, shall file such  
108 appeal in writing with the mine inspectors' examining  
109 board not later than ten days after receipt of notice of  
110 suspension. On such appeal the board shall affirm the  
111 action of the director unless it be satisfied from a clear  
112 preponderance of the evidence that the director has acted  
113 arbitrarily;

114 (9) Make an annual report to the governor and the  
115 director of the department of mines concerning the ad-  
116 ministration of mine inspection personnel in the state  
117 service, making such recommendations as the board con-  
118 siders to be in the public interest.

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## CHAPTER 98

(House Bill No. 59—By Mr. Speaker, Mr. Pauley)

AN ACT to amend and reenact section sixty-two, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, relating to approval for the opening and reopening of mines.

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[Passed March 11, 1959; in effect ninety days from passage. Approved by the Governor.]

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### Article 2. Coal Mines.

#### Section

62. No mine to be opened or reopened without prior approval of director of department of mines; approval fees.

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

That section sixty-two, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, be amended and reenacted as follows:

- Section 62. *No Mine to Be Opened or Reopened Without Prior Approval of Director of Department of Mines; Approval Fee.*—After the effective date of this section, no mine shall be opened or reopened unless prior approval has been obtained 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 ten dollars, which payment shall be tendered with the operator's application for such approval.

## CHAPTER 99

(Com. Sub. for House Bill No. 225—Originating in the House Committee on Mining)

AN ACT to repeal article two-a, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article, designated article two-a, relating to the regulation of surface mining of coal and providing penalties in connection therewith.

[Passed March 13, 1959; in effect from passage. Approved by the Governor.]

### Article 2-a. Surface Mining.

#### Section

1. Declaration of legislative purpose.
2. Definition of surface mining.
3. Permit required; fees and use of proceeds.
4. Performance bond.
5. Duties of operator.
6. Bond forfeitures; surface mining fund and use of proceeds.
7. Validity of existing permits and bonds.
8. Certificate of release.
9. Offenses; penalty.



10. State surface mines supervisor; surface mine inspectors; state agriculturist; eligibility; salary and expenses.
11. Same; employment; tenure; oath; bond.
12. Surface mines division; additional employees.
13. Provisions of article separable.

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

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

Section 1. *Declaration of Legislative Purpose.*—In view of the fact that the practice of surface mining of coal may and commonly does cause soil erosion, stream pollution and the accumulation of stagnant water, increases the likelihood of floods, destroys the value of land for agricultural purposes, counteracts efforts for the conservation of soil, water and other natural resources of the state, and in general creates hazards dangerous to life and property, now, therefore, the Legislature declares that its purpose in the enactment of this article is to provide such regulation and control of surface mining of coal so as to minimize its injurious effects as much as may be possible.

Sec. 2. *Definition of Surface Mining.*—The term surface mining as used in this article shall mean the mining or excavation of coal by any method from an open cut or open pit in which the overburden or surface material is or has been removed to expose the coal in such a manner that the coal can be removed. Said term shall not be deemed to include conventional deep mining and auger mining.

Sec. 3. *Permit Required; Fees and Use of Proceeds.*—It shall hereafter be unlawful for any person, firm or corporation to engage in the surface mining of coal without having first obtained from the director of the department of mines a permit therefor as provided in this section. The following information must be stated in the application for such a permit: (1) A description of the location and area of the land to be covered by the permit.

9 together with a map or plat of the portion to be surface  
10 mined; (2) the owner or owners of the surface of the  
11 land; (3) the owner or owners of the coal to be mined;  
12 (4) the source of the operator's legal right to enter and  
13 mine the coal on the land covered by the permit; (5) the  
14 permanent and temporary post office addresses of the  
15 operator; (6) whether any permits are now held, and if  
16 so, how many such permits and the numbers thereof.

17 Upon payment to the department of mines of a regis-  
18 tration fee of one hundred dollars and the posting with  
19 the department of the bond required by the following  
20 section, the director of the department of mines shall  
21 upon proper application, issue the requested permit. The  
22 permit shall be for a period of one year from the date of  
23 issuance and shall be extended upon written request  
24 and by the payment of fifty dollars for each succeeding  
25 year. Permits issued prior to the effective date of this  
26 article shall be renewable on the anniversary date of  
27 their issuance.

28 The registration and renewal fees heretofore or here-  
29 after collected as provided in this article shall be de-  
30 posited with the state treasurer to the credit of the gen-  
31 eral revenue fund.

Sec. 4. *Performance Bond.*—Each operator shall give a  
2 bond with satisfactory corporate surety, in a penalty of  
3 five hundred dollars for each acre or fraction thereof  
4 covered by said permit, with a minimum of one thousand  
5 dollars, conditioned upon the faithful performance of the  
6 requirements contained in section five hereof.

Sec. 5. *Duties of Operator.*—It shall be the duty of each  
2 operator to: (1) Cover the face of the coal and so far as  
3 practicable, bury all roof coal and pyritic shales; (2) seal  
4 off with an earth fill any break-through to underground  
5 workings in the coal; (3) drain all the surface involved  
6 in the mining operation, and provide such outlets as may  
7 be necessary to conduct storm and seepage waters from  
8 such surface to a permanent stream or stream bed with  
9 as little erosion as possible; (4) remove all metal, lumber  
10 and other refuse resulting from the operation; (5) re-  
11 grade, in a manner approved by the director of the state

12 department of mines and the agriculturist, the overburden  
13 or other strata removed from the coal so as to refill any  
14 ditches, trenches or excavations made in the mining op-  
15 eration, in order to minimize the hazards of floods, pollu-  
16 tion of streams and water, accumulation of stagnant  
17 water, and the loss of soil for agricultural or grazing pur-  
18 poses: *Provided, however,* That any lands upon which  
19 stripping operations are conducted, which are not used  
20 for agricultural or grazing purposes, and in the opinion  
21 of the agriculturist, are not adapted therefor, shall be ex-  
22 empted from the provisions of this requirement (5) by  
23 the director of the department of mines, in the exercise  
24 of his sound discretion; (6) to plant trees, shrubs, grasses  
25 or vines upon the land affected in such a manner so as  
26 to establish a satisfactory cover on the land in compliance  
27 with rules and regulations approved and adopted by the  
28 director of the state department of mines or to offer to  
29 deposit with the soil conservation district in which the  
30 operation covered by such permit is located, a sufficient  
31 amount of money to reclaim the area of the permit, as  
32 estimated by the district. If the offer is accepted by the  
33 district and the deposit made with the district, and ap-  
34 proved by the director of the West Virginia department  
35 of mines, the district then assumes the responsibility for  
36 the reclamation work. If the district assumes the respon-  
37 sibility for the reclamation work, the director of the de-  
38 partment of mines shall release the bonds.

39 If the operator, land owner, or coal owner, including  
40 the lessee desires to conduct drift mining upon the prem-  
41 ises, he may designate drift locations, and also outside  
42 haulage ways along the exposed face of the coal at which  
43 places it will not be necessary to replace the overburden  
44 on the haulage way to the coal until such mining is com-  
45 pleted.

46 For failure to do all the things required of the operator  
47 within one year after the completion of the mining opera-  
48 tion on the land covered by the permit, and after receipt  
49 of a thirty-day notice in writing from the director of the  
50 department of mines, which notice may be sent by regis-  
51 tered or certified mail, that any one or more of such  
52 things have not been done, the permit covering the par-

53 ticular operation and any other surface mining permits  
54 that may have been issued to the operator involved, shall  
55 be revoked by the director of the department of mines,  
56 and the performance bond shall be forfeited, unless such  
57 operator shall comply with the provisions of this section  
58 within said thirty-day period.

59 Any operator whose surface mining permit has been  
60 revoked shall not be eligible to receive another such per-  
61 mit until he shall have complied with the requirements  
62 of all the laws in respect to former permits issued him.

Sec. 6. *Bond Forfeitures; Surface Mining Fund and*  
2 *Use of Proceeds.*—Upon default in the performance of the  
3 conditions of the performance bond, the director of the  
4 state department of mines shall give notice to the attorney  
5 general and it shall be his duty to collect the forfeiture  
6 without delay.

7 All such forfeitures, heretofore or hereafter collected,  
8 as provided in this article, shall be deposited with the  
9 state treasurer in a special fund to be designated "Sur-  
10 face Mining Reclamation Fund" to the credit of the  
11 state department of mines and shall be expended to  
12 reclaim and rehabilitate land affected in accordance  
13 with the provisions of this article.

14 It shall then be the duty of the director of the state  
15 department of mines with the knowledge and concurrence  
16 of the agriculturist to reclaim and rehabilitate land af-  
17 fected in accordance with the provisions of section five of  
18 this article. Insofar as is reasonably practicable, the mon-  
19 eys in the fund shall be expended upon the lands upon  
20 which the permit was issued and for which the bond was  
21 given. The state department of mines may, when deemed  
22 necessary, avail itself of any services which may be pro-  
23 vided by the state or federal government.

24 The auditor shall issue his warrant for any or all money  
25 in the special fund created by this section upon written  
26 request of the director of the state department of mines.  
27 The special fund heretofore designated "Strip Mining  
28 Fund" shall be included in and made a part of the "Sur-  
29 face Mining Reclamation Fund" herein provided for.

Sec. 7. *Validity of Existing Permits and Bonds.*—The

2 provisions of chapter eighty-four of the acts of the Legis-  
3 lature of West Virginia, regular session, one thousand  
4 nine hundred thirty-nine, shall continue to be in full  
5 force and govern in all respects every existing right for  
6 surface mining operations, every outstanding permit for  
7 surface mining operations and every existing cash or  
8 other bond posted in connection therewith, as though this  
9 law had never been passed, and the repeal herein made  
10 of said chapter eighty-four of said acts shall not affect  
11 any offenses or act committed or done, or any penalty or  
12 forfeiture incurred, or any right established, accrued, or  
13 accruing before the day this law takes effect: *Provided*,  
14 *however*, That any money received from the forfeiture  
15 of bonds given under the provisions of said act shall be  
16 deposited in the same fund and used in the same manner  
17 as forfeitures under this article: *Provided further*, That  
18 every operator under an existing permit under which  
19 actual mining operations have not been commenced prior  
20 to the effective date of this article, shall nevertheless,  
21 be required to perform all the duties specified in sec-  
22 tion five of this article, and that for failure to do so, his  
23 bond shall be forfeited and he shall be subject to all  
24 other penalties provided by the above-mentioned former  
25 act: *And provided further*, That every such operator  
26 shall be required to comply with the provisions of sec-  
27 tion four of this article under which actual mining  
28 operations have not been commenced prior to the ef-  
29 fective date of this article.

Sec. 8. *Certificate of Release*.—If and when each opera-  
2 tor has completed the requirements of the law under that  
3 permit granted him by the department of mines, in ac-  
4 cordance and in full compliance with the provisions of  
5 this article, thereupon the director of the department of  
6 mines and the agriculturist shall issue to such operator  
7 a certificate, wherein and whereby the bond given by  
8 said operator shall be discharged and the surety there-  
9 on released.

Sec. 9. *Offenses; Penalty*.—Any operator or surface  
2 owner or owners or owner or owners of surface rights  
3 who shall conduct any surface mining operation without a

4 permit, or, who shall carry on such operation or be a party  
5 to such operations on land not covered by a permit, shall  
6 be guilty of a misdemeanor, and upon conviction thereof  
7 shall be punished by a fine of one thousand dollars each  
8 or by imprisonment in jail for not more than one year  
9 each, or by both such fine and imprisonment at the dis-  
10 cretion of the court. It shall be the duty of the director  
11 of the department of mines to see that prosecutions are  
12 instituted for any violation of the provisions of this sec-  
13 tion.

Sec. 10. *State Surface Mines Supervisor; Surface Mine*  
2 *Inspectors; State Agriculturist; Eligibility; Salary and*  
3 *Expenses.*—Five surface mine inspectors and the state  
4 surface mines supervisor shall be appointed by the direc-  
5 tor of the department of mines. The state agriculturist  
6 and his secretary shall be appointed by the director of  
7 the agricultural experiment station of West Virginia uni-  
8 versity, with the knowledge and consent of the director  
9 of the department of mines, and the state agriculturist  
10 shall maintain his office on the campus of West Virginia  
11 university. No person shall be eligible for appointment  
12 as state surface mines supervisor, surface mine inspector  
13 or state agriculturist unless he is a citizen of West Vir-  
14 ginia, in good health, not less than thirty nor more than  
15 fifty-five years of age, of good character and reputation,  
16 and temperate in his habits. The state surface mines  
17 supervisor and surface mine inspectors shall have had at  
18 least five years' practical experience in strip and surface  
19 mining in West Virginia. The state agriculturist shall  
20 have had at least five years' experience in agricultural  
21 work and shall have a degree in agriculture from an  
22 accredited college of agriculture, and shall be paid not  
23 less than seven thousand two hundred dollars and not  
24 more than seven thousand eight hundred dollars per  
25 annum. The state surface mines supervisor shall be paid  
26 not less than six thousand six hundred dollars and not  
27 more than seven thousand five hundred dollars per  
28 annum, and the surface mine inspectors shall be paid  
29 not less than six thousand dollars and not more than  
30 six thousand four hundred dollars per annum. Reason-

31 able traveling expenses for the agriculturist, super-  
32 visors and inspectors shall be allowed from funds ap-  
33 propriated for the department of mines. Within the  
34 limits provided by law, the salary of each inspector  
35 and the supervisor shall be fixed by the director of the  
36 department of mines, and the salary of the agriculturist  
37 shall be fixed by the director of the agricultural experi-  
38 ment station of West Virginia university; and in fixing  
39 such salaries the respective directors shall consider ability,  
40 performance of duty, responsibility and experience. No  
41 reimbursement for traveling expenses shall be made  
42 except upon an itemized statement of such expenses sub-  
43 mitted by such person, who shall verify, upon oath, that  
44 such expenses were actually incurred in the discharge  
45 of his official duties.

Sec. 11. *Same; Employment; Tenure; Oath; Bond.*—No  
2 person shall be eligible for permanent appointment as  
3 state surface mines supervisor or surface mine inspector  
4 until he has served in a probationary status, to the satis-  
5 faction of the director of the department of mines, for a  
6 period of at least one year, and no person shall be eligible  
7 for permanent appointment as state agriculturist until  
8 he has served in a probationary status, to the satisfaction  
9 of the director of the agricultural experiment station of  
10 West Virginia university, for a period of at least one  
11 year: *Provided, however,* That the state surface mines  
12 supervisor, the surface mine inspectors, and the state agri-  
13 culturist serving on the effective date of this article shall  
14 receive permanent appointment after they have served  
15 in such capacity for a period of at least one year to the  
16 satisfaction of the respective directors.

17 Any person receiving permanent appointment as state  
18 surface mines supervisor, surface mine inspector, or state  
19 agriculturist shall have permanent tenure until he be-  
20 comes sixty-five years of age, subject to removal only for  
21 physical or mental impairment, incompetency, neglect of  
22 duty, drunkenness, malfeasance in office, or official mis-  
23 conduct: *Provided, however,* That no person serving as  
24 surface mine inspector or agriculturist shall be interested,  
25 directly or indirectly, as owner, operator, or stockholder

26 of any coal mine operation in the state of West Virginia.  
27 Before any such officer shall enter upon the discharge  
28 of his duties he shall take and subscribe the oath of  
29 office prescribed by section five, article four of the con-  
30 stitution of this state, and shall execute a bond in the  
31 penalty of two thousand dollars with surety to be ap-  
32 proved by the director of the department of mines, and  
33 conditioned upon the faithful discharge of his duties,  
34 a certificate of which oath and bond shall be filed in the  
35 office of the secretary of state.

*Sec. 12. Surface Mines Division; Additional Employees.*

2 —The director of the department of mines shall divide  
3 the state into not more than five surface mine divisions,  
4 so as to equalize, so far as may be practicable, the work  
5 of each inspector. He shall assign a surface mine inspector  
6 to each division.

7 The director of the department of mines may employ  
8 such assistants, clerks, stenographers and other employees  
9 as may be necessary to the efficient operation of the sur-  
10 face mines division and may fix their compensation, ex-  
11 cept as otherwise provided in this article.

*Sec. 13. Provisions of Article Separable.*—The various  
2 provisions of this article shall be construed as separable  
3 and severable, and should any of the provisions, sentences,  
4 clauses, or parts thereof be construed or held unconstitu-  
5 tional or for any reason be invalid, the remaining pro-  
6 visions of this article shall not be thereby affected.

## CHAPTER 100

(House Bill No. 265—By Mr. Seibert)

AN ACT to amend and reenact section twenty-eight, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a definition of the term "dealer" in motor vehicles.



**Article 1. Words and Phrases Defined.****Section****28. Dealer.**

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

That section twenty-eight, 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 28. *Dealer*.—Every person primarily engaged  
2 in the business of buying, selling, or exchanging vehicles  
3 of a type required to be registered hereunder and who has  
4 an established place of business for such purpose in this  
5 state which meets the requirements set out in sections one  
6 and two, article seven of this chapter, except an insurance  
7 company, a finance company or other type of lending or  
8 financing agency, including banking institutions, or any  
9 other person coming into possession of a vehicle as an in-  
10 cident to such person's regular business who shall sell such  
11 vehicle, or who shall sell such vehicle under any contract-  
12 ual rights such person may have with respect thereto, shall  
13 not be a dealer hereunder: *Provided further*, That a per-  
14 son who engages exclusively in the wrecking or dismantl-  
15 ing of vehicles for junk or for resale of the parts of such  
16 vehicles and who comes into possession of a vehicle for  
17 the purpose of wrecking or dismantling same as herein-  
18 above stated shall not be a dealer hereunder.

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## CHAPTER 101

(House Bill No. 256—By Mr. Watson and Mr. Seibert)

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 motor and other vehicles and including among other things motor vehicle administration, registration, certificates of title and the fees and taxes imposed in connection therewith.

[Passed March 10, 1959; in effect July 1, 1959. Approved by the Governor.]

### 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.*—

- 2 Certificates of registration of any vehicle or registration  
3 plates therefor, whether original issues or duplicates,  
4 shall not be issued or furnished by the department of  
5 motor vehicles or any other officer charged with such  
6 duty, unless the applicant therefor already has received,  
7 or shall at the same time make application for and be  
8 granted, an official certificate of title of such vehicle. Such  
9 application shall be upon a blank form to be furnished by  
10 the department of motor vehicles and shall contain a full  
11 description of the vehicle, which description shall contain  
12 the manufacturer's serial or identification number or other  
13 number as determined by the commissioner and any dis-  
14 tinguishing marks, together with a statement of the appli-  
15 cant's title and of any liens or encumbrances upon such  
16 vehicle, the names and addresses of the holders of such  
17 liens and such other information as the department of  
18 motor vehicles may require. The application shall be sign-  
19 ed and sworn to by the applicant. A tax is hereby imposed  
20 upon the privilege of effecting the certification of title of  
21 each vehicle in the amount equal to two per cent of the  
22 value of said motor vehicle at the time of such certifica-  
23 tion. If the vehicle is new, the actual purchase price or  
24 consideration to the purchaser thereof shall be the value  
25 of said vehicle; if the vehicle is a used or second-hand ve-  
26 hicle, the present market value at time of transfer or pur-  
27 chase shall be deemed the value thereof for the purpose of  
28 this section: *Provided, That if said motor vehicle is pur-*

29 chased in the state of West Virginia, so much of the pur-  
30 chase price or consideration as is represented by the  
31 exchange of other vehicles on which the tax herein im-  
32 posed has been paid by the purchaser shall be deducted  
33 from the total actual price or consideration paid for said  
34 vehicle, whether the same be new or second-hand; if  
35 the vehicle be acquired through gift, or by any man-  
36 ner whatsoever, unless specifically exempted in this sec-  
37 tion, the present market value of the vehicle at the time  
38 of the gift or transfer shall be deemed the value thereof  
39 for purposes of this section. No certificate of title for any  
40 vehicle shall be issued to any applicant unless such appli-  
41 cant shall have paid to the department of motor vehicles  
42 the tax imposed by this section which shall be two per cent  
43 of the true and actual value of said vehicle whether the  
44 vehicle be acquired through purchase, by gift, or by any  
45 other manner whatsoever except gifts between husband  
46 and wife or between parents and children; but the tax  
47 imposed by this section shall not apply to vehicles to be  
48 registered as Class H or Class I vehicles, as defined in sec-  
49 tion one, article ten of this chapter, which are used or to  
50 be used in interstate commerce, nor shall the tax imposed  
51 by this section apply to titling of vehicles by a registered  
52 dealer of this state for resale only, nor shall the tax im-  
53 posed by this section apply to titling of vehicles by this  
54 state, or any political subdivision thereof, or by any vol-  
55 unteer fire department organized and incorporated under  
56 the laws of the state of West Virginia for protection of  
57 life or property. The total amount of revenue collected by  
58 reason of this tax shall be paid into the state road fund  
59 and expended by the state road commissioner in the  
60 maintenance and construction of the state's secondary  
61 roads. In addition to said tax, there shall be a charge of  
62 one dollar for each original certificate of title so issued:  
63 *Provided*, That this state or any political subdivision  
64 thereof, or any such volunteer fire department, shall be  
65 exempted from payment of such charge.

66 Notwithstanding the provisions of this section, the own-  
67 ers of trailers, semitrailers and other vehicles not sub-  
68 ject 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 retitle 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 102

(House Bill No. 229—By Mr. Seibert)

AN ACT to amend and reenact section twelve, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to issuance and delivery of certificates of title to motor vehicles.

[Passed March 4, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

#### Section

12. Commissioner to issue certificate of title; certificate of title to be delivered to owner or lienor.

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

That section twelve, 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 12. *Commissioner to Issue Certificate of Title;*

2 *Certificate of Title to Be Delivered to Owner or Lienor.—*

3 The commissioner, if satisfied that the applicant for a  
4 certificate of title is the owner of such vehicle, or other-  
5 wise entitled to have the same registered in his name,  
6 shall issue an appropriate certificate of title.

7 The certificate of title shall contain upon the face there-  
8 of the date issued, the name and address of the owner,  
9 such description of the vehicle as determined by the com-  
10 missioner, and a statement of the owner's title and of all  
11 liens and encumbrances upon the vehicle therein de-  
12 scribed and whether possession is held by the owner un-  
13 der a lease, contract of conditional sale, or other like  
14 agreement, and shall bear thereon the seal of the depart-  
15 ment.

16 The certificate of title shall contain upon the reverse  
17 side a space for the signature of the owner and the owner  
18 shall write his name with pen and ink in such space upon  
19 receipt of the certificate. Such certificate shall also con-  
20 tain upon the reverse side forms for assignment of title  
21 or interest and warranty thereof by the owner with space  
22 for notation of liens and encumbrances upon the vehicle  
23 at the time of a transfer.

24 The commissioner, upon issuing a certificate of title,  
25 shall deliver same to the person who holds legal title to  
26 the vehicle described on the face of said certificate: *Pro-*  
27 *vided*, That when a certificate of title is issued showing  
28 upon the face thereof a lien or encumbrance or liens or  
29 encumbrances, such certificate of title shall be delivered  
30 to the lien holder in order of priority. It shall be unlawful  
31 and constitute a misdemeanor for a lienor who holds a  
32 certificate of title as hereinabove in this section provided,  
33 to refuse or fail to surrender such certificate of title to  
34 the person legally entitled thereto within ten days after  
35 the lien or encumbrance or liens or encumbrances shown  
36 on the face thereof shall have been paid and satisfied.

## CHAPTER 103

(Com. Sub. for Senate Bill No. 5—Originating in  
the Senate Committee on the Judiciary)

AN ACT to amend and reenact section fourteen, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to registration plates to be furnished by the department of motor vehicles and the issuance of special registration plates.

[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### Article 3. Original and Renewal of Registration, Issuance of Certificates of Title.

#### Section

14. Registration plates to be furnished by the department; special registration plates; permanent registration plates.

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

That section fourteen, 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 14. *Registration Plates to Be Furnished by the Department; Special Registration Plates; Permanent Registration Plates.*—The department upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer or other motor vehicle.
- Every registration plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, also the name of this state, which may be abbreviated, and the year number for which it is issued or the date of expiration thereof.
- Such registration plate and the required letters and numerals thereon, except the year number for which issued or the date of expiration, shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight, said registration numbering to begin with number two.

17 The department shall not issue, permit to be issued, or  
18 distribute any special numbers except as follows:

19 (a) The governor shall be issued registration plates, on  
20 one of which shall be imprinted the numeral one and on  
21 the other the word one.

22 (b) Upon appropriate application, there shall be issued  
23 to the secretary of state, state superintendent of free  
24 schools, auditor, treasurer, commissioner of agriculture,  
25 and the attorney general, the members of both Houses  
26 of the Legislature, including the clerks thereof, the judges  
27 of the supreme court of appeals of West Virginia, the  
28 Representatives and Senators of the state in the Congress  
29 of the United States, the judges of the United States dis-  
30 trict courts for the state of West Virginia and the judges  
31 of the United States court of appeals for the fourth cir-  
32 cuit, if any of said judges shall be residents of West Vir-  
33 ginia, a special registration plate for a motor vehicle own-  
34 ed by him or his wife, but not to exceed one plate for  
35 each such official, which plate shall bear the initials of  
36 the individual together with a designation of his office  
37 and which plate shall supersede, during his term of office  
38 and while such motor vehicle is owned by him or his wife,  
39 the regular numbered plate assigned to him.

40 (c) Upon appropriate application, any owner of a  
41 motor vehicle subject to registration under the provisions  
42 of this article may request that the department issue to  
43 said owner a registration plate bearing a particular num-  
44 ber. The department shall attempt to comply with such  
45 request wherever possible.

46 (d) In addition to the regular registration fees set forth  
47 in section three, article ten of this chapter, a fee of five  
48 dollars shall be paid to the department in each case in  
49 which an application for a special registration plate is  
50 made as hereinabove provided in subparagraphs (b)  
51 and (c).

52 Notwithstanding the provisions of this section, or of  
53 any other provision of this chapter, the commissioner may,  
54 in his discretion, issue a type of registration plate suitable  
55 for permanent use on motor vehicles, trailers and semi-  
56 trailers, together with appropriate devices to be attached  
57 thereto to indicate the year for which such vehicles have

58 been properly registered or the date of expiration of such  
59 registration. The design of such plates shall be deter-  
60 mined by the commissioner.

## CHAPTER 104

(House Bill No. 266—By Mr. Seibert)

AN ACT to amend article six, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-a, relating to the operation of vehicles displaying special stickers.

[Passed March 3, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 6. Issuance of Special Plates to Dealers.

#### Section

- 1-a. Operation of vehicles under special stickers; application therefor and expiration thereof.

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

That article six, 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, designated section one-a, to read as follows:

Section 1-a. *Operation of Vehicles under Special Stickers; Application Therefor and Expiration Thereof.*—The commissioner may upon application made on a form prescribed and furnished by the department issue to an insurance company, a finance company or other type of lending or financing agency or a person engaged exclusively in wrecking or dismantling vehicles, exempted as a dealer under the provisions of section twenty-eight, article one, a paper sticker or decal to be affixed to the left side of the rear window of a motor vehicle or at a place on any other type vehicle as designated by the commissioner. Such



12 sticker or decal shall be of a size to be designated by the  
13 commissioner and shall be serially numbered and shall  
14 have provision thereon to indicate the date of issuance  
15 thereof. A fee of fifty cents per sticker shall be charged  
16 by the department to the applicant therefor. Such sticker  
17 or decal shall be valid for the operation of a vehicle,  
18 whether under its own power or while being towed, one  
19 time only over the streets or highways of this state and  
20 upon being once affixed to a vehicle shall become invalid  
21 for subsequent use on that or any other vehicle.

22 The commissioner is hereby authorized to make neces-  
23 sary rules and regulations for the administration and en-  
24 forcement of this section.

## CHAPTER 105

(House Bill No. 264—By Mr. Seibert)

AN ACT to amend and reenact section one, article seven, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licensing of motor vehicle dealers and persons engaging in the business of wrecking or dismantling motor vehicles.

[Passed March 4, 1959; in effect July 1, 1959. Approved by the Governor.]

### **Article 7. Motor Car Dealers and Wreckers Must Be Licensed.**

#### **Section**

1. Dealers and wreckers must be licensed.

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

That section one, article seven, 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 1. *Dealers and Wreckers Must be Licensed.*—

- 2 No person unless licensed so to do by the department,

3 under the provisions of this chapter, shall carry on or  
4 conduct the business of:.

5 (1) A dealer in motor vehicles, trailers, or semitrailers,  
6 of a type subject to registration;

7 (2) A dealer in used parts or used accessories of ve-  
8 hicles;

9 (3) Wrecking or dismantling any such vehicle for resale  
10 of the parts thereof.

11 Application for a dealer's or wrecker's license shall be  
12 made upon the form prescribed by the department and  
13 shall contain the name and address of the applicant; and  
14 when the applicant is a partnership, the name and address  
15 of each partner; or when the applicant is a corporation, the  
16 names of the principal officers of the corporation and the  
17 state in which incorporated. Said application shall state  
18 the exact location of the place or places where the busi-  
19 ness is to be conducted and further state whether such is  
20 owned or leased by the applicant. Said applicant shall fur-  
21 ther state that the location is a permanent business loca-  
22 tion and not a temporary stand, or other temporary quar-  
23 ters, and affords sufficient space upon which to offer  
24 and display vehicles for sale, and is a suitable place  
25 where applicant can in good faith carry on as a primary  
26 function said business and keep and maintain books,  
27 records and files necessary to conduct the said business  
28 which will be available at the reasonable hours to in-  
29 spection by the motor vehicle commissioner or his duly  
30 authorized representative. Said application shall state  
31 the nature of such business and contain other informa-  
32 tion as may be required by the department. Every such  
33 application shall be verified by the oath or affirmation  
34 of the applicant, if an individual, or in the event an  
35 applicant is a partnership or corporation, then by a  
36 partner or officer thereof. Every such application shall  
37 be accompanied by the fee required by law. The com-  
38 missioner shall if he deems it necessary cause an investi-  
39 gation to be made to ascertain if the facts set forth in said  
40 application are true and shall not issue license to said  
41 applicant until the requirements set forth in said ap-  
42 plication are met.

## CHAPTER 106

(Senate Bill No. 269—By Mr. Carrigan)

AN ACT to amend and reenact section seven, article nine, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the return by owner of evidences of registration upon cancellation, suspension or revocation of the registration of a motor vehicle or a certificate of title thereto, registration card, registration plate or plates, or a nonresident or other permit or license of any dealer or wrecker.

[Passed March 2, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 9. Offenses against Registration Laws and Suspension or Revocation of Registration.

#### Section

7. Surrender of evidences of registration upon cancellation, suspension or revocation; wilful refusal; fee.

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

That section seven, article nine, 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 7. *Surrender of Evidences of Registration Upon Cancellation, Suspension or Revocation; Wilful Refusal; Fee.*—Whenever the department as authorized hereunder cancels, suspends, or revokes the registration of a vehicle or a certificate of title, registration card, registration plate or plates, or any nonresident or other permit or the license of any dealer or wrecker, the owner or person in possession of the same shall immediately return the evidences of registration, title, or license so canceled, suspended, or revoked to the department. If any person shall wilfully fail to return to the department the evidences of registration, title, or license so canceled, suspended, or revoked, the commissioner shall forthwith notify the

14 superintendent of the department of public safety who  
15 shall, as soon as possible, secure possession thereof and  
16 return same to the department. Said superintendent of  
17 the department of public safety shall make a report in  
18 writing to the commissioner, within two weeks after being  
19 so notified by the commissioner, as to the result of his  
20 efforts to secure the possession and return of such evi-  
21 dences of registration, title or license. For each registra-  
22 tion, certificate of title, registration card, registration plate  
23 or plates, permit or license which shall have been can-  
24 celed, suspended, or revoked and which the owner thereof  
25 shall have wilfully failed to return to the department  
26 within ten days from the time that such suspension or  
27 revocation becomes effective, and which shall have been  
28 certified to the superintendent of the department of public  
29 safety as aforesaid, the owner thereof, before the same  
30 may be reinstated, in addition to all other fees and  
31 charges, shall pay a fee of ten dollars, which shall be col-  
32 lected by the department of motor vehicles, paid into the  
33 state treasury and credited to the general fund to be ap-  
34 propriated to the department of public safety for applica-  
35 tion in the enforcement of the road laws. Only one fee  
36 shall be collected on each such reinstatement for each  
37 vehicle to which such canceled, suspended or revoked  
38 evidences of registration, title or license shall be appli-  
39 cable.

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## CHAPTER 107

(House Bill No. 112—By Mr. Knight)

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AN ACT to amend article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen, relating to license plates for amateur radio station operators.

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[Passed March 3, 1930; in effect ninety days from passage. Approved by the Governor.]

**Article 10. Registration, License and Other Fees.****Section****14. License plate for amateur radio station operators; regulations.**

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

That article ten, 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, designated section fourteen, to read as follows:

Section 14. *License Plate for Amateur Radio Station Operators; Regulations.*—Any owner of a motor vehicle who is a resident of the state of West Virginia, and who holds an unrevoked and unexpired official amateur radio station license and/or amateur class operators' license issued by the federal communications commission, upon application, accompanied by proof of ownership of such amateur radio station license, complying with the motor vehicle laws of the state relative to registration and licensing of motor vehicles, and upon payment of the registration, license and other fees required by law, and the payment of the additional special fee herein provided, shall be issued a license plate for a private passenger car, upon which, in lieu of the registration number prescribed by law, shall be inscribed the official amateur radio call letters of such applicant as assigned by the federal communications commission.

The special fee that shall be charged each applicant for the issuance of a license plate bearing the official amateur radio call letters, in lieu of a registration number, shall be five dollars, which special fee shall be in addition to all other fees required by law. This special fee is for the purpose of compensating the department of motor vehicles for additional costs and services required in the issuing of such licenses.

The commissioner is authorized to prescribe proper forms to be used in making application for the special license plates authorized by this section.

## CHAPTER 108

(House Bill No. 220—By Mr. Seibert and Mr. Myles)

AN ACT to amend and reenact sections five and eight, article two, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to automobile driving instruction permits; licenses issued to operators and chauffeurs, and fees.

[Passed March 7, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 2. Issuance of License, Expiration and Renewal.

#### Section

5. Instruction permits; fees.
8. Licenses issued to operators and chauffeurs; fee.

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

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

Section 5. *Instruction Permits; Fees.*—Any person who  
2 is at least sixteen years of age may apply to the depart-  
3 ment for an instruction permit. The department may, in  
4 its discretion, after the applicant has appeared before the  
5 department of public safety and successfully passed all  
6 parts of the examination other than the driving test, issue  
7 to the applicant an instruction permit which shall entitle  
8 the applicant while having such permit in his immediate  
9 possession to drive a motor vehicle upon the public high-  
10 ways for a period of sixty days when accompanied by a  
11 licensed operator or chauffeur who is occupying a seat  
12 beside the driver, except in the event the permittee is  
13 operating a motorcycle. Any such instruction permit may  
14 be renewed or a new permit issued for an additional pe-  
15 riod of sixty days. The fee for such instruction permit  
16 shall be four dollars, one dollar of which shall be paid  
17 into the state treasury and credited to the state road fund,  
18 and the other three dollars of which shall be paid into the

19 state treasury and credited to the general fund to be ap-  
20 propriated to the department of public safety for appli-  
21 cation in the enforcement of the road laws.

22     Sec. 8. *Licenses Issued to Operators and Chauffeurs;*  
23 *Fee.*—The department shall upon payment of the required  
24 fee issue to every applicant qualifying therefor an opera-  
25 tor's or chauffeur's license as applied for, which license  
26 shall bear thereon a distinguishing number assigned to the  
27 licensee, the full name, date of birth, residence address, and  
28 a brief description of the licensee, and either a facsimile  
29 of the signature of the licensee or a space upon which the  
30 licensee shall write his usual signature with pen and ink  
31 immediately upon receipt of the license. No license shall  
32 be valid until it has been so signed by the licensee.

33     The fee for the issuance of an operator's license shall be  
34 five dollars. The fee for the issuance of a chauffeur's  
35 license shall be three dollars.

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## CHAPTER 109

(Senate Bill No. 215—By Mr. Ballard)

AN ACT to amend and reenact section twelve, article two, chap-  
ter seventeen-b of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to expira-  
tion of operator's and chauffeur's licenses and renewal fees  
therefor.

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[Passed March 2, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 2. Issuance of License, Expiration and Renewal.

#### Section

12. Expiration of licenses; renewal; fees.

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

That section twelve, 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 12. *Expiration of Licenses; Renewal; Fees.*—Any operator's license issued under any prior act of the Legislature relating to the licensing of motor vehicle operators shall expire by its own limitation four years from the date of its issuance, except that the operator's license of any person in the armed forces shall be extended to the expiration of a period of six months from date of honorable discharge from service. Any operator's license issued subsequent to this article shall expire four years from the date of issue except as above provided. Any license so expiring may be thereafter renewable, in the discretion of the commissioner, without examination, for successive periods of four years on or before its expiration date upon application and upon payment of a fee of five dollars for such renewal. If such license has been permitted to expire, it may be renewed by complying with the regulations of this section and the payment of an additional fee of one dollar for such renewal and, in the discretion of the commissioner, without examination. The commissioner shall notify by first-class mail not less than thirty days prior to the expiration date, any person whose operator's license is about to expire, giving the expiration date and including therewith a renewal application form. The commissioner may, in his discretion, renew any license without a driving examination.

The commissioner shall, upon the application and upon payment of a fee of three dollars, issue a chauffeur's license to any person holding a valid chauffeur's license issued pursuant to the provisions of any prior act of the Legislature. The commissioner may, in his discretion, issue such chauffeur's license to any such applicant without examination. Any chauffeur's license issued pursuant to such prior act or the provisions of this chapter shall expire by its own limitation one year from the date of its issuance, and shall be thereafter renewable for successive periods of one year upon application and upon payment of the required fee as hereinbefore provided in this section.



## CHAPTER 110

(Senate Bill No. 173—By Mr. Carrigan)

AN ACT to amend and reenact section nine, article three, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to return of suspended or revoked chauffeur's and operator's licenses.

[Passed February 27, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Cancellation, Suspension or Revocation of Licenses.

#### Section

9. Surrender and return of license; wilful refusal; additional fee for reinstatement.

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

That section nine, article three, 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 9. *Surrender and Return of License; Wilful Refusal; Additional Fee for Reinstatement.*—The department upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the department, except that at the end of the period of suspension such license so surrendered shall be returned to the licensee. If any person shall wilfully fail to return to the department such suspended or revoked license, the commissioner shall forthwith notify the superintendent of the department of public safety who shall, as soon as possible, secure possession thereof and return same to the department. Said superintendent of the department of public safety shall make a report in writing to the commissioner, within two weeks after being so notified by the commissioner, as to the result of his efforts to secure the possession and return of such license. For each license which shall have been suspended or revoked and which the holder thereof shall have wilfully failed to return to the

19 department within ten days from the time that such  
20 suspension or revocation becomes effective and which  
21 shall have been certified to the superintendent of the de-  
22 partment of public safety as aforesaid, the holder thereof,  
23 before the same may be reinstated, in addition to all other  
24 fees and charges, shall pay a fee of ten dollars, which  
25 shall be collected by the department of motor vehicles  
26 and paid into the state treasury and credited to the gen-  
27 eral fund to be appropriated to the department of public  
28 safety for application in the enforcement of the road laws.

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## CHAPTER 111

(Senate Bill No. 31—By Mr. Taylor and Mr. Bowers)

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 three-a, relating to minimum speed regulations.

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[Passed March 7, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Speed Restrictions.

#### Section

#### 3-a. Minimum speed regulations.

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*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 three-a, to read as follows:

Section 3-a. *Minimum Speed Regulations.*—(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

- 6 (b) Whenever the commissioner or local authorities  
7 within their respective jurisdiction determine on the ba-  
8 sis of an engineering and traffic investigation that slow  
9 speeds on any part of the highway consistently impede  
10 the normal and reasonable movement of traffic, the com-  
11 missioner or such local authority may determine and de-  
12 clare a minimum speed limit below which no person shall  
13 drive a vehicle except when necessary for safe operation  
14 or in compliance with law.

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## CHAPTER 112

(Senate Bill No. 194—By Mr. Nuckols)

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AN ACT to amend and reenact sections two, seven and twelve, article four, chapter seventeen-d of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to judgments and minimum financial requirements for motor vehicle liability insurance policies.

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[Passed March 10, 1959; in effect July 1, 1959. Approved by the Governor.]

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### Article 4. Proof of Financial Responsibility for the Future.

#### Section

2. Meaning of proof of financial responsibility.
  7. Payments sufficient to satisfy requirements.
  12. Motor vehicle liability policy defined.
- 

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

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

#### Section 2. *Meaning of Proof of Financial Responsibility.*

- 2 —The term “proof of financial responsibility” as used in  
3 this chapter shall mean: Proof of ability to respond in  
4 damages for liability, on account of accident occurring  
5 subsequent to the effective date of said proof, arising out

6 of the ownership, operation, maintenance, or use of a  
7 motor vehicle, trailer or semitrailer in the amount of ten  
8 thousand dollars because of bodily injury to or death of  
9 one person in any one accident, and, subject to said limit  
10 for one person, in the amount of twenty thousand dollars  
11 because of bodily injury to or death of two or more per-  
12 sons in any one accident, and in the amount of five thou-  
13 sand dollars because of injury to or destruction of prop-  
14 erty of others in any one accident.

Sec. 7. *Payments Sufficient to Satisfy Requirements.*—

2 (a) Judgments herein referred to shall, for the purpose  
3 of this chapter only, be deemed satisfied:

4 (1) When ten thousand dollars has been credited upon  
5 any judgment or judgments rendered in excess of that  
6 amount because of bodily injury to or death of one person  
7 as the result of any one accident; or

8 (2) When, subject to such limit of ten thousand dollars  
9 because of bodily injury to or death of one person, the  
10 sum of twenty thousand dollars has been credited upon  
11 any judgment or judgments rendered in excess of that  
12 amount because of bodily injury to or death of two or  
13 more persons as the result of any one accident; or

14 (3) When five thousand dollars has been credited upon  
15 any judgment or judgments rendered in excess of that  
16 amount because of injury to or destruction of property of  
17 others as a result of any one accident.

18 (b) *Provided, however,* That payments made in settle-  
19 ment of any claims because of bodily injury, death, or  
20 property damage arising from such accident shall be  
21 credited in reduction of the amounts provided for in this  
22 section.

Sec. 12. *Motor Vehicle Liability Policy Defined.*—(a)

2 A “motor vehicle liability policy” as said term is used  
3 in this chapter shall mean an “owner’s policy” or an  
4 “operator’s policy” of liability insurance certified as pro-  
5 vided in section ten or section eleven of this article as  
6 proof of financial responsibility, and issued, except as  
7 otherwise provided in section eleven, by an insurance  
8 carrier duly authorized to transact business in this state,

9 to or for the benefit of the person named therein as in-  
10 sured.

11 (b) Such owner's policy of liability insurance:

12 (1) Shall designate by explicit description or by ap-  
13 propriate reference all vehicles with respect to which  
14 coverage is thereby to be granted; and

15 (2) Shall insure the person named therein and any  
16 other person, as insured, using any such vehicle or vehicles  
17 with the express or implied permission of such named  
18 insured, against loss from the liability imposed by law  
19 for damages arising out of the ownership, operation,  
20 maintenance, or use of such vehicle or vehicles within  
21 the United States of America or the Dominion of Canada,  
22 subject to limits exclusive of interest and costs, with re-  
23 spect to each such vehicle, as follows: Ten thousand  
24 dollars because of bodily injury to or death of one person  
25 in any one accident and, subject to said limit for one per-  
26 son, twenty thousand dollars because of bodily injury to  
27 or death of two or more persons in any one accident, and  
28 five thousand dollars because of injury to or destruction  
29 of property of others in any one accident.

30 (c) Such operator's policy of liability insurance shall  
31 insure the person named as insured therein against loss  
32 from the liability imposed upon him by law for damages  
33 arising out of the use by him of any motor vehicle not  
34 owned by him, within the same territorial limits and sub-  
35 ject to the same limits of liability as are set forth above  
36 with respect to an owner's policy of liability insurance.

37 (d) Such motor vehicle liability policy shall state the  
38 name and address of the named insured, the coverage  
39 afforded by the policy, the premium charged therefor, the  
40 policy period, and the limits of liability, and shall contain  
41 an agreement or be endorsed that insurance is provided  
42 thereunder in accordance with the coverage defined in  
43 this chapter as respects bodily injury and death or prop-  
44 erty damage, or both, and is subject to all the provisions  
45 of this chapter.

46 (e) Such motor vehicle liability policy need not insure  
47 any liability under any workmen's compensation law nor  
48 any liability on account of bodily injury to or death of

49 an employee of the insured while engaged in the employ-  
50 ment, other than domestic, of the insured, or while  
51 engaged in the operation, maintenance, or repair of any  
52 such vehicle nor any liability for damage to property  
53 owned by, rented to, in charge of, or transported by the  
54 insured.

55 (f) Every motor vehicle liability policy shall be subject  
56 to the following provisions which need not be contained  
57 therein:

58 (1) The liability of the insurance carrier with respect  
59 to the insurance required by this chapter shall become  
60 absolute whenever injury or damage covered by said  
61 motor vehicle liability policy occurs; said policy may not  
62 be canceled or annulled as to such liability by an agree-  
63 ment between the insurance carrier and the insured after  
64 the occurrence of the injury or damage; no statement  
65 made by the insured or on his behalf and no violation of  
66 said policy shall defeat or void said policy.

67 (2) The satisfaction by the insured of a judgment for  
68 such injury or damage shall not be a condition precedent  
69 to the right or duty of the insurance carrier to make  
70 payment on account of such injury or damage.

71 (3) The insurance carrier shall have the right to settle  
72 any claim covered by the policy, and if such settlement  
73 is made in good faith, the amount thereof shall be de-  
74 ductible from the limits of liability specified in subdivision  
75 two of subsection (b) of this section.

76 (4) The policy, the written application therefor, if any,  
77 and any rider or endorsement which does not conflict  
78 with the provisions of this chapter shall constitute the  
79 entire contract between parties.

80 (g) Any policy which grants the coverage required  
81 for a motor vehicle liability policy may also grant any  
82 lawful coverage in excess of or in addition to the coverage  
83 specified for a motor vehicle liability policy and such  
84 excess or additional coverage shall not be subject to the  
85 provisions of this chapter. With respect to a policy which  
86 grants such excess or additional coverage the term "motor  
87 vehicle liability policy" shall apply only to that part of  
88 the coverage which is required by this section.

89 (h) Any motor vehicle liability policy may provide  
90 that the insured shall reimburse the insurance carrier for  
91 any payment the insurance carrier would not have been  
92 obligated to make under the terms of the policy except  
93 for the provisions of this chapter.

94 (i) Any motor vehicle liability policy may provide for  
95 the prorating of the insurance thereunder with other  
96 valid and collectible insurance.

97 (j) The requirements for a motor vehicle liability  
98 policy may be fulfilled by the policies of one or more in-  
99 surance carriers which policies together meet such re-  
100 quirements.

101 (k) Any binder issued pending the issuance of a motor  
102 vehicle liability policy shall be deemed to fulfill the re-  
103 quirements for such a policy.

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## CHAPTER 113

(Senate Bill No. 214—By Mr. Ballard)

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AN ACT to amend and reenact sections one and three, article ten, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to classification of vehicles for purpose of registration and registration fees for vehicles equipped with pneumatic tires.

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[Passed March 12, 1959; in effect from passage. Approved by the Governor.]

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### Article 10. Registration, License and Other Fees.

#### Section

1. Classification of vehicles for purpose of registration.
  3. Registration fees for vehicles equipped with pneumatic tires.
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*Be it enacted by the Legislature of West Virginia:*

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

Section 1. *Classification of Vehicles for Purpose of*  
2 *Registration.*—Vehicles subject to registration under the  
3 provisions of this chapter shall be placed in the following  
4 classes for the purpose of registration:

5 Class A. Motor vehicles of passenger type, other than  
6 those leased or operated for compensation;

7 Class B. Motor vehicles designated as trucks, truck  
8 tractors, or road tractors other than those leased or oper-  
9 ated for compensation;

10 Class C. All trailers and semitrailers except those leased  
11 or operated for compensation other than over regular  
12 route or between fixed termini by common carriers, and  
13 except house trailers and trailers or semitrailers designed  
14 to be drawn by Class A motor vehicles and having a gross  
15 weight of less than two thousand pounds;

16 Class G. Motorcycles;

17 Class H. Motor vehicles operated regularly under a  
18 certificate of public convenience and necessity or a con-  
19 tract carrier permit for transportation of persons;

20 Class I. Motor vehicles designated as trucks, truck  
21 tractors, or road tractors operated over a regular route or  
22 between fixed termini under a certificate of convenience  
23 and necessity for transportation of property;

24 Class J. Motor vehicles operated for transportation of  
25 persons for compensation by common carriers, not run-  
26 ning over a regular route or between fixed termini, except  
27 passenger motor vehicles rented without a driver;

28 Class K. Motor vehicles designated as trucks, truck  
29 tractors, or road tractors leased or operated for transpor-  
30 tation of property for compensation, not over a regular  
31 route or between fixed termini, including such motor  
32 vehicles rented without drivers;

33 Class L. All trailers and semitrailers used for trans-  
34 portation of property for compensation;

35 Class R. House trailers;

36 Class S. Special mobile equipment as defined in section  
37 nineteen, article one of this chapter;

38 Class T. Trailers or semitrailers of a type designed to  
39 be drawn by Class A vehicles and having a gross weight of  
40 less than two thousand pounds;

41 Class U. Passenger motor vehicles rented for compen-  
42 sation without a driver.



43     Class Farm Truck: Motor vehicles designated as trucks  
44     having a minimum gross weight of eight thousand one  
45     pounds and a maximum gross weight of twenty-two thou-  
46     sand pounds, used exclusively in the conduct of a farming  
47     business engaged in the production of agricultural pro-  
48     ducts by means of (a) the planting, cultivation and har-  
49     vesting of agricultural, horticultural, vegetable or other  
50     products of the soil, (b) the raising, feeding, and care of  
51     livestock, poultry, bees, and dairy cattle. Such farm truck  
52     shall be used only for the transportation of agricultural  
53     products so produced by the owner thereof, or for the  
54     transportation of agricultural supplies used in such pro-  
55     duction, or for private passenger use.

      Sec. 3. *Registration Fees for Vehicles Equipped with*  
2     *Pneumatic Tires.*—The following registration fees for the  
3     classes indicated shall be paid annually to the department  
4     for the registration of vehicles subject to registration  
5     hereunder when equipped with pneumatic tires:

6     Class A. The registration fee for all motor vehicles of  
7     this class shall be as follows:

8         (1) For motor vehicles of a weight of three thousand  
9         pounds or less—twenty dollars.

10        (2) For motor vehicles of a weight of three thousand  
11        and one pounds to four thousand pounds—twenty-four  
12        dollars.

13        (3) For motor vehicles of a weight in excess of four  
14        thousand pounds—thirty dollars.

15     For the purpose of determining the weight the actual  
16     weight of the vehicle shall be taken: *Provided*, That for  
17     vehicles owned by churches, or by trustees for churches,  
18     which vehicles are regularly used for transporting parish-  
19     ioners to and from church services, no license fee shall  
20     be charged, but notwithstanding such exemption, the cer-  
21     tificate of registration and license plates shall be obtained  
22     the same as other cards and plates under this article.

23     Class B, Class H, Class I and Class K. The registration  
24     fee for all motor vehicles of these four classes shall be as  
25     follows:

26        (1) For declared gross weights of four thousand  
27        pounds or less—twenty dollars.

28       (2) For declared gross weights of four thousand and  
29 one pounds to eight thousand pounds—twenty-two dol-  
30 lars and fifty cents.

31       (3) For declared gross weights of eight thousand and one  
32 pounds to sixteen thousand pounds—twenty-two dollars  
33 and fifty cents plus forty-five cents for each hundred  
34 pounds or fraction thereof that the gross weight of such  
35 vehicle or combination of vehicles exceeds eight thousand  
36 pounds.

37       (4) For declared gross weights greater than sixteen  
38 thousand pounds—sixty-eight dollars and fifty cents plus  
39 ninety cents for each one hundred pounds or fraction  
40 thereof that the gross weight of such vehicle or combina-  
41 tion of vehicles exceeds sixteen thousand pounds.

42       If the declared gross weight of a Class B, Class I or Class  
43 K motor vehicle includes the gross weight of a Class C or  
44 Class L vehicle used in combination with such Class B,  
45 Class I or Class K motor vehicle and the registration fee  
46 prescribed hereunder for such Class C or Class L vehicle  
47 has been paid, there shall be deducted from the registra-  
48 tion fee for such Class B, Class I or Class K motor vehicle  
49 the amount of seventeen dollars and fifty cents.

50       Class C and Class L. The registration fee for all ve-  
51 hicles of these two classes shall be seventeen dollars and  
52 fifty cents.

53       Class G. The registration fee for each motorcycle having  
54 two wheels shall be six dollars. The registration fee for  
55 each motorcycle having three wheels shall be seven dol-  
56 lars and fifty cents.

57       Class J. The registration fee for all motor vehicles of  
58 this class shall be eighty-five dollars. Ambulances and  
59 hearses used exclusively as such shall be exempted from  
60 the above special fees.

61       Class R. The registration fee for all vehicles of this  
62 class shall be ten dollars.

63       Class S. The registration fee for all vehicles of this  
64 class shall be seventeen dollars and fifty cents.

65       Class T. The registration fee for all vehicles of this class  
66 shall be six dollars.

67       Class U. The registration fee for all motor vehicles of  
68 this class shall be fifty-seven dollars and fifty cents.

69 Class Farm Truck: The registration fee for all motor  
70 vehicles of this class shall be as follows:

71 (1) For farm trucks of declared gross weights of eight  
72 thousand and one pounds to sixteen thousand pounds—  
73 thirty dollars;

74 (2) For farm trucks of declared gross weights of six-  
75 teen thousand and one pounds to twenty-two thousand  
76 pounds—eighty dollars.

77 From the revenue provided by this section for the fiscal  
78 year 1959-60 the sum of three million two hundred thou-  
79 sand dollars shall be used for the purpose of matching  
80 federal funds allocated for the interstate road system in  
81 West Virginia.

## CHAPTER 114

(House Bill No. 309—By Mr. Burnette)

AN ACT to amend and reenact section ten-g, article four,  
chapter eight of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to compen-  
sation of officers and employees of Class I cities.

[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

#### Section

10-g. Salaries of officers of class I cities.

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

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

Section 10-g. *Salaries of Officers of Class I Cities.*—Not-  
2 withstanding any provision of its existing charter to the  
3 contrary, the governing board of any Class I city, as de-  
4 fined in section four, article one, chapter eight-a of this  
5 code, shall have the authority to fix the compensation of  
6 municipal officers and employees.

## CHAPTER 115

(Senate Bill No. 49—By Mr. Moats)

AN ACT to amend and reenact section twenty, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to special charges for municipal services.

[Passed March 4, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

#### Section

20. Special charges for municipal services.

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

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

#### Section 20. *Special Charges for Municipal Services.*—

2 The governing authority of every municipal corporation  
3 that furnishes any essential or special municipal service,  
4 including police and fire protection, parking facilities on  
5 the streets or otherwise, recreational facilities, street  
6 cleaning, street lighting, sewerage and sewage disposal,  
7 and the collection and disposal of garbage, ashes or other  
8 waste materials, may by ordinance provide for the con-  
9 tinuance, maintenance, installation or improvement of  
10 such service, may make reasonable regulations with re-  
11 spect thereto, may impose upon the users of such service  
12 reasonable rates, fees and charges to be collected in the  
13 same manner as municipal taxes are collected or in some  
14 other manner specified in the ordinance, and may provide  
15 penalties for any violation of such ordinance. The mu-  
16 nicipal corporation shall not, however, have a lien on any  
17 property as security for payments due under such ordi-  
18 nance: *Provided, however,* That any ordinance enacted

19 under the provisions of this section shall be published at  
20 least once a week for two successive weeks in two news-  
21 papers published in such municipality, or if there be only  
22 one newspaper published therein then in that newspaper,  
23 or if there be no such newspaper published then by post-  
24 ing copies of such ordinance for a like period in at least  
25 ten conspicuous places in such municipality, and in the  
26 event ten per cent of the registered voters by written pe-  
27 tition duly signed by them and filed with the municipal  
28 authority within fifteen days after the expiration of such  
29 publishing or posting protest against such ordinance, the  
30 ordinance shall not become effective until it shall be rati-  
31 fied by a majority of the votes cast by the duly qualified  
32 voters of such municipality at an election duly and regu-  
33 larly held as provided by the laws and ordinances of the  
34 municipality and the result of such election ascertained  
35 and declared. Such election shall be held after notice of  
36 such submission shall be given by publication or posting  
37 of the same for two successive weeks next prior to the  
38 date of such election as above provided for the publication  
39 of the ordinance when adopted. The powers hereby given  
40 to such municipalities and to the authorities thereof are  
41 in addition to and supplemental of the powers named in  
42 the respective charters thereof: *Provided*, That in the  
43 event fees and charges herein provided for, shall be im-  
44 posed by the governing body of any municipal corpora-  
45 tion for the purpose of, and in amounts approximately  
46 sufficient, to replace in its general fund such amounts as  
47 shall be appropriated to be paid out of ad valorem taxes  
48 upon property within the municipality pursuant to an  
49 election duly called and held under the constitution and  
50 laws of the state to authorize the issuance and sale of gen-  
51 eral obligation bonds of the municipality for public im-  
52 provement purposes, in the call for which election it shall  
53 be stated that the governing body of the municipality pro-  
54 poses to impose fees and charges in specified amounts un-  
55 der this section for the use of one or more of the services  
56 above specified, which shall be related to the public im-  
57 provement proposed to be made with the proceeds of the  
58 bonds, no notice, publication or posting of notice, or ref-  
59 erendum or election or other condition or prerequisite to

60 the imposition of such rates shall be required or necessary,  
61 other than the legal requirements for the issuance and  
62 sale of such general obligation bonds.

## CHAPTER 116

(House Bill No. 35—By Mr. Watson)

AN ACT to amend and reenact section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-five, relating to definitions, including the definition of municipal public works.

[Passed February 10, 1959; in effect from passage. Approved by the Governor.]

### Article 4-a. Municipal Public Works; Bonds.

#### Section

##### 1. Definitions.

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

That section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-five, be amended and reenacted to read as follows:

Section 1. *Definitions.*—(a) The term “municipality”,  
2 as used in this article, shall be construed to mean any  
3 city or incorporated town in the state of West Virginia;  
4 (b) the term “municipal authorities”, as used in this  
5 article, shall be construed to mean the mayor and council,  
6 or similar governing body, board or commission of any  
7 city or incorporated town; (c) the term “municipal public  
8 works”, as used in this article, shall be construed to mean

9 and include cemeteries, incinerator plants, land fill or other  
10 garbage disposal systems, hospitals, piers, docks, termi-  
11 nals, airports, drainage systems, flood control systems, the  
12 construction, reconstruction and alteration of intracity  
13 bridges, including approaches, causeways, viaducts, un-  
14 derpasses and connecting roadways, public markets, au-  
15 tomobile parking facilities (including parking lots, build-  
16 ings, ramps, curb-line parking, meters and other facilities  
17 deemed necessary or incidental to the regulation, control  
18 and parking of automobiles), stadiums, public recreation  
19 parks, swimming pools, roller skating rinks, ice skating  
20 rinks, tennis courts, golf courses, polo grounds, public  
21 buildings, including libraries and museums, common jails,  
22 grading and/or paving, and/or repaving streets, avenues  
23 and alleys; where such works or projects will be made  
24 self-supporting, and the construction and/or acquisition  
25 cost thereof, together with interest thereon, will be re-  
26 turned within a reasonable period, not exceeding thirty  
27 years, by means of tolls, fees, rents, special assessments  
28 or charges other than taxation, and shall mean and in-  
29 clude such system, building, plant or project in its en-  
30 tirety, and all integral parts thereof, including all neces-  
31 sary appurtenances and equipment in connection with any  
32 one or more of the above: *Provided*, That when such mu-  
33 nicipal public works consist of grading and/or paving  
34 and/or repaving streets, avenues, and alleys the cost of  
35 which is to be paid by special assessment against the abut-  
36 ting property, represented by paving certificates which  
37 constitute a lien upon such property and said paving cer-  
38 tificates are pledged by any municipality to retire revenue  
39 bonds issued and sold to pay the cost of such construction,  
40 the payor of such paving certificate shall have the right to  
41 pay the same at any time before maturity, together with  
42 interest thereon to date of payment, and upon the pay-  
43 ment of such paving certificate the treasurer of such mu-  
44 nicipality shall deliver to the payor a release for such  
45 lien, and the funds received therefrom shall by said  
46 treasurer be deposited in a special fund to be expended  
47 only in the payment of such revenue bonds.

## CHAPTER 117

(House Bill No. 383—By Mr. Kincaid)

AN ACT to amend article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen-a, relating to the authority of a municipal corporation to transfer to the general fund unexpended balances in the sinking fund after bonded indebtedness has been paid.

[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 4-a. Municipal Public Works; Bonds.

#### Section

16-a. Balances in sinking fund may be transferred to general revenue fund where bonded indebtedness has been paid.

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

That article four-a, 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 sixteen-a, to read as follows:

Section 16-a. *Balances in Sinking Fund May Be Transferred to General Revenue Fund Where Bonded Indebtedness Has Been Paid.*—Every municipal corporation in this state, whether existing and operating under a special charter, home rule charter or under general law, is hereby authorized and empowered to transfer to the general fund of such municipal corporation any unexpended balances of funds raised to pay the interest on and create sinking funds for any 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



13 be applied, as well as any balance remaining in any fund  
14 levied and collected under authority of any special levy  
15 election.

16 The state sinking fund commission is authorized to re-  
17 mit any balances under its supervision or control to such  
18 municipality to be credited to its general fund.

19 In any case where such funds are transferred from the  
20 sinking funds, or are remitted from the state sinking fund  
21 commission, as hereinabove provided, no part of the  
22 monies so refunded or remitted shall be applied to the  
23 payment of current expenses of the municipality; but such  
24 funds shall be applied first to the liquidation of existing  
25 non-bonded indebtedness of such municipality; second, for  
26 capital improvements and third for the liquidation of  
27 bonded indebtedness of such municipality.

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## CHAPTER 118

(Senate Bill No. 264—By Mr. Moreland and Mr. Davis)

AN ACT to repeal article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article five, relating to the development, through planning and zoning, of urban and rural areas, and providing for the creation of city and county planning commissions; for the authority of said planning commissions to prepare comprehensive plans for the physical development of the territory within its jurisdiction; for the approval of such comprehensive plans; for cooperation between planning commissions and other governmental bodies; for subdivision control and plat approval; for the issuance of improvement location permits; for authority to zone both urban and rural property; for the procedure for the adoption of such zoning ordinance; for the creation of zoning boards of appeals, prescribing their powers and duties, and the procedure to be followed therein; for judicial review of administrative decisions; and providing for the enforcement of the article, and the penalties for the violation of the provision thereof.

[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 5. Urban and Rural Planning and Zoning.

### Section

1. Statement of intent.
2. Continuation of powers and duties.
3. Definitions.
4. Powers conferred.
5. City planning commission; membership.
6. County planning commission; membership.
7. Advisory members.
8. Regular and special meetings.
9. Quorum.
10. Offices; appropriation.
11. Officers.
12. Appointment, duties and compensation of secretary and employees; special and temporary services; legal assistance.
13. City-county commission; powers.
14. Administrative powers and duties.
15. Appropriations; expenditures; gifts.
16. Comprehensive plan; generally.
17. Same; contents.
18. Same; notice and public hearing.
19. Same; adoption by commission.
20. Same; certification and presentment to governing body.
21. Same; consideration of plan and ordinance by governing body; publication.
22. Same; rejection or amendment by governing body; consideration of report by commission.
23. Same; amendment of plan and ordinance after adoption.
24. Same; validation of prior action.
25. Same; intergovernmental cooperation.
26. Same; territorial jurisdiction.
27. Cooperation between planning commissions; cooperation between commissions and legislative and administrative bodies and officials.
28. Subdivision plats; approval required prior to recordation.
29. Same; application for approval; notice and hearing.
30. Same; basis for commission's action upon application.
31. Same; commission's action upon application.
32. Same; approval fees.
33. Same; plats filed without approval.
34. Same; conditional approval; bonds.
35. Same; jurisdiction and control; inconsistent provisions for platting control repealed.
36. Improvement location permits; conformity to comprehensive plan and ordinance.
37. Same; authority to issue and control.
38. Review of decisions of commission by certiorari.
39. Zoning authority generally.
40. Zoning districts; generally.
41. Same; preliminary study.
42. Same; tentative report; notice and hearing.
43. Same; action by legislative body on tentative report.
44. Same; final report; notice and hearing; action.
45. Supplemental and amending ordinances.
46. Change of zoning regulations; petitions for change.

47. Same; considered as amendments to comprehensive plan; procedure.
48. Election on zoning ordinance; procedure.
49. Validation of existing ordinances.
50. Existing uses safeguarded.
51. Board of zoning appeals; creation; membership; terms; vacancies.
52. Same; officers; quorum; employees.
53. Same; offices; appropriation.
54. Same; rules and procedures; records.
55. Same; powers and duties generally.
56. Appeal from decision of administrative official or board.
57. Hearing of appeal.
58. Staying of work on premises.
59. Petition for writ of certiorari from decision.
60. Notice to adverse parties.
61. Action of court on petition.
62. Stay of work on allowance of writ.
63. Return to writ by board of zoning appeals.
64. Action by the court.
65. Appeals from court judgment.
66. Enforcement.
67. Injunction.
68. Penalty.
69. Provisions supplemental.
70. Conflict with other laws.
71. General repealer.
72. Severability clause.

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

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

Section 1. *Statement of Intent.*—The governing body of  
2 every municipality in the state and the county court of  
3 every county in this state may by ordinance create a plan-  
4 ning commission in order to promote the orderly develop-  
5 ment of its governmental units and its environs. It is the  
6 object of this legislation to encourage local units of gov-  
7 ernment to improve the present health, safety, conven-  
8 ience, and welfare of their citizens and to plan for the fu-  
9 ture development of their communities to the end that  
10 highway systems be carefully planned, that new commun-  
11 ity centers grow only with adequate highway, utility,  
12 health, educational, and recreational facilities; that the  
13 needs of agriculture, industry and business be recognized  
14 in future growth; that residential areas provide healthy  
15 surroundings for family life; and that the growth of the

16 community is commensurate with and promotive of the  
17 efficient and economical use of public funds.

18 In accomplishing this objective, it is the intent of this  
19 legislation that the planning commission shall serve in an  
20 advisory capacity to the governing body of a city or a  
21 county court, and in addition, that certain regulatory  
22 powers be created over developments affecting the public  
23 welfare and not now otherwise controlled, and that ad-  
24 ditional powers be granted legislative bodies of cities,  
25 towns and counties to carry out the purposes of this  
26 article.

Sec. 2. *Continuation of Powers and Duties.*—Upon the  
2 taking effect of this article, a planning commission hereto-  
3 fore established shall continue to operate as though au-  
4 thorized under the terms of the present article. All actions  
5 lawfully taken under prior acts are hereby validated and  
6 continued in effect until amended or repealed by action  
7 taken under the authority of this article.

8 The membership of existing commissions shall continue  
9 unchanged until the first regular meeting of the governing  
10 body of a city or the county court in the January of the  
11 year following the passage of this article. At that time,  
12 any appointments or changes necessary shall be made to  
13 bring the membership of the commissions within the pro-  
14 visions of this article.

Sec. 3. *Definitions.*—As used in this article:

2 1. "Municipality" shall mean a city or town incorpo-  
3 rated under the laws of West Virginia;

4 2. "City" shall mean a municipal corporation with a  
5 population in excess of two thousand;

6 3. "Town" shall mean a municipal corporation with a  
7 population of two thousand or less;

8 4. "Governing body of a city" shall mean the council or  
9 commission created by the charter of a city or town which  
10 enacts ordinances and resolutions and is responsible for  
11 the public policy of the city or town;

12 5. "Administrative authority of a city" shall mean the  
13 officer or body which is responsible for the conduct and  
14 management of the affairs of the city or town in accord-

15   ance with general law, the charter and the ordinances,  
16   resolutions and orders of the governing body;

17   6. "County court" shall mean the governmental body  
18   created by article eight, section twenty-two of the West  
19   Virginia constitution;

20   7. "Commission or planning commission" shall mean a  
21   city planning commission or a county planning commis-  
22   sion;

23   8. "Comprehensive plan" means a complete compre-  
24   hensive plan or any of its parts such as a comprehensive  
25   plan of land use and zoning, of thoroughfares; of sanita-  
26   tion; of recreation, and other related matters, and includ-  
27   ing such ordinance or ordinances as may be deemed  
28   necessary to implement such complete comprehensive  
29   plan or parts thereof by legislative approval and provision  
30   for such regulations as are deemed necessary and their  
31   enforcement;

32   9. "Public place" includes any tracts owned by the  
33   state or its subdivisions;

34   10. "Streets" includes streets, avenues, boulevards,  
35   roads, lanes, alleys, and all public ways;

36   11. "Unit of government" means any federal, state,  
37   regional, county, city, town, or government corporation;

38   12. "Utility" means any facility used in rendering serv-  
39   ice which the public has a right to demand;

40   13. "Person" means individual, firm or corporation.

      Sec. 4. *Powers Conferred.*—Where power is conferred,  
2   singly or disjunctively, on the governing body or admin-  
3   istrative authority of a city, that power may be exercised  
4   only in relation to the city planning commission. Where  
5   power is conferred, singly or disjunctively, on the county  
6   court, that power may be exercised only in relation to the  
7   county planning commission.

      Sec. 5. *City Planning Commission; Membership.*—The  
2   city planning commission shall consist of not less than  
3   five nor more than fifteen citizens, all of whom shall be  
4   freeholders and residents of the municipality, who shall  
5   be qualified by knowledge and experience in matters  
6   pertaining to the development of the city, who shall in-  
7   clude representatives of business, industry and labor,

8 three fifths of all members shall have been residents of  
9 the municipality for at least ten years prior to nomina-  
10 tion, and who shall be nominated by the administrative  
11 authority and confirmed by the governing body of the  
12 city. One member of the commission shall also be a mem-  
13 ber of the governing body of the city and one member  
14 shall also be a member of the administrative department  
15 of the city. The term of these two members shall be co-  
16 extensive with the term of office to which he has been  
17 elected or appointed, unless the administrative author-  
18 ity and governing body of a city, at the first regular  
19 meeting of each year, appoint others to serve as the city's  
20 representatives. The remaining members of the commis-  
21 sion first appointed shall serve respectively for terms of  
22 one year, two years and three years, divided equally or  
23 as nearly equal as possible between these terms. There-  
24 after, members shall be appointed for terms of three  
25 years each. Vacancies shall be filled by appointment for  
26 the unexpired term only. Members of the commission  
27 shall serve without compensation, but shall be reim-  
28 bursed for actual expenses incurred in the performance  
29 of their official duties.

*Sec. 6. County Planning Commission; Membership.—*

2 The county planning commission shall consist of not less  
3 than five nor more than fifteen citizens, all of whom shall  
4 be freeholders and residents of the county, who shall be  
5 qualified by knowledge and experience in matters per-  
6 taining to the development of the county, who shall in-  
7 clude representatives of business, industry, labor and  
8 farming, three fifths of all members shall have been  
9 residents of the county for at least ten years prior to  
10 appointment, and who shall be appointed by the county  
11 court. One member of the commission shall also be a  
12 member of the county court. The term of this member  
13 shall be co-extensive with the term of office to which he  
14 has been elected, unless the county court, at the first  
15 regular meeting of each year, appoints another member  
16 to serve as its representative. The remaining members of  
17 the commission first appointed shall serve respectively  
18 for terms of one year, two years and three years, divided  
19 equally or as nearly equal as possible between these

20 terms. Thereafter, members shall be appointed for terms  
21 of three years each. Vacancies shall be filled by appoint-  
22 ment for the unexpired term only. Members of the com-  
23 mission shall serve without compensation, but shall be  
24 reimbursed for actual expenses incurred in the perform-  
25 ance of their official duties.

Sec. 7. *Advisory Members.*—In case the city is situated  
2 in a county which has a county planning commission, a  
3 designated representative of the county planning com-  
4 mission shall be an advisory member of the city planning  
5 commission. In case there is a city planning commission  
6 a designated representative of the city planning com-  
7 mission shall be an advisory member of the county plan-  
8 ning commission. Such advisory members shall have all  
9 the privileges of membership except the right to vote.

Sec. 8. *Regular and Special Meetings.*—The commis-  
2 sion shall fix the time for holding regular meetings, but it  
3 shall meet at least once in the months of January, April,  
4 July and October.

5 Special meetings of the commission may be called by  
6 the president or by two members upon written request to  
7 the secretary. The secretary shall send to all the mem-  
8 bers, at least two days in advance of a special meeting, a  
9 written notice fixing the time and place of the meeting.

10 Written notice of a special meeting is not required if  
11 the time of the special meeting has been fixed in a regular  
12 meeting, or if all members are present at the special  
13 meeting.

Sec. 9. *Quorum.*—A majority of members shall con-  
2 stitute a quorum. No action of the commission is official,  
3 however, unless authorized by a majority of the commis-  
4 sion at a regular or properly called special meeting.

Sec. 10. *Offices; Appropriation.*—The county court in  
2 the case of the county planning commission, and the gov-  
3 erning body of the city in the case of the city planning  
4 commissin shall provide the commission with suitable of-  
5 fices for the holding of meetings and the preservation of  
6 plans, maps, documents and accounts, and shall provide by

7 appropriation a sum sufficient to defray the reasonable ex-  
8 penses of the commission.

Sec. 11. *Officers.*—At its first regular meeting in each  
2 year the commission shall elect from its members a presi-  
3 dent and vice president. The vice president shall have  
4 authority to act as president of the commission during  
5 the absence or disability of the president.

Sec. 12. *Appointment, Duties and Compensation of*  
2 *Secretary and Employees; Special and Temporary Serv-*  
3 *ices; Legal Assistance.*—The commission may appoint and  
4 prescribe the duties and fix the compensation of a secre-  
5 tary, and such employees as are necessary for the dis-  
6 charge of the duties and responsibilities of the commission.  
7 All such compensation, however, shall be in conformity to  
8 and in compliance with salaries and compensation thereto-  
9 fore fixed by the city or county court of such cities or  
10 counties.

11 The commission may make contracts for special or  
12 temporary services and any professional counsel. The  
13 prosecuting attorney of a county, upon request, shall  
14 render legal assistance and service to the county planning  
15 commission.

Sec. 13. *City-County Commission; Powers.*—The gov-  
2 erning body of any city located in a county having an  
3 established planning commission may, by ordinance,  
4 designate such county commission as the city planning  
5 commission.

6 A county planning commission designated as a city  
7 commission shall have for that city all the powers and  
8 duties granted under this article to a city planning com-  
9 mission.

10 Any city designating a county planning commission as  
11 its city planning commission may contract annually to  
12 pay the county a proportionate part of the expenses which  
13 is properly chargeable to the planning service rendered  
14 such city and any such payments received by the county  
15 shall be appropriated by the county to the county plan-  
16 ning commission in addition to any funds budgeted for  
17 planning purposes.



2       Sec. 14. *Administrative Powers and Duties.*—To effectu-  
3       ate the purposes of this article, the commission shall have  
4       the power and duty to:

5       1. Exercise general supervision of and make regula-  
6       tions for the administration of the affairs of the commis-  
7       sion.

8       2. Prescribe uniform rules pertaining to its investiga-  
9       tions and hearings.

10      3. Supervise the fiscal affairs and responsibilities of  
11      the commission.

12      4. Prescribe the qualifications of, appoint, remove, and  
13      fix the compensation of the employees of the commission,  
14      such compensation to be in conformity to and in com-  
15      pliance with salaries and compensations theretofore fixed  
16      by the governing body of a city or county court of such  
17      cities or counties. Delegate to employees authority to  
18      perform ministerial acts in all cases except where final  
19      action of the commission is necessary.

20      5. Keep an accurate and complete record of all depart-  
21      mental proceedings; record and file all bonds and con-  
22      tracts and assume responsibility for the custody and  
23      preservation of all papers and documents of the commis-  
24      sion.

25      6. Make recommendations and an annual report to the  
26      governing body of a city or county court concerning the  
27      operation of the commission and the status of planning  
28      within its jurisdiction.

29      7. Prepare, publish and distribute reports, ordinances  
30      and other material relating to the activities authorized  
31      under this article.

32      8. Adopt a seal, and certify to all official acts.

33      9. Invoke any legal, equitable or special remedy for  
34      the enforcement of the provisions of this article or  
35      ordinance or its action taken thereunder.

36      10. Prepare and submit an annual budget in the same  
37      manner as other departments of city and county govern-  
38      ment and shall be limited in all expenditures to the pro-  
39      visions made therefor by the governing body of such city  
40      or the county court of such county.

40 11. If deemed advisable, establish an advisory com-  
41 mittee or committees.

Sec. 15. *Appropriations; Expenditures; Gifts.*—After a  
2 governing body of a city or a county court has passed an  
3 ordinance creating a planning commission, the governing  
4 body or county court shall appropriate funds to carry out  
5 the duties of the commission.

6 The planning commission shall have authority to ex-  
7 pend, under regular city or county procedure as provided  
8 by law, all sums appropriated to it for purposes and activi-  
9 ties authorized by this article.

10 A city or county may accept gifts and donations for  
11 planning commission purposes. Any moneys so accepted  
12 shall be deposited with the city or county in a special non-  
13 reverting planning commission fund to be available for  
14 expenditures by the planning commission for the purpose  
15 designated by the donor. The disbursing officer of a city  
16 or county shall draw warrants against such special non-  
17 reverting fund only upon vouchers signed by the presi-  
18 dent and secretary of the planning commission.

Sec. 16. *Comprehensive Plan; Generally.*—A planning  
2 commission shall make and recommend for adoption to  
3 the governing body of the city or the county court, as the  
4 case may be, a comprehensive plan for the physical devel-  
5 opment of the territory within its jurisdiction. Any county  
6 plan may include the planning of incorporated towns to  
7 the extent to which, in the commission's judgment, they  
8 are related to the planning of the unincorporated territory  
9 of the county as a whole: *Provided, however,* That the  
10 plan shall not be considered as a comprehensive plan for  
11 any incorporated town without the consent of the plan-  
12 ning commission and the governing body of such incor-  
13 porated town: *And provided further,* That the county plan  
14 shall be coordinated with the plans of the state road com-  
15 mission, insofar as it relates to highways or thoroughfares  
16 under the jurisdiction of that commission.

17 The comprehensive plan, with the accompanying maps,  
18 plats, charts and descriptive and explanatory matter,  
19 shall show recommendations for the development of the  
20 territory covered by the plan and may include, among

21 other things, the general location, character and extent  
22 of streets or roads, viaducts, bridges, waterways and  
23 waterfront developments, parkways, playgrounds, forests,  
24 reservations, parks, airports and other public ways,  
25 grounds, places and spaces; the general location and ex-  
26 tent of publicly owned utilities and terminals, and other  
27 purposes; the acceptance, widening, removal, extension,  
28 relocation, narrowing, vacation, abandonment or change  
29 of use of any of the foregoing public ways, grounds, places,  
30 spaces, buildings, properties, utilities or terminals; the  
31 general character, location and extent of community cen-  
32 ters, town sites or housing development; the general loca-  
33 tion and extent of forests, agricultural areas and open-  
34 development areas for the purposes of conservation, food  
35 and water supply, sanitary drainage facilities or the pro-  
36 tection of urban development; a land-classification and  
37 utilization program; the distribution of population, and  
38 the uses of land for trade, industry, habitation, recreation,  
39 agriculture, forestry, soil and water conservation and  
40 other purposes.

41 In the preparation of a comprehensive plan, a planning  
42 commission shall make careful and comprehensive sur-  
43 veys and studies of the existing conditions and probable  
44 future changes of such conditions within the territory un-  
45 der its jurisdiction. The comprehensive plan shall be made  
46 with the general purpose of guiding and accomplishing  
47 a coordinated, adjusted and harmonious development of  
48 the area which will, in accordance with present and future  
49 needs and resources, best promote the health, safety,  
50 morals, order, convenience, prosperity or general welfare  
51 of the inhabitants, as well as efficiency and economy in the  
52 process of development, including, among other things,  
53 such distribution of population and of the uses of land for  
54 urbanization, trade, industry, habitation, recreation, agri-  
55 culture, forestry and other purposes as will tend:

56 1. To create conditions favorable to health, safety, trans-  
57 portation, prosperity, civic activities and recreational, edu-  
58 cational and cultural opportunities;

59 2. To reduce the wastes of physical, financial or human  
60 resources which result from either excessive congestion  
61 or excessive scattering of population; and

62 3. Toward the efficient and economic utilization, con-  
63 servation and production of the supply of food and water  
64 and of drainage, sanitary and other facilities and re-  
65 sources.

Sec. 17. *Same; Contents.*—A comprehensive plan may  
2 include a study of the following:

3 1. Careful and comprehensive surveys and studies of  
4 existing conditions and the probable future growth of the  
5 city and its environs or of the county.

6 2. Maps, plats, charts and descriptive material present-  
7 ing basic information, locations, extent and character of  
8 any of the following:

9 a. History, population and physical site conditions.

10 b. Land use, including the height, area, bulk, location  
11 and use of private and public structures and premises.

12 c. Population densities.

13 d. Community centers and neighborhood units.

14 e. Blighted and slum areas.

15 f. Streets and highways, including bridges, viaducts,  
16 subways, parkways, alleys and other public ways and  
17 places.

18 g. Sewers, sanitation and drainage, including handling,  
19 treatment and disposal of excess drainage waters, sewage,  
20 garbage, refuse and other wastes.

21 h. Stream pollution.

22 i. Flood control and prevention.

23 j. Public and private utilities, including water, light,  
24 heat, communication and other services.

25 k. Transportation, including rail, bus, truck, air and  
26 water transport and their terminal facilities.

27 l. Local mass transit, including motor and trolley bus;  
28 street, elevated or underground railways and taxicabs.

29 m. Parks and recreation, including parks, playgrounds,  
30 reservations, forests, wild life refuges and other public  
31 grounds, spaces and facilities of a recreational nature.

32 n. Public buildings and institutions, including govern-  
33 mental administration and service buildings, hospitals, in-  
34 firmaries, clinics, penal and correctional institutions and  
35 other civic and social service buildings.

36 o. Education, including location and extent of schools,  
37 colleges and universities.

38 p. Land utilization, including residence, industry, agri-  
39 culture, forests, and other uses.

40 q. Conservation of water, soil, agricultural and mineral  
41 resources.

42 r. Any other factors which are a part of the physical,  
43 economic or social situation within the city or county.

44 3. Reports, maps, charts and recommendations setting  
45 forth plans for the development, redevelopment, improve-  
46 ment, extension and revision of the subjects and physical  
47 situations of the city or county set out in part two of this  
48 section so as to substantially accomplish the object of this  
49 legislation as set out in section one of this article.

50 4. A long-range development program of public works  
51 projects, based on the recommended plans of the commis-  
52 sion, for the purpose of eliminating unplanned, unsightly,  
53 untimely and extravagant projects and with a view to  
54 stabilizing industry and employment, and the keeping of  
55 such program up to date by yearly revisions.

56 5. A long-range financial program of governmental ex-  
57 penditures in order that such development program may  
58 be carried out, and the keeping of such program up to date,  
59 for all separate taxing units within the city or county,  
60 respectively, for the purpose of assuring efficient and eco-  
61 nomic use of public funds.

Sec. 18. *Same; Notice and Public Hearing.*—Prior to  
2 the adoption of a comprehensive plan, the commission  
3 shall give notice and hold a public hearing on the plan  
4 and a proposed ordinance for its enforcement.

5 At least thirty days prior to the date set for hearing, the  
6 commission shall publish in a newspaper of general circu-  
7 lation in the city or county a notice of the time and place  
8 of the hearing.

Sec. 19. *Same; Adoption by Commission.*—After a public  
2 hearing has been held, the commission may by resolution  
3 adopt the comprehensive plan and recommend the ordi-  
4 nance to the governing body of the city or the county  
5 court.

Sec. 20. *Same; Certification and Presentment to Gov-  
2 erning Body.*—Upon adoption of the comprehensive plan

3 and the recommendation of the ordinance, the secretary  
4 shall certify a copy of the plan to the governing body of  
5 the city or the county court.

6 At the first meeting of the governing body of a city or  
7 the county court after adoption of the plan, the secretary  
8 or a member of the commission shall present the plan and  
9 ordinance to the governing body or the county court.

Sec. 21. *Same; Consideration of Plan and Ordinance by*  
2 *Governing Body; Publication.*—After certification of the  
3 plan and ordinance to the governing body of a city or the  
4 county court, the governing body of the city or the county  
5 court shall proceed to a consideration of the plan and  
6 ordinance and shall either amend, approve or reject the  
7 same. If the ordinance adopting the comprehensive plan  
8 is required by law to be published, said publication shall  
9 be sufficient if the plan is incorporated by reference in  
10 said ordinance, and it shall not be necessary to publish  
11 the full text of said plan in the ordinance.

Sec. 22. *Same; Rejection or Amendment by Governing*  
2 *Body; Consideration of Report by Commission.*—If the  
3 governing body of the city or the county court rejects the  
4 plan and ordinance or amends it, then it shall be returned  
5 to the commission for its consideration, with a written  
6 statement of the reasons for its rejection or amendment.

7 The commission shall have forty-five days in which to  
8 consider the rejection or amendment and report to the  
9 governing body of a city or the county court. If the com-  
10 mission approves the amendment, the ordinance shall  
11 stand as passed by the governing body of a city or the  
12 county court as of the date of the filing of the commis-  
13 sion's report with the governing body of a city or the  
14 county court. If the commission disapproves the amend-  
15 ment or rejection, it shall state its reasons in the report,  
16 and the governing body of a city or the county court shall  
17 again consider said plan and ordinance, and its action in  
18 amending or rejecting said plan and ordinance, after such  
19 consideration, shall be final.

20 In case the commission does not file a report with the  
21 governing body of a city or the county court within forty-

22 five days, the action in amending or rejecting the ordi-  
23 nance shall become final.

Sec. 23. *Same; Amendment of Plan and Ordinance after*  
2 *Adoption.*—After the adoption of a comprehensive plan  
3 and ordinance, all amendments to it shall be adopted ac-  
4 cording to the procedure set forth in sections eighteen  
5 through twenty-two, except that, if the governing body of  
6 a city or the county court desires an amendment it may  
7 direct the planning commission to prepare an amendment  
8 and submit it to public hearing within sixty days after  
9 formal written request by the governing body of a city  
10 or the county court.

Sec. 24. *Same; Validation of Prior Action.*—The adop-  
2 tion of a comprehensive plan or any general development  
3 plans by a planning commission under the authority of  
4 prior acts is hereby validated and shall continue in effect  
5 until amended under the authority of this article.

Sec. 25. *Same; Intergovernmental Cooperation.*—When-  
2 ever the commission undertakes the preparation of a  
3 comprehensive plan, the departments and officials of state,  
4 city, county and separate taxing units operating within  
5 lands under the jurisdiction of the commission, shall make  
6 available, upon the request of the commission, such in-  
7 formation, documents, and plans as have been prepared  
8 or upon the request of the commission shall provide such  
9 information as relates to the commission's activity.

Sec. 26. *Same; Territorial Jurisdiction.*—A city planning  
2 commission shall adopt a comprehensive plan for the de-  
3 velopment of the city, but the authority of such city  
4 planning commission shall not extend beyond the cor-  
5 porate limits of the city.

Sec. 27. *Cooperation Between Planning Commissions;*  
2 *Cooperation Between Commissions and Legislative and*  
3 *Administrative Bodies and Officials.*—In the exercise of  
4 the powers covered by this article, the planning commis-  
5 sion of any county or city may cooperate with the plan-  
6 ning commissions or legislative and administrative bodies  
7 and officials of other counties and of cities and towns

8 within or without such county, with a view to coordinating  
9 and integrating the planning and zoning of such county  
10 or city with the plans of such other counties and of such  
11 cities and towns, and may appoint such committee or  
12 committees and may adopt such rules as may be thought  
13 proper to effect such cooperation. Such planning commis-  
14 sions and legislative and administrative bodies and offi-  
15 cials of other counties and of cities and towns are hereby  
16 authorized to cooperate with such county or city planning  
17 commissions for the purposes of such coordination and  
18 integration. Similarly, such county or city planning com-  
19 missions may cooperate with the conservation commission  
20 of West Virginia and make use of advice and information  
21 furnished by such commission and by other appropriate  
22 state and federal officials, departments and agencies and  
23 all state departments and agencies having information,  
24 maps, and data pertinent to the planning and zoning of  
25 such county or city may make such available for the use  
26 of such planning commission.

Sec. 28. *Subdivision Plats; Approval Required Prior to*  
2 *Recordation.*—After a comprehensive plan and an ordi-  
3 nance, containing provisions for subdivision control and  
4 the approval of plats and replats, have been adopted and  
5 a certified copy of the ordinance has been filed with the  
6 county clerk, a plat of a subdivision shall not be recorded  
7 by the county clerk unless it has first been approved by  
8 the planning commission having jurisdiction over the  
9 area.

Sec. 29. *Same; Application For Approval; Notice and*  
2 *Hearing.*—A person desiring the approval of a plat shall  
3 submit a written application for a certificate together with  
4 a copy of the proposed plat to the planning commission  
5 having jurisdiction.  
6 Upon receipt of the application, the commission, if it  
7 tentatively approves the application, shall set a date for  
8 a hearing, notify the applicant in writing, and notify by  
9 general publication or otherwise any person or govern-  
10 mental unit having a probable interest in the proposed  
11 plat.



Sec. 30. *Same; Basis for Commission's Action Upon Application.*—In determining whether an application for approval shall be granted, the commission shall determine if the plat provides for:

1. Coordination of subdivision streets with existing and planned streets or highways.

2. Coordination with and extension of facilities included in the comprehensive plan.

3. Establishment of minimum width, depth, and area of lots within the projected subdivision.

4. Distribution of population and traffic in a manner tending to create conditions favorable to health, safety, convenience, and the harmonious development of the city or county.

5. Fair allocations of areas for streets, parks, schools, public and semipublic buildings, homes, utilities, business and industry.

As a condition of approval of a plat the commission may specify:

1. The manner in which streets shall be laid out, graded and improved.

2. Provisions for water, sewage, and other utility services.

3. Provision for schools.

4. Provision for essential municipal services.

5. Provision for recreational facilities.

Sec. 31. *Same; Commission's Action Upon Application.*—After hearing and within a reasonable time after application for approval of the plat, the commission shall approve or disapprove it. If the commission approves, it shall affix the commission's seal upon the plat. If it disapproves, it shall set forth its reasons in its own records and provide the applicant with a copy.

Sec. 32. *Same; Approval Fees.*—The commission may establish a uniform schedule of fees proportioned to the cost of checking and verifying the proposed plats. An applicant shall pay the specified fee at the time of filing his application.

Sec. 33. *Same; Plats Filed Without Approval.*—After a  
2 comprehensive plan and an ordinance containing provi-  
3 sions for subdivision control and the approval of plats and  
4 replats have been adopted and a certified copy of the ordi-  
5 nance has been filed with the county clerk, the filing and  
6 recording of a plat involving the subdivision of lands cov-  
7 ered by such comprehensive plan and ordinance shall be  
8 without legal effect unless approved by the commission:  
9 *Provided, however,* That failure to comply with this sec-  
10 tion shall not invalidate or affect the title to any land  
11 within the area of such plat: *And provided further,* That  
12 if such plat shall bear the seal of the commission it shall  
13 be presumed to have been approved thereby.

Sec. 34. *Same; Conditional Approval; Bonds.*—The com-  
2 mission may approve a plat for a subdivision in which the  
3 improvements and installations have not been completed  
4 as required by the ordinance for the approval of plats if  
5 the applicant provides a bond which shall:

6 1. Run to the city or county which established the com-  
7 mission.

8 2. Be in an amount determined by the commission to be  
9 sufficient to complete the improvements and installations  
10 in compliance with the ordinance.

11 3. Be with surety satisfactory to the commission.

12 4. Specify the time for the completion of the improve-  
13 ments and installations.

14 Any funds received from these bonds shall be used by  
15 the legally constituted body charged with making public  
16 improvements for the city or county only for completion  
17 of the improvements and installations for which they were  
18 provided, and without prior appropriation. The city or  
19 county is authorized to make these improvements and in-  
20 stallations.

Sec. 35. *Same; Jurisdiction and Control; Inconsistent*  
2 *Provisions for Platting Control Repealed.*—After a com-  
3 prehensive plan and an ordinance containing provisions  
4 for subdivision control and the approval of plats and re-  
5 plats have been adopted and a certified copy of the ordi-  
6 nance has been filed with the county clerk, the city plan-  
7 ning commission shall have exclusive control over the ap-

8 proval of all plats involving incorporated land covered by  
9 the comprehensive plan and ordinance. The city planning  
10 commission shall have exclusive control over the approval  
11 of plats involving unincorporated land within its jurisdiction,  
12 unless a county court has adopted a comprehensive  
13 plan and ordinance, providing for subdivision control and  
14 approval of plats and replats covering such lands, in  
15 which case the county planning commission shall have exclusive  
16 control over the approval.

17 All control over plats granted by other statutes, so far  
18 as they are in harmony with the provisions of this article,  
19 shall be transferred to the commission having jurisdiction  
20 over the land involved. Existing provisions for platting  
21 control, so far as they are inconsistent with the provisions  
22 of this article, are hereby repealed.

Sec. 36. *Improvement Location Permits; Conformity to Comprehensive Plan and Ordinance.*—Within the corporate limits of a city, a structure shall not be located and an improvement location permit for a structure on platted or unplatted lands shall not be issued unless the structure and its location conform to the comprehensive plan and ordinance. A structure shall not be located and an improvement location permit shall not be issued for a structure on unincorporated lands within the jurisdiction of the commission unless the structure and its location conform to the comprehensive plan and ordinance, except that, if the lands lie within a county which has adopted a comprehensive plan and ordinance, then the city comprehensive plan and ordinance shall not apply and the structure must conform to the county comprehensive plan and ordinance.

Sec. 37. *Same; Authority to Issue and Control.*—The ordinance may designate the official or employee of the city or county who shall have authority to issue improvement location permits within the jurisdiction of the commission and in conformance with the comprehensive plan and ordinance.

7 Power is granted by this article, to any city having  
8 adopted a comprehensive plan and ordinance, for the issuance  
9 and control of improvement location permits on

10 unincorporated areas within the jurisdiction of its com-  
11 mission if the lands lie within a county not having adopted  
12 a comprehensive plan and ordinance.

Sec. 38. *Review of Decision of Commission by Certiorari.*—A decision of the commission may be reviewed by  
2 certiorari procedure the same as that provided for the ap-  
3 peal of zoning cases from the decision of the board of zon-  
4 ing appeals.

6 A petition for certiorari shall specify the grounds upon  
7 which the petition alleges the illegality of the commis-  
8 sion's action. Such petition must be filed in the circuit  
9 court of the county in which the land is located within  
10 thirty days after the date of such decision.

Sec. 39. *Zoning Authority Generally.*—As an integral  
2 part of the planning of areas so that adequate light, air,  
3 convenience of access, and safety from fire, flood and other  
4 danger may be secured; that congestion in the public  
5 streets may be lessened or avoided; that the public health,  
6 safety, comfort, morals, convenience and general public  
7 welfare may be promoted; and that the object of this leg-  
8 islation, as set out in section one of this article, may be  
9 further accomplished, the governing body of a city or the  
10 county court shall have the following powers:

11 1. To classify, regulate and limit the height, area, bulk  
12 and use of buildings hereafter to be erected.

13 2. To regulate and determine the area of front, rear,  
14 and side yards, courts and other open spaces about such  
15 buildings.

16 3. To regulate and determine the use and intensity of  
17 use of land and lot areas.

18 4. To classify, regulate and restrict the location of  
19 trades, callings, industries, commercial enterprises and  
20 the location of buildings designed for specified uses.

21 5. To classify and designate the rural lands among agri-  
22 cultural, industrial, commercial, residential, and other  
23 uses and purposes.

24 6. To divide the city or county into districts of such kind,  
25 character, number, shape and area as may be deemed nec-  
26 essary to carry out the purposes of this section.

- Sec. 40. *Zoning Districts; Generally.*—The various kinds of districts created and designated as use, height, area, volume or bulk districts, as well as districts created for any other purpose necessary to carry out the purposes of section thirty-nine need not necessarily cover or include the same territory, and may overlap or coincide. The districts created shall also be subject to the following:
1. Regulations as to height, area, bulk and use of buildings and as to the area of all yards, courts and open spaces shall be uniform for each class of buildings throughout each district.
  2. For each district designated for the location of trades, callings, industries, commercial enterprises or buildings designated for specified uses, regulations may be enforced specifying uses that shall be excluded or subjected to reasonable requirements of a special nature and designating the use for which buildings may not be erected, altered or used.
  3. The regulations in one or more districts of the same kind or character may differ from those in other like districts but shall be uniform for each district.
  4. Several parts of the city or county may be classified within a single district although not contiguous.

Sec. 41. *Same; Preliminary Study.*—In establishing such districts and regulations the governing body of a city or the county court shall pay reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values throughout the city or county.

Sec. 42. *Same; Tentative Report; Notice and Hearing.*—Recommendations as to the boundaries of districts and the regulations and restrictions to be enforced therein shall be prepared by the planning commission. The commission may prepare the tentative report on its own initiative or the governing body of a city or the county court may require its preparation.

The commission shall hold public preliminary hearings and conferences, at such times and places and upon such

10 notice as it may determine to be necessary to inform and  
11 aid itself in the preparation of the tentative report.

12 The tentative report, which shall include the proposed  
13 zoning ordinance with explanatory maps, shall be made  
14 to the governing board of a city or the county court by the  
15 planning commission.

Sec. 43. *Same; Action by Legislative Body on Tentative*  
2 *Report.*—The governing body of a city or the county court  
3 shall consider the tentative report of the planning com-  
4 mission and shall return it, with any suggestions and rec-  
5 ommendations, to the planning commission for its final  
6 report.

7 No ordinance under authority of this article shall be  
8 passed until after the final report of the planning commis-  
9 sion has been received by the governing body of a city or  
10 the county court.

Sec. 44. *Same; Final Report; Notice and Hearing; Ac-*  
2 *tion.*—After the final report has been submitted by the  
3 planning commission the governing body of a city or the  
4 county court shall afford all interested persons an oppor-  
5 tunity to be heard with reference to it at public hearings  
6 convenient for all persons affected to be held at times and  
7 places to be specified in notices to be published in a daily  
8 newspaper of general circulation in the city or county.  
9 The notices shall state the time and places of the hearings,  
10 that the report contains a comprehensive zoning ordinance  
11 for the city or county, that written objections to the final  
12 report filed with the clerk of the governing body of a city  
13 or with the county clerk at or before the hearings will be  
14 heard and that the hearings will be continued from time to  
15 time as may be found necessary. The notice shall be pub-  
16 lished at least twice within ten days before the time set for  
17 the hearings, during which time the final report shall be on  
18 file in the office of the planning commission for public  
19 examination. Upon completion of the public hearings, the  
20 governing body of a city or the county court shall proceed  
21 to the consideration of the ordinance.

Sec. 45. *Supplemental and Amending Ordinances.*—The  
2 governing body of a city or the county court may, from

3 time to time, amend, supplement or change the regula-  
4 tions and districts fixed by ordinance pursuant to this  
5 article.

Sec. 46. *Change of Zoning Regulations; Petitions for*  
2 *Change*.—Petitions, duly signed, may be presented to the  
3 clerk of the city or the county requesting an amendment,  
4 supplement or change of the regulations of the zoning  
5 ordinance by:

6 1. The planning commission.

7 2. By the owners of fifty per centum or more of the area  
8 involved in the petition.

Sec. 47. *Same; Considered as Amendments to Compre-*  
2 *hensive Plan; Procedure*.—Amendments, supplements or  
3 changes of the regulations of the zoning ordinance shall be  
4 considered as amendments to the comprehensive plan.  
5 Any proposed ordinance for the amendment, supplement,  
6 change or repeal of the zoning ordinance not originating  
7 from petition of the planning commission shall be referred  
8 to the planning commission for consideration and report  
9 before any final action is taken by the governing body of a  
10 city or the county court.

11 Prior to the submission to the governing body of a city  
12 or the county court of a planning commission petition or a  
13 report on a proposed ordinance referred to it for an  
14 amendment, supplement, change or repeal of the zoning  
15 ordinance, the planning commission shall give notice and  
16 hold a public hearing in the manner prescribed for adop-  
17 tion of a comprehensive plan in section eighteen of this  
18 article.

Sec. 48. *Election on Zoning Ordinance; Procedure*.—If  
2 within sixty days following the approval of the zoning  
3 ordinance by the county court or the governing body of  
4 the city a petition is filed with the county clerk praying for  
5 the submission of such zoning ordinance for approval or  
6 rejection to the electors residing in the area within the  
7 jurisdiction of the city or county planning commission,  
8 such ordinance shall not take effect until the same shall  
9 have been approved by a majority of the electors voting in  
10 said election at any regular or special election called for  
11 that purpose. The petition provided herein may be in any

12 number of counterparts and must be signed by a number  
13 of registered voters residing in the area affected by the  
14 proposed zoning equal to not less than fifteen per cent of  
15 the total votes cast in the affected area for all candidates  
16 for governor at the last preceding general election at  
17 which a governor was elected. Only registered voters re-  
18 siding in the area affected by the proposed ordinance shall  
19 be eligible to vote in said election.

20 Upon the ballots cast at such election there shall be  
21 written or printed the following:

22 ☐ For zoning.

23 ☐ Against zoning.

24 If a majority of the votes cast upon the question be for  
25 zoning, the provisions of said zoning ordinance shall, upon  
26 the day the results of such an election are declared, be  
27 effective. If a majority of the votes cast be against zoning,  
28 the question may again be submitted to a vote at any reg-  
29 ular election or election for officers in the manner herein  
30 provided.

31 Elections for the purpose of voting upon the question  
32 of zoning may be held at any general, primary or special  
33 election which the governing body of a city or the county  
34 court in its order submitting the same to a vote may desig-  
35 nate.

36 Notice of all zoning elections shall be given by publica-  
37 tion of the order calling such election at least once each  
38 week for four successive weeks prior to the day of the  
39 election in two newspapers of different politics, if there  
40 be such, of general circulation in the area in which the  
41 election is to be held. If only one newspaper be of general  
42 circulation in such area, the notice shall be published as  
43 aforesaid therein.

44 Elections shall be held at the voting precincts estab-  
45 lished for holding general elections. All the provisions of  
46 the general election laws of this state concerning general,  
47 primary or special elections, when not in conflict with  
48 the provisions of this article, shall apply to elections here-  
49 under, insofar as practicable.

Sec. 49. *Validation of Existing Ordinances.*—All zoning  
2 ordinances, and all amendments, supplements and changes



3 thereto legally adopted under any prior enabling acts, and  
4 all actions taken under the authority of any such ordi-  
5 nances, are hereby validated and continued in effect, until  
6 amended or repealed by action of the governing body of  
7 such city taken under authority of this article. These  
8 ordinances shall have the same effect as though previously  
9 adopted as a comprehensive plan of land use or parts  
10 thereof.

Sec. 50. *Existing Uses Safeguarded.*—Such ordinance or  
2 ordinances shall not prohibit the continuance of the use of  
3 any land, building or structure for the purpose for which  
4 such land, building or structure is used at the time such  
5 ordinance or ordinances take effect, but any addition to  
6 any existing building for the purpose of carrying on any  
7 use prohibited under the zoning regulations applicable to  
8 the district may be prohibited: *Provided, however,* That  
9 no such prohibition shall apply to alterations, additions  
10 to, replacement of structures, or to the acquisition or use  
11 of land presently owned by any firm or industry but not  
12 used for agricultural or industrial purposes or to the use  
13 or acquisition of additional land which may be required  
14 for the protection, continuing development or expansion  
15 of any agricultural, industrial or manufacturing operation  
16 or any present or future satellite agricultural, industrial  
17 or manufacturing use. If a nonconforming use has been  
18 abandoned, any future use of such land, building or struc-  
19 ture shall be in conformity with the provisions of the  
20 ordinance regulating the use in the district in which  
21 such land, building or structure may be located: *Pro-*  
22 *vided, however,* That abandonment of any particular  
23 agricultural or manufacturing process shall not be con-  
24 strued as abandonment of agricultural or manufacturing  
25 use.

26 Nothing in this article shall be deemed to authorize an  
27 ordinance, rule, or regulation which would prevent, out-  
28 side of urban areas, the complete use and alienation of  
29 any timber and any and all minerals, including coal, oil  
30 and gas, by the owner or alienee thereof. For the purpose  
31 of this section, urban area shall include all lands or lots  
32 within the jurisdiction of a city planning commission as  
33 defined in this article.

Sec. 51. *Board of Zoning Appeals; Creation; Membership; Terms; Vacancies.*—As a part of the zoning ordinance, the governing body of a city or the county court shall create a board of zoning appeals consisting of five members to be appointed by the governing body of a city or the county court.

The members of the board of zoning appeals shall be freeholders and residents of the city or county and three fifths of such members shall have been residents of the city or county, as the case may be, for at least ten years preceding the time of their appointment. No member of the board of zoning appeals shall be a member of the planning commission nor shall any member hold other elective or appointive office in the city or county government. Members of the board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties.

Upon the creation of a board of zoning appeals, the members shall be appointed for the following terms: One for a term of one year; two for a term of two years; and two for a term of three years. The terms shall expire on the first day of January of the first, second or third year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of three years.

If a vacancy occurs, by resignation or otherwise, among the members of the board of zoning appeals, the governing body of a city or the county court shall appoint a member for the unexpired term.

Sec. 52. *Same; Officers; Quorum; Employees.*—At the first meeting of each year, the board of zoning appeals shall elect a chairman and vice chairman from its members. The vice chairman shall have authority to act as chairman during the absence or disability of the chairman.

A majority of members of a board of zoning appeals shall constitute a quorum. No action of the board is official, however, unless authorized by a majority of the board.

The board of zoning appeals may appoint and fix the compensation of a secretary and such employees as are

12 necessary for the discharge of its duties all in conformity  
13 to and compliance with salaries and compensations there-  
14 for fixed by the city or county.

Sec. 53. *Same; Offices; Appropriation.*—The county  
2 court in the case of the county board of zoning appeals,  
3 and the governing body of the city in the case of city board  
4 of zoning appeals shall provide the board with suitable  
5 offices for the holding of meetings and the preservation of  
6 plans, maps, documents and accounts, and shall provide by  
7 appropriation a sum sufficient to defray the reasonable  
8 expenses of the board.

Sec. 54. *Same; Rules and Procedures; Records.*—The  
2 board of zoning appeals shall adopt such rules concerning  
3 the filing of appeals and applications for variances and ex-  
4 ceptions, giving of notice and conduct of hearings as shall  
5 be necessary to carry out their duties under the terms of  
6 this article.

7 The board shall keep minutes of its proceedings, keep  
8 records of its examinations and other official actions and  
9 shall record the vote on all actions taken. All minutes and  
10 records shall be filed in the office of the board and shall  
11 be a public record.

Sec. 55. *Same; Powers and Duties Generally.*—The  
2 board of zoning appeals shall:

3 1. Hear and determine appeals from and review any  
4 order, requirement, decision or determination made by an  
5 administrative official or board charged with the enforce-  
6 ment of any ordinance or regulation adopted pursuant to  
7 sections thirty-nine through forty-nine of this article.

8 2. Permit and authorize exceptions to the district regu-  
9 lations only in the classes of cases or in particular situa-  
10 tions as specified in the ordinance.

11 3. Hear and decide special exceptions to the terms of the  
12 ordinance upon which the board is required to act under  
13 the ordinance.

14 4. Authorize upon appeal in specific cases such variance  
15 from the terms of the ordinance as will not be contrary  
16 to the public interest, where, owing to special conditions,  
17 a literal enforcement of the provisions of the ordinance

18 will result in unnecessary hardship, and so that the spirit  
19 of the ordinance shall be observed and substantial justice  
20 done.

21 In exercising its powers, the board of zoning appeals  
22 may reverse or affirm, wholly or partly, or may modify  
23 the order, requirement, decision or determination ap-  
24 pealed from as in its opinion ought to be done in the  
25 premises, and to that end shall have all the powers of the  
26 officer or board from whom the appeal is taken.

Sec. 56. *Appeal from Decision of Administrative Official*  
2 or Board.—An appeal taken from the requirement, deci-  
3 sion or the determination made by an administrative offi-  
4 cial or board charged with the enforcement of any ordi-  
5 nance pursuant to sections thirty-nine through forty-nine  
6 of this article shall be filed with the board of zoning ap-  
7 peals.

8 The appeal shall specify the grounds thereof and shall  
9 be filed within such time and in such form as may be pre-  
10 scribed by the board by general rule.

11 The administrative official or board from whom the ap-  
12 peal is taken shall, upon request of the board of zoning  
13 appeals, transmit to it all documents, plans and papers  
14 constituting the record of the action from which an appeal  
15 was taken.

Sec. 57. *Hearing of Appeal.*—The board of zoning ap-  
2 peals shall fix a reasonable time for the hearing of an ap-  
3 peal. Public notice shall be given of the hearing and due  
4 notice shall be given additionally to the interested parties.

5 The board of zoning appeals may require the party tak-  
6 ing the appeal to assume the cost of public notice and due  
7 notice to interested parties.

8 Upon the hearing, any party may appear in person, by  
9 agent or by attorney.

Sec. 58. *Staying of Work on Premises.*—When an ap-  
2 peal from the decision of any official or board has been  
3 taken and filed with the board of zoning appeals, all pro-  
4 ceedings and work on the premises concerning which the  
5 decision was made shall be stayed unless the official or  
6 board from whom the appeal was taken shall certify to the

7 board of zoning appeals that, by reason of facts stated in  
8 the certificate, a stay would cause imminent peril to life  
9 or property. In such case, proceedings or work shall not  
10 be stayed except by a restraining order which may be  
11 granted by the circuit court of the county in which the  
12 premises affected are situated, on application, on notice to  
13 the officer or board from whom the appeal is taken and the  
14 owner of the premises affected and on due cause shown.

Sec. 59. *Petition for Writ of Certiorari from Decision.*—

2 Every decision of the board of zoning appeals shall be sub-  
3 ject to review by certiorari.

4 Any person or persons, firm or corporation jointly or  
5 severally aggrieved by any decision of the board of zon-  
6 ing appeals, may present to the circuit court of the county  
7 in which the premises affected are located a petition duly  
8 verified, setting forth that such decision is illegal in whole  
9 or in part, and specifying the grounds of the illegality.  
10 The petition shall be presented to the court within thirty  
11 days after the date of the decision and the order of the  
12 boards of zoning appeals complained of.

Sec. 60. *Notice to Adverse Parties.*—On filing a petition

2 for a writ of certiorari with the clerk of the circuit court  
3 of the county in which the premises affected are situated,  
4 the petitioner shall cause a notice to be issued and served  
5 by the sheriff of the county upon the adverse party or  
6 parties, if any, as shown by the record of the appeal in the  
7 office of the board of zoning appeals.

8 The adverse party or parties shall be any property owner  
9 whom the record of the board of zoning appeals shows to  
10 have appeared at the hearing before the board in opposi-  
11 tion to the petitioner. If the record shows a written  
12 remonstrance or other document opposing the request of  
13 petitioner containing more than three names, the peti-  
14 tioner shall be required to cause notice to be issued and  
15 served upon the three property owners whose names first  
16 appear upon the remonstrance or document. Notice to the  
17 other parties named shall not be required.

18 The notice shall state that a petition for a writ of certi-  
19 orari has been filed in the circuit court of the county, ask-  
20 ing for a review of the decision of the board of zoning

21 appeals, designating the premises affected and the date of  
22 the decision and the time fixed for the return of the writ  
23 of certiorari by the board of zoning appeals.

24 The service of the writ of certiorari by the sheriff on the  
25 chairman or secretary of the board of zoning appeals shall  
26 constitute notice to the board and to the city or any of-  
27 ficial or board thereof charged with the enforcement of  
28 the zoning ordinance, and no further summons or notice  
29 with reference to the filing of such petition shall be nec-  
30 essary.

Sec. 61. *Action of Court on Petition.*—Upon presenta-  
2 tion of a petition for a writ of certiorari, the circuit court  
3 of the county in which the premises affected are situated,  
4 or a judge thereof in vacation shall direct the board of  
5 zoning appeals within twenty days from the date of such  
6 citation, to show cause why a writ of certiorari should not  
7 issue. If such board fails to show to the satisfaction of the  
8 court that a writ should not issue then the court may al-  
9 low a writ of certiorari directed to the board of zoning  
10 appeals. The writ shall prescribe the time in which a re-  
11 turn shall be made to it. This time shall not be less than  
12 ten days from the date of issuance of the writ and may be  
13 extended by the court or judge thereof.

Sec. 62. *Stay of Work on Allowance of Writ.*—The al-  
2 lowance of the writ of certiorari shall not stay proceedings  
3 or work on the premises affected under the decision to be  
4 brought up for review. The court may, however, on ap-  
5 plication and on notice to all parties to the decision and on  
6 due cause shown grant such relief as the circumstances of  
7 the case may require, including an order staying the work  
8 until final determination of the case by the court.

9 Such staying order may be issued by the court without  
10 requiring the petitioner to enter into a written undertak-  
11 ing to the adverse party affected thereby for the payment  
12 of damages by reason of such staying order.

Sec. 63. *Return to Writ by Board of Zoning Appeals.*—  
2 The return to the writ of certiorari by the board of zoning  
3 appeals must concisely set forth such facts and data as  
4 may be pertinent and present material to show the  
5 grounds of the decision appealed from.

6 The return must be verified by the secretary of the  
7 board.

8 The board shall not be required to return the original  
9 papers acted upon by it. It shall be sufficient to return  
10 certified copies of all or such portion of the papers as may  
11 be called for by the writ.

Sec. 64. *Action by the Court.*—The court may decide  
2 and determine the sufficiency of the statements of illegal-  
3 ity contained in the petition without further pleadings and  
4 may make its determination and render its judgment with  
5 reference to the legality of the decision of the board of  
6 zoning appeals on the facts set out in the return to the  
7 writ of certiorari.

8 If it shall appear to the court that testimony is necessary  
9 for the proper disposition of the matter, it may take evi-  
10 dence to supplement the evidence and facts disclosed by  
11 the return to the writ of certiorari, but no such review  
12 shall be by trial *de novo*.

13 In passing upon the legality of the decision of the board  
14 of zoning appeals, the court may reverse or affirm, wholly  
15 or in part, or may modify the decision of the board of zon-  
16 ing appeals brought for review.

Sec. 65. *Appeals from Court Judgment.*—An appeal  
2 may be taken to the supreme court of appeals of West Vir-  
3 ginia from the final judgment of the court reversing, af-  
4 firming or modifying the decision of the board of zoning  
5 appeals in the same manner, and upon the same terms,  
6 conditions and limitations as appeals in other civil actions.

Sec. 66. *Enforcement.*—The governing body of a city or  
2 the county court may provide penalties as set out in sec-  
3 tion sixty-eight of this article for failure to comply with  
4 the provisions of any ordinance adopted pursuant to this  
5 article and may declare that the buildings erected, raised  
6 or converted or land or premises used in violation of any  
7 provision of any ordinance or regulation made under the  
8 authority of sections thirty-nine through sixty-five of this  
9 article to be common nuisances and the owner of the  
10 building, land or premises shall be liable for maintaining  
11 a common nuisance.

2     Sec. 67. *Injunction.*—The planning commission, the  
3     board of zoning appeals or any designated enforcement  
4     official may institute a suit for injunction in the circuit  
5     court of the county to restrain an individual or a govern-  
6     mental unit from violating the provisions of this article  
7     or of an ordinance enacted pursuant to its terms. The  
8     planning commission or the board of zoning appeals may  
9     also institute a suit for a mandatory injunction directing  
10    an individual or a governmental unit to remove a structure  
11    erected in violation of the provisions of this article or of an  
12    ordinance enacted pursuant to its terms. If the planning  
13    commission or the board of zoning appeals is successful  
14    in its suit, the respondent shall bear the costs of the action.

2     Sec. 68. *Penalty.*—A person who violates any provision  
3     of this article shall be guilty of a misdemeanor and, upon  
4     conviction, shall be fined not less than ten dollars and not  
5     more than three hundred dollars.

2     Sec. 69. *Provisions Supplemental.*—The provisions of  
3     this article are supplemental to and do not abrogate the  
4     powers extended to agencies, bureaus, departments, com-  
5     missions, divisions or officials of the state government by  
6     other state statute and these powers shall remain in full  
7     force and effect. Powers of supervision and regulation by  
8     such divisions of the state government over city, town,  
9     county and other local governmental units, individuals,  
10    firms or corporations also are not abrogated and shall  
11    continue in full effect: *Provided, however,* That if the  
12    county court of Monongalia county shall not create a  
13    county planning commission as contemplated herein, the  
14    county court of said county is hereby authorized to enact  
15    an ordinance for the zoning of any unincorporated ter-  
16    ritory in said county within one-half mile of the campus  
17    of any state-supported institution of higher education.  
18    With respect to the zoning of such territory the county  
19    court shall have the same authority as is conferred upon  
20    municipalities as provided herein.

2     Sec. 70. *Conflict with Other Laws.*—Wherever the reg-  
3     ulations made under authority of this article require a  
4     greater width or size of yards, courts, or other open spaces,  
5     or require a lower height of building or less number of



5 stories, or require a greater percentage of lot to be left  
6 unoccupied, or impose other higher standards than are re-  
7 quired in any other statute or local ordinance or regula-  
8 tion, the provisions of the regulations made under author-  
9 ity of this article shall govern. Whenever the provisions  
10 of any other statute or local ordinance or regulation re-  
11 quire a greater width or size of yards, courts, or other open  
12 spaces, or require a lower height of building or a less num-  
13 ber of stories, or require a greater percentage of lot to be  
14 left unoccupied, or impose other higher standards than are  
15 required by the regulations made under authority of this  
16 article, the provisions of such statute or local ordinance or  
17 regulation shall govern.

Sec. 71. *General Repealer.*—All acts or parts of acts in-  
2 consistent with the provisions of this article are, to the ex-  
3 tent of their inconsistency, repealed, except as provided in  
4 section seventy. Any town, as herein defined, presently  
5 having a zoning ordinance is hereby excepted from the  
6 provisions of this section, and such town may continue to  
7 enforce said zoning ordinance.

Sec. 72. *Severability Clause.*—The provisions of this  
2 article are considered severable, and if any provision is  
3 found to be unconstitutional, it is the intention of the Leg-  
4 islature that the remainder have full force and effect.

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## CHAPTER 119

(Com. Sub. for Senate Bill No. 35—Originating in  
the Senate Committee on the Judiciary)

AN ACT to amend and reenact section eleven, article five-a,  
chapter eight of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to filling  
vacancies in police departments by promotion and civil  
service provisions in connection therewith.

[Passed February 18, 1959; in effect from passage. Approved by the Governor.]

**Article 5-a. Civil Service for Police Departments.****Section****11. Filling vacancies by promotion.**

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

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

Section 11. *Filling Vacancies by Promotion.*—Vacancies  
2 in positions in police departments shall be filled, so far as  
3 practicable, by promotion from among persons holding  
4 positions in the next lower grade in the department. Pro-  
5 motions shall be based upon merit to be ascertained by  
6 tests to be provided by the civil service commission and  
7 upon the superior qualifications of the persons promoted,  
8 as shown by his previous service and experience: *Pro-*  
9 *vided, however,* That except for chief of police, no person  
10 shall be eligible for promotion from the lower grade to  
11 the next higher grade until such person shall have com-  
12 pleted at least two years' service in the next lower grade  
13 in the department: *And provided further,* That notwith-  
14 standing anything set forth in section one of this article,  
15 any regular member of the police force now occupying  
16 the office of chief of police, or hereafter appointed to such  
17 office, shall, except as hereinafter provided in this section,  
18 be and shall continue to be entitled to all the rights and  
19 benefits of the civil service provisions of this article, ex-  
20 cept that he may be removed from such office of chief of  
21 police without cause, and the time spent by such mem-  
22 ber in the office of chief of police shall be added to the  
23 time served by such member during the entire time he  
24 was a member of the police force prior to his appointment  
25 as chief, and shall in all cases of removal, except for re-  
26 moval for good cause, retain the regular rank within the  
27 police department which he held at the time of his ap-  
28 pointment to the office of chief of police or which he has  
29 attained during his term of service as chief of police. The  
30 provisions of this section shall be construed to apply and  
31 to inure to the benefit of all persons who have ever been  
32 subject to the provisions of this article. The commission

33 shall have the power to determine in each instance  
34 whether an increase in salary constitutes a promotion.

## CHAPTER 120

(House Bill No. 84—By Mr. Booth, of Cabell, and Mr. Casey)

AN ACT to amend and reenact section one-a, article six, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of municipalities to contract for prevention and extinguishment of fires within three miles of corporate limits.

[Passed March 3, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

#### Section

1-a. Municipalities authorized to contract for prevention and extinguishment of fires within three miles of corporate limits.

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

That section one-a, 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 1-a. *Municipalities Authorized to Contract for Prevention and Extinguishment of Fires within Three Miles of Corporate Limits.*—A municipal corporation, now or hereafter incorporated under general law or by special enactment or charter, shall have authority to contract for, and to render services in prevention and extinguishment of fires upon property situated within three miles from its corporate limits: *Provided*, That no contract under the authority hereof shall operate to impose any greater or different obligation or liability upon such municipality than that with respect of property within its corporate limits: *Provided further*, That nothing herein

13 shall be construed as requiring such municipality to con-  
14 tract for such services, but if such municipality shall  
15 elect to make such contract with any property owner,  
16 the same shall not be cancelled or annulled without the  
17 consent of such property owner, or his successor, so long  
18 as the latter shall not be in default: *And provided fur-*  
19 *ther,* That if such municipality elect to contract with  
20 respect of any property, it shall, if requested, contract on  
21 the basis and terms with respect of other property sit-  
22 uated at approximately the same distance from fire plugs,  
23 or other fixed fire apparatus of said municipality. Any  
24 contract under the authority hereof shall require the  
25 property owner to pay as consideration for said services  
26 an annual payment equivalent to eighty per cent of the  
27 annual tax levied for current municipal purposes upon  
28 property within said municipality of like assessed valua-  
29 tion to the property under contract. No contract under the  
30 authority hereof, and nothing herein contained, shall be  
31 construed as requiring or permitting any municipality to  
32 install or maintain any special or additional apparatus or  
33 equipment beyond that necessary for protection of prop-  
34 erty within its corporate limits. The annual payments pro-  
35 vided for shall be payable on or before the first day of  
36 November of each calendar year in which any contract  
37 hereunder shall remain in effect, or upon such day as  
38 may be hereafter provided as the due date of the first  
39 installment of property taxes. If any annual payment  
40 shall be in default for a period of more than thirty days  
41 it shall bear interest at the same rate as that provided for  
42 delinquent property taxes, and shall be a lien upon the  
43 property subject to contract, provided a notice of such  
44 lien be recorded in the proper deed of trust book in the  
45 office of the clerk of the county court in which such  
46 property is situate. Such lien shall be void at the expira-  
47 tion of one year after such defaulted annual payment  
48 shall have become due, unless within such year a suit in  
49 equity to enforce the same shall have been instituted by  
50 said municipality. The municipality may, by action of  
51 law, collect any annual payment and its interest, at any  
52 time within five years after it shall have become due;

53 and upon default in any annual payment, the municipi-  
54 pality may cancel such contract.

55 Any contract made under the authority hereof shall  
56 inure to the benefit of, and bind the successors in title  
57 of the person making the same; and such person, upon  
58 conveying the property subject to such contract, shall  
59 no longer be liable under such contract, except as to  
60 annual payments due prior to said conveyance and un-  
61 paid.

62 Any property owner may cancel any contract with re-  
63 spect of his property upon giving a thirty-day notice to  
64 the municipality, if he is not in default with respect of  
65 any annual payment: *Provided*, That if such notice be  
66 given subsequent to July first of any calendar year, the  
67 next succeeding annual payment shall be made by said  
68 property owner as soon as the amount thereof is ascer-  
69 tainable. Upon cancellation, as aforesaid, the municipality  
70 shall deliver to the property owner a recordable release  
71 discharging him and his property from any further lien  
72 or obligation with respect of said annual payments. An-  
73 nual payments shall be made to such officials as the mu-  
74 nicipality, in any contract made under the authority here-  
75 of, shall designate to receive them, who shall likewise  
76 have authority to receive notice of cancellation, and  
77 execute upon behalf of such municipality the release  
78 hereinbefore provided.

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## CHAPTER 121

(House Bill No. 207—By Mr. White and Mr. Seibert)

AN ACT to amend and reenact sections fourteen, fourteen-a, twenty and twenty-one, 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, prescribing for the assessment of taxes and contributions from salaries to maintain such funds, collections of arrest fees for policemen's pension or relief fund, and providing for the payment of retirement and other pensions to members of such departments and their dependents.

[Passed February 27, 1959; in effect July 1, 1959. Approved by the Governor.]

## **Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.**

### **Section**

14. Levy to maintain fund; gifts, etc.; assessments on members of departments; return of assessments.
- 14-a. When arrest fee to be collected for municipal policemen's pension or relief fund.
20. Payments upon retirement without disability payments for retirement at sixty-five; payments for permanent disability; credit for military service.
21. Payments in case of death.

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

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

Section 14. *Levy to Maintain Fund; Gifts, etc.; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy annually and in the manner provided by law for other municipal levies, and include within the maximum levy or levies permitted by law, and if necessary in excess of any charter provision, a tax at such rate as will, after crediting all interest, if any, to be received in such year from the investments of the respective boards, provide funds equal to the sum of (1) the full amount of estimated expenditures of the boards of trustees of the respective funds and (2) an additional amount equal to ten per cent of such estimated expenditures, said ten per cent amount to be taken, accumulated and invested, if possible, as surplus reserve: *Provided, however,* That in no event shall such levy for each of the respective boards of trustees be less than one cent nor more than three and one-half cents on each one hundred dollars of all real and personal property as listed for taxation in such municipality: *Provided,* That in any city or municipality of eight thousand

24 three hundred population or less the laying of the levies  
25 herein provided for shall be within the discretion of the  
26 common council or other body of like power and duties  
27 in such city or municipality.

28 The levies authorized under this section, or any part of  
29 them, may by the council or other governing body be laid  
30 in addition to all other municipal levies, and to that ex-  
31 tent, beyond the limit of levy imposed by the charter of  
32 such municipality; and such levies shall supersede and  
33 if necessary exclude levies for other purposes if such  
34 priority of exclusion is necessary under limitations upon  
35 taxes or tax levies imposed by law.

36 Such corporations are authorized to take by gift, grant,  
37 devise or bequest, any money or real or personal property,  
38 upon such terms as to the investment and expenditure  
39 thereof as may be fixed by the grantor or determined by  
40 said trustees.

41 In addition to all other sums provided for pensions in  
42 this section, it shall be the duty of every municipal corp-  
43 oration to assess and collect from each member of such  
44 fire department and police department each month, the  
45 sum of four per cent of the actual salary or compensation  
46 of such member; and the amount so collected shall become  
47 a regular part of the firemen's pension fund, if collected  
48 from a fireman, and of the policemen's pension fund, if  
49 collected from a policeman.

50 Any member of a municipal fire or police department  
51 who is released or who before retirement on any pension  
52 severs his connection with said department, provided he  
53 has served two full years or more, shall, upon request, be  
54 refunded all deductions made from his salary, but without  
55 interest. In event such refund is made and such member  
56 subsequently reenters the department no credit shall be  
57 allowed him for any former service, unless any such mem-  
58 ber of a municipal fire or police department repays to the  
59 pension fund all sums refunded to him within one year  
60 from the date he reenters the department with interest at  
61 the rate of six per cent per annum, and provided further  
62 that any member who, at the time of this amendment be-  
63 comes effective, has already reentered the department,

64 shall be allowed credit for any former service upon repay-  
65 ing all sums withdrawn or refunded to him within one  
66 year from the date this amendment becomes effective with  
67 interest at the rate of six per cent per annum, but in no  
68 case shall interest be charged for more than three years.

Sec. 14-a. *When Arrest Fee to Be Collected for Municipal Policemen's Pension or Relief Fund.*—In cases of the  
2 conviction for violation of any municipal ordinance or  
3 any state law of any person arrested by any member of  
4 the police department of any municipality having a  
5 policemen's pension or relief fund, or of the forfeiture of  
6 bail not vacated after arrest for violation of any municipal  
7 ordinance or any state law by any person so arrested,  
8 whether the conviction or forfeiture be in the court of a  
9 justice of the peace, or police court judge, or of the mayor  
10 of a municipality, or of any other court of criminal juris-  
11 diction, an arrest fee of one dollar shall be taxed as part  
12 of the costs, in addition to other fees authorized by law,  
13 and shall be collected from the person convicted or furn-  
14 ishing bail, and such arrest fee shall be paid into the  
15 policemen's pension or relief fund.

Sec. 20. *Payments upon Retirement without Disability*  
2 *Payments for Retirement at Sixty-Five; Payments for*  
3 *Permanent Disability; Credit for Military Service.*—Any  
4 member of a municipal fire department or police depart-  
5 ment who is entitled to benefits of said fund, and who has  
6 been in the service of such department for twenty years,  
7 and upon reaching the age of fifty years, may upon written  
8 application to the board of trustees, be retired from all  
9 service from such department without medical examina-  
10 tion or disability; and on such retirement the board of  
11 trustees shall authorize the payment of an annual pension,  
12 payable in twelve monthly installments for each year of  
13 the remainder of his life, in an amount equal to fifty per  
14 cent of such member's average annual salary or compen-  
15 sation received during the five fiscal years in which such  
16 member received his highest compensation while a mem-  
17 ber of the department, or an amount of one hundred fifty  
18 dollars per month, whichever shall be greater; and any  
19 member of such department who is entitled to benefits



20 of said fund and who has been in the service of such de-  
21 partment for more than twenty years at the time of his  
22 retirement, as herein provided, shall in addition to the  
23 aforesaid pension authorized to be paid upon retirement  
24 after twenty years of service and reaching the age of fifty  
25 years, receive an additional sum per month during the re-  
26 mainder of his life, equal to one per cent of such average  
27 monthly salary for each year of the first five additional  
28 years served with the department in excess of the said  
29 twenty years: *Provided*, That any member of such de-  
30 partment who has served in the armed services as defined  
31 hereinafter, shall be eligible to retirement prior to reach-  
32 ing the age of fifty years if he is otherwise eligible here-  
33 under.

34 Any member of a municipal fire or police department,  
35 upon reaching the age of sixty-five years shall be retired  
36 in the manner herein provided: Each member of the fire  
37 and police department shall, at the request of the board  
38 of trustees, furnish said board of trustees with a birth cer-  
39 tificate or other satisfactory proof of his date of birth, at  
40 the time of his appointment to the fire or police depart-  
41 ment. When a member of the fire or police department  
42 shall have reached the age of sixty-five years, the said  
43 board of trustees shall notify the mayor or other chief  
44 executive officer of the municipal corporation, within  
45 thirty days of such member's sixty-fifth birthday; and  
46 the mayor or other chief executive officer shall cause such  
47 sixty-five year old member of the fire or police depart-  
48 ment to be retired within a period of not more than  
49 thirty additional days. It shall be the duty of each mem-  
50 ber of the fire or police department who are members at  
51 the time this article becomes effective to furnish the said  
52 necessary proof of his date of birth to the said board of  
53 trustees within a reasonable length of time, said length  
54 of time to be determined by the said board of trustees;  
55 and then the board of trustees and the mayor or other  
56 chief executive officer of the municipal corporation shall  
57 proceed to act in the manner herein provided, and shall  
58 cause all members of the fire or police department who are  
59 over the age of sixty-five years to be retired in not less

60 than sixty days from the date this article becomes effec-  
61 tive. The amount of pension such members shall receive  
62 shall depend upon their length of service as herein pro-  
63 vided. Such member need not have served twenty years  
64 to be eligible to receive the pension hereinabove pre-  
65 scribed.

66 The sum to be paid to each permanently disabled mem-  
67 ber shall be equal to fifty per cent of the salary being  
68 received by such member, at the time he is so disabled,  
69 or an amount of one hundred fifty dollars per month,  
70 whichever shall be greater: *Provided however*, That any  
71 member who is permanently disabled, after having served  
72 twenty years in such department, and, who has attained  
73 the age of fifty years, shall be entitled to such sum as  
74 shall equal fifty per cent of such members average salary  
75 during the five fiscal years in which he received his high-  
76 est compensation while a member of the department, and  
77 also the additional sum per month equal to one per cent of  
78 such average monthly salary for each year of the first five  
79 years served in excess of said twenty years, or a total  
80 amount of one hundred fifty dollars per month, which-  
81 ever shall be greater.

82 Absence from the service because of sickness or injury  
83 shall not be construed as time out of service.

84 Any member of such department who has served in the  
85 armed services of the United States between September  
86 fifteen, one thousand nine hundred forty, the date of the  
87 selective service act, and September second, one thousand  
88 nine hundred forty-five, the date of the official termina-  
89 tion of the hostilities with Japan, and who has not been  
90 dishonorably discharged from said service, shall be given  
91 credit for continuous service in said fire or police depart-  
92 ment if he was already a member of such department at  
93 the time of his entrance into such armed service, and that  
94 such member did not reenlist in such armed services  
95 after such official termination of hostilities and did pre-  
96 sent himself to the mayor or other officer, board or person  
97 having the power of original appointment to such fire or  
98 police department within six months after his honorable  
99 discharge from such armed service, and offer to resume

100 service as an active member of such fire or police depart-  
101 ment, and was declared mentally and physically capable  
102 of performing his entire duties as a member of the depart-  
103 ment by the pension board doctors.

104 Any member of any fire or police department covered  
105 by this article who has been required to or shall at any  
106 future time be required to enter the armed forces of the  
107 United States by a conscription, by reason of being a mem-  
108 ber of some reserve unit of the armed forces, or a member  
109 of the West Virginia national guard, or who enlists in one  
110 of the armed services of the United States during hos-  
111 tilities, and upon his receipt of an honorable discharge  
112 from such armed forces presents himself for resumption  
113 of duty to his appointing municipal official within six  
114 months from date of discharge, and is accepted by the  
115 pension board doctors as being mentally and physically  
116 capable of performing his required duties as a member of  
117 such fire or police department, shall be given credit for  
118 continuous service in said fire or police department, and  
119 his pension rights shall be governed as herein provided.

120 No member of the fire or police department shall be  
121 required to pay the monthly assessment as now required  
122 by law, during his period of service in the armed forces  
123 of the United States.

124 Any member or former member of a fire or police de-  
125 partment, who at the time this section takes effect is re-  
126 ceiving any pension, payment or benefit from the fire-  
127 men's or policemen's pension or relief funds, shall con-  
128 tinue to receive a pension, payment or benefit, in the  
129 amount of one hundred fifty dollars per month.

Sec. 21. *Payments in Case of Death.*—In case any such  
2 municipal employee who has been in continuous service  
3 for more than five years shall die while in service, leaving  
4 surviving him a dependent wife, or any dependent minor  
5 child or children, or dependent mother and/or father, or  
6 any dependent brothers and/or sisters under the age of  
7 eighteen years, or in case any such former municipal em-  
8 ployee who is receiving or is entitled to receive a pension  
9 under the provisions of this article, or on a disability  
10 basis after he shall have been in continuous service for

11 more than five years, shall die, leaving surviving him a  
12 dependent wife to whom he was married prior to the date  
13 of his retirement, or any dependent minor child or chil-  
14 dren who were born prior to or within ten months  
15 after such retirement, or dependent mother and/or father,  
16 or any dependent brothers and/or sisters under the age  
17 of eighteen years, then, and in either of such cases the  
18 board of trustees of such pension fund shall pay to or for  
19 each of such entitled surviving dependents the following  
20 pensions, viz.: To such dependent widow, until death or  
21 remarriage, a sum per month equal to twenty-five per  
22 cent of the average monthly salary received by such mem-  
23 ber during the five fiscal years in which such member  
24 received his highest compensation, or the sum of seventy-  
25 five dollars per month, whichever shall be greater; to  
26 each such dependent child a sum per month equal to ten  
27 per cent of the average monthly salary received by such  
28 member during the five calendar years in which such  
29 member received his highest compensation, or the sum  
30 of thirty dollars per month for each such child, whichever  
31 shall be greater, until such child shall attain the age of  
32 eighteen years, or marry, whichever first occurs: *Pro-*  
33 *vided, however,* That each surviving orphaned child shall  
34 receive a sum of fifteen per cent of the average monthly  
35 salary received by such member during the five fiscal years  
36 in which such member received his highest compensation,  
37 or the sum of forty-five dollars, whichever shall be greater,  
38 until such child shall attain the age of eighteen years, or  
39 marry, whichever occurs first; to each such dependent  
40 mother or father the sum equal to ten per cent of the aver-  
41 age monthly salary received by such member during the  
42 five fiscal years in which such member received his highest  
43 compensation, or the sum of thirty dollars, whichever is  
44 greater; to each such dependent brother or sister the sum  
45 of five dollars per month until such person shall attain  
46 the age of eighteen years, or marry, whichever first occurs,  
47 but in no event shall the aggregate amount paid to such  
48 brothers and sisters exceed thirty dollars per month, but  
49 if at any time, because of the number of dependents, all  
50 such dependents cannot be paid in full as herein provided,  
51 then each dependent shall receive his pro rata share of

52 such payments: *Provided, however,* That in no case shall  
53 the payments to the widow and children be cut below  
54 sixty per cent of the total amount to be paid all depend-  
55 ents.

56 The dependent wife, child or children, or dependent  
57 father or mother, brothers or sisters of any such municipal  
58 employee who shall be killed in the performance of his  
59 duties shall, regardless of the length of his service, receive  
60 a pension as provided for in that portion of this section  
61 fixing the amount to be paid to the dependents.

62 Absence from service because of sickness or injury shall  
63 not be construed as time out of service.

64 The dependent wife, child or children, or dependent  
65 father or mother, brothers or sisters, of any such municip-  
66 al employee or former municipal employee, who at the  
67 time this section takes effect is receiving any pension,  
68 payment or benefit from the firemen's or policemen's pen-  
69 sion or relief fund, shall continue to receive a pension in  
70 the following amounts: To a dependent widow, until death  
71 or remarriage, the sum of seventy-five dollars per month;  
72 to each dependent child the sum of thirty dollars per  
73 month, until such child shall attain the age of eighteen  
74 years, or marry, whichever first shall occur: *Provided,*  
75 *however,* That each surviving orphaned child shall re-  
76 ceive the sum of forty-five dollars per month, until such  
77 child shall attain the age of eighteen years, or marry,  
78 whichever first shall occur; to each dependent mother or  
79 father the sum of thirty dollars per month; to each de-  
80 pendent brother or sister the sum of five dollars per  
81 month, until such person shall attain the age of eighteen  
82 years, or marry, whichever first shall occur, but in no  
83 event shall the aggregate amount paid to such brothers  
84 and sisters exceed thirty dollars per month, but if at any  
85 time, because of the number of dependents, all such de-  
86 pendants cannot be paid in full as herein provided, then  
87 each dependent shall receive his pro rata share of such  
88 payments: *Provided, however,* That in no case shall the  
89 payment to the widow and children be cut below sixty  
90 per cent of the total amount to be paid to all dependents.

91 Any member of a fire or police department who becomes  
92 eligible for retirement for any reason previously defined,

93 between the dates of July first, one thousand nine hundred  
94 fifty-nine, and July first, one thousand nine hundred sixty-  
95 two, shall receive a pension, payment or benefit in the  
96 amount of one hundred fifty dollars per month. As of July  
97 first, one thousand nine hundred sixty-two, said retired  
98 member shall continue to receive the pension, payment or  
99 benefit of one hundred fifty dollars per month or a month-  
100 ly pension, payment or benefit based upon the percentages  
101 heretofore described, whichever shall be greater: *Pro-*  
102 *vided*, That any survivor of any member who becomes  
103 eligible for pension or survivor benefits between the dates  
104 of July first, one thousand nine hundred fifty-nine, and  
105 July first, one thousand nine hundred sixty-two, shall re-  
106 ceive the amounts as heretofore described, viz.: To each  
107 surviving widow, seventy-five dollars per month; each  
108 surviving child thirty dollars per month; surviving orphan  
109 child forty-five dollars per month; dependent father or  
110 mother thirty dollars per month; dependent brothers or  
111 sisters five dollars per month. As of July first, one thou-  
112 sand nine hundred sixty-two, such survivor shall continue  
113 to receive such monthly pension or benefits or a monthly  
114 pension or benefit based upon the percentages as hereto-  
115 fore described, whichever shall be greater.

116 The provisions of this section shall not be construed  
117 as creating or establishing any contractual or vested  
118 rights in favor of any person who may be or become quali-  
119 fied as a beneficiary of the payments herein authorized to  
120 be made, and all the provisions of this article and benefits  
121 provided for hereunder being expressly subject to such  
122 subsequent legislative enactments as may provide for any  
123 change, modification or elimination of the beneficiaries or  
124 benefits specified herein.

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## CHAPTER 122

(Senate Bill No. 322—By Mr. Bowers)

AN ACT to amend and reenact section fourteen, article eight, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assessments to improve streets, sidewalks and sewers.

[Passed March 7, 1959; in effect from passage. Approved by the Governor.]

## Article 8. Assessments to Improve Streets, Sidewalks and Sewers.

### Section

14. Liberal construction of articles; validity and enforcement of assessments.

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

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

- Section 14. *Liberal Construction of Article; Validity and Enforcement of Assessments.*—This article shall be liberally construed to accomplish the purpose of providing reasonable, economical and expeditious means for municipalities to provide permanent improvements and assure to the contractors making such improvements, or persons directly or indirectly financing the same, security in the payment of the cost and expense of such improvement; and nothing in this article shall be construed as imposing a time limit on the certificate holder for the enforcement of his rights.
- Moreover, the validity and enforcement of the assessments in this article provided shall not be impaired by the issuance and sale of bonds, as provided by chapter thirteen, article one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, for the same improvements, nor by the application, in whole or in part, of the proceeds of any such bond issue to the cost of any such improvements prior to collection of said assessments.

## CHAPTER 123

(Com. Sub. for House Bill No. 55—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section ten, article three, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to ordinance procedure.

[Passed March 7, 1959; in effect from passage. Approved by the Governor.]

### Article 3. Home Rule Charters; Ordinances.

#### Section

#### 10. Ordinance procedure.

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

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

Section 10. *Ordinance Procedure.*—The governing body of a city shall enact an ordinance in the cases specified by section nine of this article in accordance with the following requirements:

(1) An ordinance shall be read at not less than two meetings with at least one week intervening between each meeting;

(2) Before final passage an ordinance shall be published in two newspapers of opposite politics published in the city, if such there be, and otherwise in one newspaper so published. If no newspaper is published in the city, publication shall be in a newspaper of general circulation in the city: *Provided, however,* That in the event the governing body of the city shall propose to codify, reenact and enact a comprehensive code of ordinances for the city, it shall not be necessary to publish such code of ordinances in a newspaper or newspapers prior to the adoption thereof. However, at least five days before the meeting at which said code of ordinances is finally adopted, the governing body shall cause notice of the proposed adoption thereof to be published in a newspaper or newspapers, as otherwise required by this section, stating therein the general titles of the code of ordinances and the place where, within the city, the entire proposed code of ordinances is available for public inspection. A reasonable number of copies of the proposed code of ordinances shall be kept at such place and there so available for public inspection;

(3) An ordinance shall not be finally passed until after three days have elapsed after the date of publica-



31 tion and persons interested have been given an oppor-  
32 tunity to attend a meeting of the council and be heard  
33 with respect to the ordinance;

34 (4) An ordinance shall not be materially amended at  
35 the same meeting at which finally passed. If materially  
36 amended after publication the ordinance shall be repub-  
37 lished and considered as though publication had not  
38 taken place.

39 The governing body of any municipality may adopt  
40 building codes, housing codes, plumbing codes, sanitary  
41 codes, electrical codes, fire prevention codes, or any  
42 other technical codes dealing with general public health,  
43 safety or welfare, or a combination of the same, by  
44 ordinance, in the manner herein prescribed. Before any  
45 such code shall be adopted, it shall be either printed or  
46 typewritten and shall be presented in pamphlet form to  
47 the governing body of the municipality at a regular meet-  
48 ing. The ordinance adopting such code shall not set out  
49 said code in full, but shall merely identify the same. The  
50 vote on passage of said ordinance shall be the same as  
51 on any other ordinance. After its adoption, such code  
52 or codes shall be certified to by the chief executive officer  
53 and shall be filed as a permanent record in the office of  
54 the clerk, who shall not be required to transcribe and  
55 record the same in the ordinance book as other ordinances.  
56 It shall not be necessary that such ordinance adopting  
57 such code or the code itself be published in full, but  
58 before final passage of such ordinance, notice of the pro-  
59 posed adoption of such code shall be given by publication  
60 as herein provided for other ordinances.

61 Any of the above comprehensive or technical codes  
62 heretofore adopted by any municipality and published  
63 without setting such code out in full in the publication  
64 required, if any, or in the notice of public hearing, if any,  
65 is hereby validated and held sufficient without the neces-  
66 sity of further or other publication.

67 A home rule charter may prescribe a procedure for  
68 the enactment of ordinances in greater detail than pre-  
69 scribed by this section, but the provisions of this section  
70 shall be required. A governing body may enact an ordi-  
71 nance under suspension of the rules prescribed by this

72 section only in the case of a pressing public emergency  
73 making a procedure in accordance with the section dan-  
74 gerous to the public health, safety, or morals, and by the  
75 affirmative vote of two thirds of the members elected to  
76 the governing body. The nature of the emergency shall  
77 be set out in full in the ordinance.

## CHAPTER 124

(Senate Bill No. 131—By Mr. Jackson, of Logan)

AN ACT to amend article five, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven, relating to the authority of municipalities to establish capital reserve funds.

[Passed February 13, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 5. Taxation and Finance.

#### Section

##### 11. Capital reserve fund.

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

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

- Section 11. *Capital Reserve Fund.*—The governing body
- 2 of any municipality may establish a special fund to be  
3 known as the "capital reserve fund". The fund shall con-  
4 sist of unexpended balances of other funds which may be  
5 transferred to the fund, with the approval of the state tax  
6 commissioner, at the end of the fiscal year, and any other  
7 moneys authorized by law to be used for the purposes of  
8 the fund.
- 9 The fund shall be used, from time to time, for the con-

10 struction, purchase or replacement of, or addition to, mu-  
11 nicipal buildings, public works, equipment, machinery,  
12 motor vehicles or other capital assets. Expenditures shall  
13 be made from the fund only in accordance with an appro-  
14 priation made pursuant to the annual budget.

15 If a municipality accumulates the capital reserve fund  
16 for more than two years, the proceeds of the fund shall be  
17 transmitted to the state sinking fund commission on or  
18 before the first day of September of each year. The pro-  
19 ceeds of the fund may be withdrawn by the municipality  
20 upon reasonable notice in writing to the state sinking fund  
21 commission.

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## CHAPTER 125

(House Bill No. 236—By Mr. Robertson)

AN ACT to amend and reenact section sixteen, article thirteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sewage works of municipal corporations and sanitary districts and provisions for the collection of charges where municipalities are furnishing both water and sewer service.

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[Passed March 14, 1959; in effect from passage. Approved by the Governor.]

### Article 13. Sewage Works of Municipal Corporations and Sanitary Districts.

#### Section

16. Rates for service; hearing; change or readjustment; lien and recovery.

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

That section sixteen, 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 16. *Rates for Service; Hearing; Change or Re-  
2 adjustment; Lien and Recovery.*—The governing body

3 shall have power, and it shall be its duty, by ordinance,  
4 to establish and maintain just and equitable rates or  
5 charges for the use of and the service rendered by such  
6 works, to be paid by the owner of each and every lot,  
7 parcel of real estate or building that is connected with  
8 and uses such works by or through any part of the  
9 sewerage system of the municipality, or that in any way  
10 uses or is served by such works, and may change and  
11 readjust such rates or charges from time to time. Such  
12 rates or charges shall be sufficient in each year for the  
13 payment of the proper and reasonable expense of opera-  
14 tion, repair, replacements and maintenance of the works  
15 and for the payment of the sums herein required to be  
16 paid into the sinking fund. Revenues collected pursuant to  
17 this section shall be deemed the revenues of the works.  
18 No such rates or charges shall be established until after  
19 a public hearing, at which all the users of the works  
20 and owners of property served or to be served thereby  
21 and others interested shall have an opportunity to be  
22 heard concerning the proposed rates or charges. After  
23 introduction of the ordinance fixing such rates or charges,  
24 and before the same is finally enacted, notice of such  
25 hearing, setting forth the proposed schedule of such rates  
26 or charges, shall be given by one publication once each  
27 week for two consecutive weeks in two newspapers of  
28 opposite political faith published in such municipality,  
29 or in one newspaper, if only one political faith is repre-  
30 sented by newspapers in the said municipality, at least  
31 ten days before the date fixed in such notice for the  
32 hearing, which may be adjourned from time to time, and  
33 if no newspaper be published in such municipality, the  
34 notice shall be published as aforesaid in two newspapers  
35 of opposite political faith, if there be such published in  
36 the county within which such municipality is embraced,  
37 once each week for two consecutive weeks. After such  
38 hearing the ordinance establishing rates or charges, either  
39 as originally introduced or as modified and amended, shall  
40 be passed and put into effect. A copy of the schedule of  
41 such rates and charges so established shall be kept on  
42 file in the office of the board having charge of the opera-

tion of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: *Provided, however,* That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten per cent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: *Provided, however,* That where both water and sewer services are furnished by any municipality to any premises, the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer

83 facilities to any delinquent user of either until all de-  
84 linquent charges for both water facilities and sewer  
85 facilities, including reasonable interest and penalty  
86 charges, have been paid in full.

## CHAPTER 126

(House Bill No. 42—By Mr. Goshorn)

AN ACT to amend chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten, relating to the regulation, supervision and qualification of professional bondsmen in criminal cases.

[Passed February 9, 1959; in effect from passage. Approved by the Governor.]

### Article 10. Professional Bondsmen in Criminal Cases.

#### Section

1. Definitions.
2. Business impressed with public interest.
3. Procuring business through official or attorney for a consideration prohibited.
4. Attorneys procuring employment through official or bondsman for a consideration prohibited.
5. Receiving other than regular fee for bonding prohibited; bondsman prohibited from endeavoring to secure dismissal or settlement.
6. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsman; record to be kept by police.
7. Bondsman prohibited from entering place of detention unless requested by prisoner; record of visit to be kept.
8. Qualifications of bondsmen; rules to be prescribed by courts; lists of agents to be furnished; renewal of authority to act; false swearing.
9. Penalties.
10. Enforcement.

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

That chapter fifty-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 ten, to read as follows:

Section 1. *Definitions.*—The words “bonding business”  
2 as used in this article mean the business of becoming  
3 surety for compensation upon bonds in criminal cases in  
4 the state of West Virginia, and the word “bondsman”  
5 means any person or corporation engaged either as prin-  
6 cipal or as agent, clerk, or representative of another in  
7 such business.

Sec. 2. *Business Impressed with Public Interest.*—The  
2 business of becoming surety for compensation upon bonds  
3 in criminal cases in the state of West Virginia is impressed  
4 with a public interest.

Sec. 3. *Procuring Business Through Official or Attorney  
2 for a Consideration Prohibited.*—It shall be unlawful for  
3 any person engaged, either as principal or as the clerk,  
4 agent, or representative of a corporation, or another per-  
5 son in the business of becoming surety upon bonds for  
6 compensation in the state of West Virginia, either directly  
7 or indirectly, to give, donate, lend, contribute, or to  
8 promise to give, donate, loan, or contribute any money.  
9 property, entertainment, or other thing of value what-  
10 soever to any attorney at law, police officer, sheriff,  
11 deputy sheriff, constable, jailer, probation officer, clerk,  
12 or other attache of a criminal court, or public official of  
13 any character, for procuring or assisting in procuring  
14 any person to employ said bondsman to execute as surety  
15 any bond for compensation in any criminal case in the  
16 state of West Virginia; and it shall be unlawful for any  
17 attorney at law, police officer, sheriff, deputy sheriff,  
18 constable, jailer, probation officer, clerk, bailiff, or other  
19 attache of a criminal court, or public official of any  
20 character, to accept or receive from any such person en-  
21 gaged in the bonding business any money, property, en-  
22 tertainment, or other thing of value whatsoever for pro-  
23 curing or assisting in procuring any person to employ  
24 any bondsman to execute as surety any bond for compen-  
25 sation in any criminal case in the state of West Virginia.

Sec. 4. *Attorneys Procuring Employment Through  
2 Official or Bondsman for a Consideration Prohibited.*—  
3 It shall be unlawful for any attorney at law, either directly

4 or indirectly, to give, loan, donate, contribute, or to  
5 promise to give, loan, donate, or contribute any money,  
6 property, entertainment, or other thing of value what-  
7 soever to, or to split or divide any fee or commission with,  
8 any bondsman, police officer, sheriff, deputy sheriff, con-  
9 stable, probation officer, assistant probation officer, bailiff,  
10 clerk, or other attache of any criminal court for causing  
11 or procuring or assisting in causing or procuring any  
12 person to employ such attorney to represent him in any  
13 criminal case in the state of West Virginia.

Sec. 5. *Receiving Other Than Regular Fee for Bonding*  
2 *Prohibited; Bondsman Prohibited from Endeavoring to*  
3 *Secure Dismissal or Settlement.*—It shall be lawful to  
4 charge for executing any bond in a criminal case in the  
5 state of West Virginia, and it shall be unlawful for any  
6 person or corporation engaged in the bonding business,  
7 either as principal, or clerk, agent, or representative of  
8 another, either directly or indirectly, to charge, accept,  
9 or receive any sum of money, or other thing of value,  
10 other than the bonding fee from any person for whom  
11 he has executed bond, for any other service whatever  
12 performed in connection with any indictment or charge  
13 upon which said person is bailed or held in the state of  
14 West Virginia, or in any counties where the court has  
15 regulated bonding fees pursuant to section eight of this  
16 article, it shall be unlawful for any person or corporation  
17 engaged in the bonding business, either as principal, clerk,  
18 agent, or representative of another, either directly or  
19 indirectly, to charge, accept, or receive any sum of money  
20 or other thing of value other than the duly authorized  
21 maximum bonding fee, from any person for whom he  
22 has executed bond, for any other service whatever per-  
23 formed in connection with any indictment or charge upon  
24 which said person is bailed or held in the state of West  
25 Virginia. It also shall be unlawful for any person or  
26 corporation engaged either as principal or as agent, clerk,  
27 or representative of another in the bonding business, to  
28 settle, or attempt to settle, or to procure or attempt to  
29 procure the dismissal of any indictment, information, or  
30 charge against any person in custody or held upon bond



31 in the state of West Virginia, with any court, or with the  
32 prosecuting attorney, or with any police officer in any  
33 court in the state of West Virginia.

Sec. 6. *Posting Names of Authorized Bondsmen; List to Be Furnished Prisoners; Prisoners May Communicate with Bondsman; Record to Be Kept by Police.*—A type-written or printed list alphabetically arranged of all persons engaged under the authority of any courts of record pursuant to section eight of this article, in the business of becoming surety on the bonds for compensation shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock, house of detention, municipal court, and justice of the peace court within the county, and one or more copies thereof kept on hand; and when any person who is detained in custody in any such place of detention shall request any person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, said list shall be furnished to the person so requesting, and it shall be the duty of the person in charge of said place of detention within a reasonable time to put the person so detained in communication with the bondsman so selected, and the person in charge of said place of detention shall contemporaneously with said transaction make in the blotter or book of record kept in any such place of detention, a record showing the name of the person requesting the bondsman, the offense with which the said person is charged, the time at which the request was made, the bondsman requested, and the person by whom the said bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered.

Sec. 7. *Bondsman Prohibited from Entering Place of Detention Unless Requested by Prisoner; Record of Visit to Be Kept.*—It shall be unlawful for any bondsman, agent, clerk, or representative of any bondsman to enter a police precinct, jail, prisoner's dock, house of detention, justice of the peace court, or other place where persons in the custody of the law are detained in the state of West Virginia, for the purpose of obtaining employment as a bondsman, without having been previously called by a

10 person so detained, or by some relative or other author-  
11 ized person acting for or on behalf of the person so de-  
12 tained, and whenever any person engaged in the bonding  
13 business as principal, or as clerk, or representative of  
14 another, shall enter a police precinct, jail, prisoner's dock,  
15 house of detention, justice of the peace court, or other  
16 place where persons in the custody of the law are de-  
17 tained in the state of West Virginia, he shall forthwith  
18 give to the person in charge thereof his mission there,  
19 the name of the person calling him, and requesting him  
20 to come to such place, and the same shall be recorded by  
21 the person in charge of the said place of detention and  
22 preserved as a public record, and the failure to give such  
23 information, or the failure of the person in charge of said  
24 place of detention to make and preserve such a record,  
25 shall constitute a violation of this article.

Sec. 8. *Qualifications of Bondsmen; Rules to Be Pre-*  
2 *scribed by Courts; Lists of Agents to Be Furnished; Re-*  
3 *newal of Authority to Act; False Swearing.*—Courts of  
4 record regularly exercising criminal jurisdiction in coun-  
5 ties of more than two hundred thousand population shall,  
6 and in counties of two hundred thousand population or  
7 less such courts may, provide, under reasonable rules and  
8 regulations, the qualifications of persons and corporations  
9 applying for authority to engage in the bonding business  
10 in criminal cases in the state of West Virginia, and the  
11 terms and conditions upon which such business shall be  
12 carried on, and no person or corporation shall, either as  
13 principal, or as agent, clerk, or representative of another,  
14 engage in the bonding business in any court regularly  
15 exercising criminal jurisdiction until he shall by order of  
16 such court of record be authorized to do so. Such courts of  
17 record, in making such rules and regulations, and in grant-  
18 ing authority to persons to engage in the bonding business,  
19 shall take into consideration both the financial responsi-  
20 bility and the moral qualities of the person so applying,  
21 and no person shall be permitted to engage, either as  
22 principal or agent, in the business of becoming surety  
23 upon bonds for compensation in criminal cases, who has  
24 ever been convicted of any offense involving moral tur-

25 pitude, or who is not known to be a person of good moral  
26 character. It shall be the duty of each of said courts of  
27 record to require every person qualifying to engage in  
28 the bonding business as principal to file with said court  
29 a list showing the name, age, and residence of each person  
30 employed by said bondsman as agent, clerk, or represen-  
31 tative in the bonding business, and require an affidavit  
32 from each of said persons stating that said person shall  
33 abide by the terms and provisions of this article. Each  
34 of said courts of record shall require the authority of  
35 each of said persons to be renewed from time to time at  
36 such periods as the said courts may by rule provide, and  
37 before said authority shall be renewed the said courts  
38 shall require from each of said persons an affidavit that  
39 since his previous qualifications to engage in the bonding  
40 business he has abided by the provisions of this article,  
41 and any person swearing falsely in any of said affidavits  
42 shall be guilty of false swearing.

Sec. 9. *Penalties.*—Any person violating any provisions  
2 of this article other than in the commission of false  
3 swearing shall be punished by a fine of not more than  
4 one hundred dollars, or by imprisonment not exceeding  
5 six months in the county jail, or both, where no other  
6 penalty is provided by this article; and if the person  
7 so convicted be a police officer or other public official, he  
8 shall upon recommendation of the judge of the criminal  
9 court of record of the county to which this article is  
10 applicable also be forthwith removed from office; if a  
11 bondsman, or the agent, clerk, or representative of a  
12 bondsman, he shall be disqualified from thereafter engag-  
13 ing in any manner in the bonding business for such a  
14 period of time as the judge of the criminal court of record  
15 of the county to which this article is applicable shall  
16 order; and, if an attorney at law, shall be subject to sus-  
17 pension or disbarment as attorney at law.

Sec. 10. *Enforcement.*—It shall be the duty of the judges  
2 of the criminal courts of record, the municipal courts, the  
3 justices of the peace of the county to which this article  
4 is applicable, to see that this article is enforced, and upon  
5 the impaneling of each grand jury in the state of West

6 Virginia it shall be the duty of the judge impaneling said  
7 jury to give it in charge to the jury to investigate the  
8 manner in which this article is enforced and all viola-  
9 tions thereof.

## CHAPTER 127

(Senate Bill No. 167—By Mr. Wylie)

AN ACT to amend article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five, relating to the disposition of funds collected by the medical licensing board.

[Passed February 20, 1959; in effect from passage. Approved by the Governor.]

### Article 2-A. Medical Licensing Board.

#### Section

5. Collections and expenditures; disposition of funds.

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

That article two-a, chapter thirty 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, to read as follows:

Section 5. *Collections and Expenditures; Disposition of Funds.*—All moneys collected by the medical licensing board under the provisions of this chapter shall be deposited in the state treasury as provided by law, and shall be there credited to a special fund to be known as the "Medical Licensing Board Special Fund". All moneys in such special fund shall be expended only for the administration of the provisions of this article and for payment of costs and expenses necessarily incurred by the board in exercising the powers granted to it, and in performing the duties imposed upon it by law.

## CHAPTER 128

(House Bill No. 51—By Mr. Kidd)

AN ACT to repeal article nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article nine, creating and establishing a state board of accountancy, prescribing its powers and duties, regulating the practice of public accounting, providing for the certification and registration of persons engaged in accounting and the issuance of certificates and registration cards to such persons, and providing penalties for the violation of the provisions of this article.

[Passed February 26, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 9. Accountants.

#### Section

1. Board of accountancy; appointment, terms, qualifications, removal and compensation of members; funds; rules and regulations.
2. Certified public accountants; requirements for certification; use of title "Certified Public Accountant"; applicability to previous holders of certificates.
3. Public accountants; registration; use of title "Public Accountants".
4. Practice of accountancy by partnership.
5. Reciprocity.
6. Fees to be paid by applicants.
7. Registration cards.
8. Statements, etc., remain property of accountants.
9. Revocation or suspension of certificate or registration.
10. Prohibitions and penalties; exceptions.
11. Injunction against unlawful act; evidence.
12. General law applicable.
13. Construction.
14. Effective date.

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

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

- Section 1. *Board of Accountancy; Appointment, Terms,*  
2 *Qualifications, Removal, and Compensation of Members;*

3 *Funds; Rules and Regulations.*—There shall be a state  
4 board of accountancy, known as the “West Virginia  
5 Board of Accountancy”, which shall consist of six mem-  
6 bers to be appointed by the governor by and with the  
7 advice and consent of the senate for terms of three years.  
8 All vacancies occurring on the board shall be filled by  
9 the governor. The members composing the original board  
10 shall be appointed by the governor to serve as follows:  
11 Two for a term of three years; two for a term of two  
12 years; two for a term of one year, from July first, nineteen  
13 hundred fifty-nine. Thereafter, as the terms of office re-  
14 spectively of the members expire by the limitation, the  
15 governor shall appoint, to fill the vacancies so occasioned,  
16 qualified persons whose terms shall be for three years  
17 from the day on which that of their immediate prede-  
18 cessors expired. At all times, at least three members of  
19 the board shall be holders of a certified public accountant  
20 certificate issued under the laws of this state, and three  
21 members shall be public accountants who are eligible to  
22 be registered under the provisions of this article. All  
23 members shall have been engaged in the active practice  
24 of public accounting in this state for at least five years  
25 next preceding their appointment. The governor shall  
26 remove from the board any member whose registration  
27 card has become void, revoked or suspended, and may  
28 remove any member of the board for official misconduct,  
29 incompetence, neglect of duty or gross immorality.

30 Each member of the board shall be paid twenty-five  
31 dollars for each day or portion thereof spent in the dis-  
32 charge of his official duties and shall be reimbursed for  
33 his actual and necessary expenses incurred in the dis-  
34 charge of his official duties.

35 All fees and other moneys received by the board pur-  
36 suant to the provisions of this article shall be kept in a  
37 separate fund and expended solely for the purposes of  
38 this article. No part of this special fund shall revert to  
39 the general funds of this state. The compensation pro-  
40 vided by this article and all expenses incurred under this  
41 article shall be paid from this special fund. No compen-  
42 sation or expense incurred under this article shall be a  
43 charge against the general funds of this state.

44 The board shall have the power and it shall be its duty  
45 to make and enforce all necessary rules and regulations,  
46 not inconsistent with this article, for the examination,  
47 certification, and registration of public accountants, and  
48 for the general practice of public accounting.

49 The board may promulgate and amend rules of pro-  
50 fessional conduct appropriate to establish and maintain  
51 a high standard of integrity in the profession of public  
52 accountancy, which rules shall be applicable to both  
53 certified public accounts and registered public ac-  
54 countants. At least sixty days prior to the promulgation  
55 of any such rule or amendment, the board shall mail  
56 copies of the proposed rule or amendment to each person  
57 certified or registered under the provisions of this article  
58 with a notice advising him of the proposed effective date  
59 of the rule or amendment and requesting that he submit  
60 his comments thereon at least fifteen days prior to such  
61 effective date; such comments shall be advisory only.  
62 Failure to mail such rule, amendment or notice to all  
63 persons certified or registered shall not affect the validity  
64 of any such rule or amendment.

65 Members of the board who do not hold a certificate of  
66 certified public accountant shall have no authority with  
65 respect to the granting of certificates of certified public  
68 accountant as provided in section two of this article, nor  
69 to the issuance of a certificate of certified public account-  
70 ant by reciprocity as provided in section five of this  
71 article.

Sec. 2. *Certified Public Accountants; Requirements for*  
2 *Certification; Use of Title "Certified Public Accountant";*  
3 *Applicability to Previous Holders of Certificates.*—The  
4 certificate of "certified public accountant" shall be  
5 granted by the board to any person:

6 (1) Who is a citizen of the United States or who has  
7 duly declared his intention of becoming such citizen, and  
8 who is domiciled in the state of West Virginia, or has a  
9 place of business therein at the time of making appli-  
10 cation;

11 (2) Who is over the age of twenty-one years;

12 (3) Who is of good moral character;

13       (4) Who is a graduate of a high school with a four-  
14 year course, or who, in the opinion of the board, has had  
15 equivalent education;

16       (5) Who shall have for at least two years preceding  
17 the date of his application been engaged in practice as  
18 a public accountant or shall have been employed as a  
19 staff accountant of a practicing certified public account-  
20 ant or public accountant; or who shall have been actively  
21 employed for at least four years preceding the date of his  
22 application by the United States treasury department as  
23 an internal revenue agent; or who shall have been active-  
24 ly employed for at least four years preceding the date of  
25 his application by any federal or state supervisory agency  
26 or instrumentality as an auditor or examiner, whose  
27 duties entail the audit or verification of accounts and  
28 records and the preparation, based thereon, of reports to  
29 such agency or instrumentality for the purpose of su-  
30 pervision or regulation: *Provided*, That the experience  
31 required in this subsection shall include the preparation  
32 of balance sheets and operating statements from general  
33 books, or who, in the opinion of the board, shall have had  
34 experience equivalent to that required in the foregoing,  
35 and the board shall recognize that the equivalent expe-  
36 rience may be obtained independently of employment  
37 with a practicing certified public accountant, public ac-  
38 countant, the United States treasury department, or any  
39 federal or state supervisory agency or instrumentality, as  
40 hereinabove set forth; and,

41       (6) Who shall have passed an examination in theory  
42 of accounts, accounting practice, auditing, commercial  
43 law and/or such other related subjects as the board may  
44 deem advisable. All matters relating to the examination  
45 and certification of applicants for the certificate of cer-  
46 tified public accountant shall be handled by only those  
47 members of the state board of accountancy who are hold-  
48 ers of a certificate of certified public accountant.

49       No applicant shall be examined in the subjects stated  
50 in subsection (6) until the board shall have been satisfied  
51 in respect to the requirements stated in subsections (1)  
52 to (5), inclusive, except, however, that any person pos-  
53 sessing the necessary qualifications, except the practical



54 experience, who shall have completed an accountancy  
55 course in a university or college of recognized standing,  
56 or graduated from an accountancy school acceptable to  
57 the board, may be examined in the subjects specified in  
58 subsection (6) and upon receiving a satisfactory grade  
59 shall be granted the certificate of certified public ac-  
60 countant.

61 Five years after the enactment of this article the edu-  
62 cational requirement for taking the examination for a  
63 certificate shall be a degree or certificate conferred by a  
64 college, university or other educational institution ap-  
65 proved by the board, with a major in accounting, or what  
66 the board determines to be the equivalent of the forego-  
67 ing, or with a nonaccounting major supplemented by  
68 what the board determines to be the equivalent of an  
69 accounting major, including related courses in all areas  
70 of business administration: *Provided, however,* That this  
71 requirement shall not apply to persons duly registered as  
72 public accountants before January first, one thousand  
73 nine hundred sixty.

74 Any person who has received from the board a certifi-  
75 cate as a certified public accountant shall be designated  
76 and known as a certified public accountant; and every  
77 person holding such certificate, and every copartnership  
78 of accountants in which all members practicing in this  
79 state hold such a certificate, may assume and use the title  
80 of certified public accountant or the abbreviation thereof,  
81 "C. P. A." Any certified public accountant may also be  
82 known as a "Public Accountant."

83 Persons, who, on the effective date of this article, held  
84 certified public accountants' certificates theretofore issued  
85 by the board of this state shall not be required to obtain  
86 additional certificates under this article, but shall other-  
87 wise be subject to all provisions of this article; and such  
88 certificates theretofore issued shall, for all purposes, be  
89 considered certificates issued under this article and sub-  
90 ject to the provisions hereof.

Sec. 3. *Public Accountants; Registration; Use of Title*  
2 "*Public Accountant*".—A person shall be deemed to be in  
3 practice as a public accountant within the meaning and  
4 intent of this article:

5 (a) Who holds himself out to the public in any manner  
6 as one skilled in the knowledge, science and practice of  
7 accounting, and as qualified and ready to render profes-  
8 sional service therein as a public accountant for compen-  
9 sation; or

10 (b) Who maintains an office for the transaction of busi-  
11 ness as a public accountant; or

12 (c) Who offers to the public to perform for compen-  
13 sation, or who does perform for the public for compen-  
14 sation, professional services that involve or require an  
15 examination, verification, investigation or review of  
16 financial transactions and accounting records; or

17 (d) Who prepares reports on examinations of books  
18 or records of account, balance sheets, and other finan-  
19 cial, accounting and related schedules, exhibits and  
20 statements, or reports which are to be used for publica-  
21 tion, credit purposes or are to be filed with any govern-  
22 mental agency; or

23 (e) Who, in general or as an incident to such work,  
24 renders professional assistance to the public for compen-  
25 sation in any or all matters relating to accounting pro-  
26 cedure and to the recording and presentation of financial  
27 facts or data.

28 Any person who is a resident of this state, or has a  
29 place of business therein, who has attained the age of  
30 twenty-one years, and who is of good moral character,  
31 and who holds himself out within this state to be in  
32 practice on the date this article is enacted as a public  
33 accountant as heretofore defined, may register with the  
34 board as a public accountant on or before January first,  
35 one thousand nine hundred sixty.

36 After the date this article is enacted and until January  
37 first, one thousand nine hundred sixty-seven, any person  
38 possessing the necessary qualifications for taking the ex-  
39 amination for a certificate of certified public accountant,  
40 as provided in section two, shall be registered by the  
41 board as a public accountant.

42 Any person who has been duly registered by the board  
43 as a public accountant shall be designated and known as  
44 a public accountant; and every person so registered and  
45 every copartnership of accountants in which all members

46 practicing in this state have been so registered, may  
47 assume and use the title of public accountant or the abbrevi-  
48 viation thereof, "P. A."

Sec. 4. *Practice of Accountancy by Partnership.*—Any  
2 partnership practicing accountancy in this state may use  
3 the designation or practice as certified public accountants  
4 under a firm name only if all the members thereof who  
5 practice in this state are holders of certified public ac-  
6 countants' certificates granted under the laws of this state,  
7 and any partnership practicing accounting in this state  
8 may use the designation or practice as public accountants  
9 under a firm name only if all the members thereof who  
10 practice in this state are duly registered and qualified as  
11 public accountants under the provisions hereof.

Sec. 5. *Reciprocity.*—The board may, in its discretion,  
2 in lieu of the examination provided for in this chapter,  
3 issue a certificate of certified public accountant to any  
4 person who possesses the other qualifications stated in  
5 section two, and who is the holder of a certificate of  
6 certified public accountant issued under the laws of any  
7 state or territory, or the District of Columbia, which  
8 extends similar privileges to certified public accountants  
9 of this state provided the requirements for such certifi-  
10 cates in the state or territory or the District of Columbia,  
11 which has granted it to the applicant, are, in the opinion  
12 of the board, equivalent to those herein required; or who  
13 is the holder of a certificate of certified public accountant,  
14 or the equivalent thereof, granted under the authority  
15 of a foreign nation, provided the requirements for such  
16 certificates are, in the opinion of the board, equivalent  
17 to those herein required.

Sec. 6. *Fees to Be Paid by Applicants.*—The board shall  
2 charge each applicant for a certificate of "certified public  
3 accountant" a fee of forty dollars for the examination  
4 provided for in this article, which fee shall be payable  
5 at the time of the application. In the case of the failure  
6 on the part of any applicant to attend the examination  
7 on the date specified by the board, or to pass a satisfactory  
8 examination, the applicant may appear at a subsequent

9 examination for reexamination, within a period of one  
10 year from the date of the first examination without pay-  
11 ment of an additional fee. Subsequent reexamination  
12 may be taken upon the payment of a fee of twenty dollars  
13 for each reexamination. Upon the applicant receiving  
14 a satisfactory grade and having complied with all the  
15 other provisions of this article, the fee for the issuance  
16 of the certificate shall be five dollars.

17 The board shall charge each applicant for registration  
18 as a "public accountant" a fee of twenty-five dollars,  
19 payable at the time registration is made.

Sec. 7. *Registration Cards.*—The board shall, on July  
2 first of each year, issue a registration card to any holder  
3 of a certificate of "certified public accountant" issued  
4 under the laws of this state, or to any duly registered  
5 "public accountant", which card shall be good until June  
6 thirtieth of the next succeeding year, charging therefor  
7 not more than ten dollars per year. Interim registration  
8 cards shall be issued to applicants who have complied  
9 with the provisions of this chapter. Failure to secure a  
10 registration card in any year shall not disqualify a person  
11 previously duly registered as a "public accountant" from  
12 securing a card in a future year, if such person decided  
13 to return to the public practice of accountancy; and shall  
14 not operate to revoke a certified public accountant cer-  
15 tificate once issued, but shall remove the holder thereof  
16 from those registered and authorized to practice during  
17 the year.

Sec. 8. *Statements, etc., Remain Property of Account-*  
2 *ants.*—All working papers, schedules and memoranda  
3 made by a certified public accountant, or a public account-  
4 ant, or by an employee or employees of a certified public  
5 accountant, or public accountant, incident to or in the  
6 course of professional service to clients by such certified  
7 public accountant, or public accountant, except reports  
8 submitted by a certified public accountant, or public ac-  
9 countant, to a client shall be and remain the property  
10 of such certified public accountant, or public accountant,  
11 in the absence of a written agreement between the certi-

12 fied public accountant, or public accountant, and the client,  
13 to the contrary.

Sec. 9. *Revocation or Suspension of Certificate or Registration.*—After notice and hearing, as provided in article  
2 one of this chapter, the board may revoke or suspend  
3 any certificate issued under section two of this article,  
4 or any registration granted under section three of this  
5 article, and may refuse to issue, or refuse to renew any  
6 registration card issued under section seven of this article,  
7 for any one or combination of the following causes:

9 (a) Fraud or deceit in obtaining a certificate as cer-  
10 tified public accountant, or in obtaining registration under  
11 this article.

12 (b) Dishonesty, fraud or gross negligence in the prac-  
13 tice of public accounting.

14 (c) Violation of a rule of professional conduct promul-  
15 gated by the board under the authority granted by this  
16 article.

17 (d) Conviction of any felony, or any crime, an element  
18 of which is dishonesty or fraud, under the laws of any  
19 state or of the United States.

20 (e) Cancellation, revocation, suspension, or refusal to  
21 renew authority to practice as a certified public account-  
22 ant or a public accountant by any other state, for any  
23 cause other than failure to pay an annual registration  
24 fee in such other state.

25 (f) Habitual drunkenness, addiction to the use of habit-  
26 forming drugs, mental incompetence or gross immorality.

27 (g) Unlawful practice of law as defined by the supreme  
28 court of appeals and/or statutory law of this state.

Sec. 10. *Prohibitions and Penalties; Exceptions.*—Any  
2 person who shall hold himself out as having received the  
3 certificate provided for in this article, or who shall assume  
4 to practice as a certified public accountant, or use the  
5 initials C. P. A. or C. A. or any similar title or abbrevia-  
6 tion tending to mislead the public or likely to be confused  
7 with certified public accountant or C. P. A., without hav-  
8 ing received the certificate and current registration card  
9 provided for in this article, shall be guilty of a misde-  
10 meanor, and, upon conviction thereof, shall be sentenced

11 to pay a fine not exceeding five hundred dollars or im-  
12 prisoned not more than six months, or both, in the discre-  
13 tion of the court.

14 Any person who shall hold himself out or assume to  
15 practice as a public accountant, or uses the initials P. A.  
16 or any similar title or abbreviation tending to mislead  
17 the public or likely to be confused with public accountant  
18 or P. A., without having registered, and without having  
19 received a current registration card provided for in this  
20 article, shall be guilty of a misdemeanor, and, upon con-  
21 viction thereof, shall be sentenced to pay a fine not to  
22 exceed five hundred dollars or imprisoned not more  
23 than six months, or both, in the discretion of the court:  
24 *Provided, however,* That nothing contained in this chapter  
25 shall prohibit any person from engaging in any account-  
26 ancy work for one or more persons so long as such person  
27 does not hold himself out to the public as a certified  
28 public accountant, public accountant, or accountant or  
29 auditor, offering his or her services to all those who may  
30 choose to apply: *Provided further,* That nothing con-  
31 tained in this chapter shall prevent the employment of  
32 uncertified persons or nonpublic accountants in subordi-  
33 nate capacities, by a certified public accountant, or public  
34 accountant, or by a firm or partnership, the members of  
35 which are all holders of certified public accountants' cer-  
36 tificates granted under the laws of this state or duly regis-  
37 tered public accountants. No person registered hereunder  
38 shall engage in the practice of law unless he has been  
39 duly licensed as an attorney under the laws of this state,  
40 and nothing contained herein shall be construed to au-  
41 thorize persons registered hereunder to practice law in  
42 any manner or form unless so licensed.

Sec. 11. *Injunction Against Unlawful Act; Evidence.*—

2 Whenever in the judgment of the board, or any other in-  
3 terested person, any person has engaged, or is about to en-  
4 gage in any acts or practices which constitute, or will con-  
5 stitute, a violation of this article, the board, or such other  
6 interested person, may make application to the appropri-  
7 ate court for an order enjoining such acts or practices,  
8 and upon showing that such person has engaged, or is

9 about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

12 The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, or any other title or abbreviation tending to mislead the public or likely to be confused with certified public accountant or public accountant, shall be prima facie evidence in any action brought under this article that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such person is holding himself out to be a certified public accountant or a public accountant holding a registration card under this article.

Sec. 12. *General Law Applicable.*—Except to the extent that the provisions of this article may be inconsistent therewith, the board shall conform to the requirements prescribed in article one of this chapter.

Sec. 13. *Construction.*—If any provision of this article or the application thereof to anyone or to any circumstances is held invalid, the remainder of the article and the application of such provision to others or other circumstances shall not be affected thereby.

Sec. 14. *Effective Date.*—This article shall take effect on July first, one thousand nine hundred fifty-nine.

## CHAPTER 129

(House Bill No. 173—By Mr. Poindexter and Mr. Casey)

AN ACT to amend and reenact sections four and six, article ten, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article ten by adding thereto a new section, designated section three-a, all relating to veterinarians.

[Passed February 24, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 10. Veterinarians.

### Section

- 3-a. Same; Powers and duties.
- 4. Who may register; examination.
- 6. Annual renewal of registration.

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

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

Sec. 3-a. *Same; Powers and Duties.*—The West Virginia  
2 veterinary board shall examine all qualified applicants for  
3 license to practice veterinary surgery, veterinary medi-  
4 cine, or veterinary dentistry, and it shall license all such  
5 applicants who qualify under applicable statutes.

6 The said board shall have the power to make examina-  
7 tion of all applicants appearing before it as may be  
8 necessary to determine that the applicant is qualified. The  
9 said board shall also have the power to revoke or suspend  
10 any license issued by it, for cause, after having given the  
11 person whose license is sought to be revoked or suspended,  
12 an opportunity to be heard in the manner provided by  
13 section eight, article one, chapter thirty of this code. It  
14 shall have the power to reinstate any license revoked or  
15 suspended by it.

16 The said board is authorized and empowered to hold and  
17 conduct hearings and investigations on the issuance, sus-  
18 pension, revocation or reinstatement of licenses and on  
19 charges of unauthorized practice of veterinary surgery,  
20 veterinary medicine or veterinary dentistry.

21 The said board shall have the power to hire, fix the  
22 compensation of, and discharge such employees as are  
23 necessary for the performance of the powers and duties  
24 vested in the said board by law and to expend such sums  
25 as the said board may deem necessary to carry out and  
26 enforce the provisions of this article.



Section 4. *Who May Register; Examination.*—An applicant for a veterinarian's license shall be a citizen of the United States or shall have filed his first citizenship papers to become such a citizen, and be a graduate of, and possess a diploma from a veterinary college approved by the American veterinary medical association. Any such person shall be allowed to register as a veterinarian who shall pass a satisfactory examination held by the examining board, or any person shall be allowed to register as a veterinarian who has practiced as a veterinarian in this state for ten years or more before the passage of any law by this state regulating such practice. The examination of an applicant for registration as a veterinarian, a veterinary surgeon, or veterinary dentist, shall cover all branches pertaining to veterinary science, and shall be sufficiently strict to test the qualifications of the applicant as a practitioner.

Sec. 6. *Annual Renewal of Registration.*—Every veterinarian registered under any of the preceding sections, who desires to continue in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in West Virginia, shall annually, on or before the first day of July of each year, pay to the secretary of the examining board a renewal fee of not less than one dollar nor more than five dollars as fixed by said board, upon receipt of which the secretary of the examining board shall issue to him a renewal of such registration to practice veterinary medicine, veterinary surgery, and veterinary dentistry in any of the counties of this state.

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## CHAPTER 130

(House Bill No. 193—By Mr. Board)

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, designated article eighteen, relating to licensing of private detectives and investigators and prescribing penalties in connection therewith.

[Passed March 12, 1959; in effect from passage. Approved by the Governor.]

## Article 18. Private Detectives and Investigators.

### Section

1. Licenses required.
2. Application for license; qualifications.
3. Issuance and term of license; fee; bond; disability because of conviction of crime, etc.
4. Renewal of licenses.
5. Authority of the secretary of state; notice and hearing upon refusal, suspension or revocation of license; review by court.
6. Application of article.
7. Disposition of fees.
8. 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, designated article eighteen, to read as follows:

Section 1. *Licenses Required.*—No person, firm, company, partnership or corporation shall engage in the business of private detective or investigator or the business of watch, guard or patrol agency for the purpose of furnishing guards, patrolmen, or other persons to protect persons or property or to prevent the theft or the unlawful taking of goods, wares, merchandise, money, bonds, stocks, documents and other articles of value, or in the business of furnishing or supplying information as to the personal character or activities of any person, firm, company, or corporation, society or association, or any person or group of persons, or as to the character or kind of the business and occupation of any person, firm, company or corporation, or own or conduct or maintain a bureau or agency for the above-mentioned purpose, except as hereinafter provided in section six, for fee, hire or reward, or advertise his or their business to be that of detective or of a detective agency or investigator, or watch, guard or patrol agency, notwithstanding the name or title used in describing such agency or notwithstanding the fact that other functions and services may also be performed for fee, hire or reward, without having first obtained from

23 the office of the secretary of state a license so to do, as  
24 hereinafter provided.

Sec. 2. *Application for License; Qualifications.*—Every  
2 applicant for a license hereunder shall file in the office  
3 of the secretary of state a written application, in such  
4 form as the secretary may prescribe, duly signed and  
5 verified as follows:

6 (1) If the applicant is a person, the application shall  
7 be signed and verified by such person, and if the applicant  
8 is a firm or partnership, the application shall be signed  
9 and verified by each individual composing or intending  
10 to compose such firm or partnership. In addition to such  
11 other information as may be required by the secretary  
12 as to good character, competency and integrity of each  
13 person signing such application, the application shall in-  
14 clude a complete identification of each person so signing  
15 such application and shall state whether the applicant,  
16 if he be a person, has, or, in the case of a firm or partner-  
17 ship, the members or partners, or any of them, have ever  
18 been convicted of a felony or other offense set forth in  
19 section three. The application shall be duly sworn by  
20 each person signing the same and acknowledged before  
21 a person authorized to take oaths and acknowledgment  
22 of deeds. In addition, each person signing such applica-  
23 tion shall submit therewith, statements in writing of no  
24 less than five reputable citizens of this state attesting  
25 the good moral character of each such person.

26 Every such applicant shall establish to the satisfaction  
27 of the secretary of state that such applicant, if he be a  
28 person, or, in the case of a firm, partnership or corpora-  
29 tion, at least one member of such firm, partnership or  
30 corporation, has been regularly employed as a detective  
31 or shall have been a member of any United States gov-  
32 ernment investigative service, a sheriff or member of a  
33 city or state police department, for a period of not less  
34 than three years, or shall have had at least one year's  
35 training in investigative work at an accredited college or  
36 university or licensed private detective agency.

37 (2) If the applicant is a corporation, the application  
38 shall be signed and verified by the president and secretary

39 of such corporation. In addition to such further infor-  
40 mation as may be required by the secretary, each and  
41 every requirement of subdivision (1) of this section as  
42 to a person or individual member of a firm or partnership  
43 shall apply to each and every officer of such corporation.  
44 Each successor of any such officer, prior to entering upon  
45 the discharge of his duties, shall sign and verify a state-  
46 ment, in such form as the secretary may prescribe, set-  
47 ting forth the information required by subdivision (1) of  
48 this section.

Sec. 3. *Issuance and Term of License; Fee; Bond; Disa-*  
2 *bility Because of Conviction of Crime, etc.*—An applicant  
3 for a license hereunder shall pay to the secretary a license  
4 fee of fifty dollars, if the applicant be an individual, or  
5 one hundred dollars, if the applicant be a firm, partner-  
6 ship or corporation, or five hundred dollars, if a nonresi-  
7 dent of West Virginia or a foreign corporation. When the  
8 secretary of state shall be satisfied as to the good charac-  
9 ter, competency and integrity of such applicant, or, if the  
10 applicant be a firm, partnership or corporation, of each  
11 of the individual members or officers thereof, he shall issue  
12 and deliver to such applicant a certificate of license: *Pro-*  
13 *vided*, That such applicant shall file in the office of the  
14 secretary of state a corporate surety bond in the sum of  
15 two thousand five hundred dollars conditioned for the  
16 faithful and honest conduct of such business by such ap-  
17 plicant, which surety bond must be written by a company  
18 recognized and approved by the insurance commissioner  
19 of the state and approved by the attorney general of the  
20 state with respect to its form, manner of execution and  
21 sufficiency. Each license issued hereunder shall be for a  
22 period of one year and shall be revocable at all times for  
23 cause shown.

24 Except as hereinafter provided, no such license shall be  
25 issued to any person who, or to a firm, partnership or  
26 corporation if any member or officer thereof, has been  
27 convicted in this state or any other state or territory of a  
28 felony, or any of the following misdemeanors, or offenses,  
29 to wit: (a) Illegally using, carrying or possessing a pistol  
30 or other dangerous weapon; (b) making or possessing

31 burglar's instruments; (c) buying or receiving stolen  
32 property; (d) unlawful entry of a building; (e) aiding  
33 escape from prison; (f) unlawful possessing or distribut-  
34 ing habit-forming narcotic drugs; or (g) any felony of-  
35 fense involving moral turpitude. The provisions of this  
36 section shall not prevent the issuance of a license to any  
37 person who, subsequent to his conviction, shall have re-  
38 ceived executive pardon therefor removing this disabil-  
39 ity, or who has received a certificate of good conduct  
40 granted by the board of parole to remove the disability  
41 under this section because of such conviction.

Sec. 4. *Renewal of Licenses.*—A license granted under  
2 the provisions of this article may be renewed for a period  
3 of one year by the secretary of state upon application  
4 therefor, by the holder thereof, in such form as the secre-  
5 tary may prescribe, and upon payment of the fee and the  
6 filing of the surety bond as hereinabove provided in sec-  
7 tion three.

Sec. 5. *Authority of the Secretary of State; Notice and*  
2 *Hearing Upon Refusal, Suspension or Revocation of*  
3 *License; Review by Court.*—The secretary of state  
4 shall have the authority to promulgate and enforce such  
5 rules and regulations as he shall deem necessary for  
6 the administration and enforcement of this article and  
7 for the issuance, suspension or revocation of licenses  
8 issued under the provisions of this article.

9 Before denying an application for a license, or a renewal  
10 thereof, or before suspending or revoking any license, the  
11 secretary shall afford said applicant or licensee an op-  
12 portunity to be heard in person or by counsel in reference  
13 thereto, and at least fifteen days prior to the date set for  
14 the hearing on such matter, notify in writing the appli-  
15 cant for, or the holder of, such license of the date of said  
16 hearing. The action of the secretary of state in granting  
17 or renewing, or in refusing to grant or to renew, a license  
18 hereunder, or in revoking or suspending such license,  
19 shall be subject to review by the circuit court of Kanawha  
20 county or other court of competent jurisdiction.

Sec. 6. *Application of Article.*—Nothing in this article  
2 shall apply to any law enforcement officer of the state,

3 or any county, city, town or village thereof, while en-  
4 gaged in the performance of his official duties; nor to any  
5 person, firm, company, partnership, corporation, or any  
6 bureau or agency, whose business is the furnishing of  
7 information as to the business and financial standing, and  
8 credit responsibility of persons, firms, or corporations, or  
9 as to the personal habits and financial responsibility of  
10 applicants for insurance, indemnity bonds or commercial  
11 credit or of claimants under insurance policies; nor to any  
12 corporation duly authorized by the state to operate a  
13 central burglar or fire alarm protection business; nor to  
14 any person while engaged in the business of adjuster for  
15 an insurance company or companies; nor to any person  
16 regularly employed as special agent, detective or investi-  
17 gator exclusively by one employed in connection with the  
18 affairs of that employer only; nor to any charitable or  
19 philanthropic society or association duly incorporated  
20 under the laws of the state and which is organized and  
21 maintained for the public good and not for private profit,  
22 nor shall anything in this article contained be construed  
23 to affect in any way attorneys or counselors at law or any  
24 employee or representative of such attorney or counselor  
25 at law.

Sec. 7. *Disposition of Fees.*—All fees collected hereunder  
2 by the secretary of state shall be paid to the treasurer of  
3 the state and deposited in the general revenue fund.

Sec. 8. *Penalties.*—Any person, firm, partnership or cor-  
2 poration who shall engage in the business of private de-  
3 tective as defined in section one without having first ob-  
4 tained a license as required under this article or who shall  
5 violate any of the other provisions of this article shall  
6 be guilty of a misdemeanor, and, upon conviction thereof,  
7 shall be fined not less than one hundred dollars nor more  
8 than one thousand dollars.

## CHAPTER 131

(House Bill No. 485—By Mr. Myles and Mr. Seibert)

AN ACT to amend article five-a, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-a, relating to the authority of counties to make contributions to the state department of public assistance medical services fund.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 5-a. The State of West Virginia Public Assistance Medical Services Fund.

#### Section

2-a. County contribution to medical services fund.

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

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

#### Section 2-a. *County Contribution to Medical Services*

2 *Fund.* — Any county determined to be a non-state-aid  
3 county by the state department of public assistance and  
4 having funds available to render medical services for re-  
5 cipients of assistance shall be permitted to contribute  
6 such funds into the state of West Virginia public assist-  
7 ance medical services fund. Any such payment shall en-  
8 title the recipients of assistance in said county to the  
9 services provided by the state medical plan. Said county  
10 payment shall be made in the form of a monthly con-  
11 tribution at the same rate as determined by the state  
12 department of public assistance, said rate being equally  
13 applicable on a statewide basis. Any county making such  
14 contributions shall receive the benefits of such federal  
15 grants-in-aid as are available for this purpose under the  
16 federal social security act, as amended.

## CHAPTER 132

(Senate Bill No. 59—By Mr. Martin)

AN ACT to amend article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-four, and to amend and reenact section four, article one thereof, all relating to bonded indebtedness.

[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

### Article 1. Bond Issues for Original Indebtedness.

#### Section

4. Bond issue proposal to be submitted to voters; election order.
34. Bonded indebtedness of school districts and annual tax to be levied and collected to pay same.

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

That article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-four, and by amending and reenacting section four, article one thereof, all to read as follows:

- Section 4. *Bond Issue Proposal to Be Submitted to Voters; Election Order.*—No debt shall be contracted or bonds issued under this article until all questions connected with the same shall have been first submitted to a vote of the qualified electors of the political division for which the bonds are to be issued, and shall have received three fifths of all the votes cast for and against the same. The governing body of any political division referred to in this article may, and when requested so to do by a petition in writing, praying that bonds be issued and stating the purpose and amount thereof, signed by legal voters of the political division equal to twenty per cent of the votes cast in a county or magisterial district for gover-



14 nor, or in a municipal corporation or school district for  
15 mayor or member of the board of education, as the case  
16 may be, shall, by order entered of record, direct that an  
17 election be held for the purpose of submitting to the  
18 voters of the political division all questions connected  
19 with the contracting of debt and the issuing of bonds.  
20 Such order shall state:

21 (a) The necessity for issuing the bonds, or, if a peti-  
22 tion has been filed as provided herein, that such petition  
23 has been filed;

24 (b) If for the construction of a county-district road or  
25 bridge thereon, a summary of the engineer's report pro-  
26 vided for in the following section setting forth the ap-  
27 proximate extent and the estimated cost of the proposed  
28 improvement, and the kind or class of work to be done  
29 thereon;

30 (c) Purpose or purposes for which the proceeds of  
31 bonds are to be expended;

32 (d) Valuation of the taxable property as shown by  
33 the last assessment thereof for state and county purposes;

34 (e) Indebtedness, bonded or otherwise;

35 (f) Amount of the proposed bond issue;

36 (g) Maximum term of bonds and series;

37 (h) Maximum rate of interest;

38 (i) Date of election;

39 (j) If a special election, names of commissioners for  
40 holding same;

41 (k) If registration of voters is necessary, notice of the  
42 time, place and manner of making same;

43 (l) That the levying body is authorized to lay a suffi-  
44 cient levy annually to provide funds for the payment of  
45 the interest upon the bonds and the principal at maturity,  
46 and the approximate rate of levy necessary for this  
47 purpose;

48 (m) In the case of school bonds, that such bonds, to-  
49 gether with all existing bonded indebtedness, will not  
50 exceed in the aggregate five per cent of the value of the  
51 taxable property in such school district ascertained in ac-  
52 cordance with section eight, article ten of the constitu-

tion; and that such bonds will be payable from a direct annual tax levied and collected in each year on all taxable property in such school district sufficient to pay the principal and the interest maturing on such bonds in such year, together with any deficiencies for prior years, within, and not exceeding thirty-four years, which tax levies will be laid separate and apart and in addition to the maximum rates provided for tax levies by school districts on the several classes of property in section one, article ten of the constitution, but in the same proportions as such maximum rates are levied on the several classes of property; and said tax may be levied outside the limits fixed by section one, article ten of the constitution.

Any other provision which does not violate any provision of law, or transgress any principle of public policy, may be incorporated in the order.

*Sec. 34. Bonded Indebtedness of School Districts and Annual Tax to Be Levied and Collected to Pay Same.—* Notwithstanding any other provisions of this article or of any other law to the contrary, every school district, by and through its board of education, shall levy and collect in each year a direct annual tax on all taxable property in such school district sufficient to pay the principal and interest maturing in such year, together with any deficiencies for prior years, within, and not exceeding thirty-four years, on any bonded indebtedness of such school district, now or hereafter contracted, not to exceed five per cent of the value of the taxable property therein to be ascertained in accordance with section eight of article ten of the constitution, which levies shall be laid separate and apart and in addition to the maximum rates provided for tax levies by school districts on the several classes of property specified in article one, section ten of the constitution, but in the same proportions as such maximum rates are levied on the several classes of property, and which tax may be levied outside the limits fixed by said section one, article ten of the constitution.

## CHAPTER 133

(Senate Bill No. 58—By Mr. Martin)

AN ACT to amend article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-five, relating to the bonded indebtedness of counties, magisterial districts and municipal corporations and providing for the levy and collection of taxes to pay the same.

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[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

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### Article 1. Bond Issues for Original Indebtedness.

#### Section

35. Bonded indebtedness of counties, magisterial districts and municipal corporations; levy and collection of taxes to pay the same.

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

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

Section 35. *Bonded Indebtedness of Counties, Magisterial Districts and Municipal Corporations; Levy and Collection of Taxes to Pay the Same.*—Notwithstanding any other provisions of this article or any other law to the contrary, every county, by and through its county court, either for or on behalf of the county, or for and on behalf of any magisterial district, or any group of magisterial districts therein, and any municipal corporation, by and through its council or other governing body in lieu thereof, shall levy and collect in each year a direct annual tax on all the taxable property in such county, magisterial district or districts, or municipality sufficient to pay the principal and interest maturing in such year, together with any deficiencies for prior years, within, and not exceeding thirty-four years, on any bonded indebtedness of

16 such county, magisterial district or districts, or municipi-  
17 pality, as the case may be, now or hereafter contracted,  
18 not to exceed in the aggregate five per cent of the value  
19 of the taxable property therein, to be ascertained in ac-  
20 cordance with section eight, article ten of the constitu-  
21 tion, which levies shall be laid separate and apart and in  
22 addition to the maximum rates provided for tax levies by  
23 such counties, magisterial district or districts, or municipi-  
24 palities, as the case may be, on the several classes of prop-  
25 erty specified in section one, article ten of the constitu-  
26 tion, but in the same proportions as such maximum rates  
27 are levied on the several classes of property, and which  
28 tax may be levied outside the limits fixed by said section  
29 one, article ten of the constitution.

30 The order of the county court, either for or on behalf  
31 of the county or for and on behalf of any magisterial dis-  
32 trict, or any group of magisterial districts therein, or of  
33 any municipal corporation, by its council or other govern-  
34 ing body in lieu thereof, hereafter adopted calling an elec-  
35 tion on the issuance of bonds of such county, magisterial  
36 district or districts, or municipality, as the case may be,  
37 which together with the existing bonded indebtedness of  
38 such county, magisterial district or districts, or municipi-  
39 pality, as the case may be, will not exceed in the aggre-  
40 gate five per cent of the value of the taxable property  
41 in such county, magisterial district or districts, or municipi-  
42 pality, as the case may be, the value to be ascertained in  
43 accordance with section eight, article ten of the consti-  
44 tution, shall contain a statement in substantially the fol-  
45 lowing form:

46 Such bonds, together with all existing bonded indebted-  
47 ness of such county, magisterial district or districts, or  
48 municipality, as the case may be, will not exceed in the  
49 aggregate five per cent of the value of the taxable prop-  
50 erty in such county, magisterial district or districts, or  
51 municipality, as the case may be, ascertained in accord-  
52 ance with section eight, article ten of the constitution;  
53 and that such bonds will be payable from a direct annual  
54 tax levied and collected in each year on all taxable prop-  
55 erty in such county, magisterial district or districts, or  
56 municipality, as the case may be, sufficient to pay the

57 principal and interest maturing on such bonds in such  
58 year, together with any deficiencies for prior years, with-  
59 in, and not exceeding thirty-four years, which tax levies  
60 will be laid separate and apart and in addition to the max-  
61 imum rates provided for tax levies by counties, magis-  
62 terial district or districts, or municipalities, as the case  
63 may be, on the several classes of property specified in sec-  
64 tion one, article ten of the constitution, but in the same  
65 proportions as such maximum rates are levied on the sev-  
66 eral classes of property; and said tax may be levied out-  
67 side the limits fixed by section one, article ten of the con-  
68 stitution.

## CHAPTER 134

(Senate Bill No. 165—By Mr. Wylie)

AN ACT to amend article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-a, relating to the promotion of mental health by the state department of health.

[Passed March 13, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 1. State Department of Health.

#### Section

10-a. Promotion of mental health.

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

That article one, 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 ten-a, to read as follows:

Section 10-a. *Promotion of Mental Health.*—The state  
2 board of health, and county, municipal, and combined  
3 local boards of health, in cooperation and coordination

4 with the state department of mental health, may promote  
5 mental health by providing and making available per-  
6 sonnel and facilities, and conducting mental health pro-  
7 grams and activities, to prevent, detect and control men-  
8 tal defects and diseases, and to provide, outside of state  
9 mental institutions and mental health clinics, for care,  
10 supervision and treatment of persons with mental defects  
11 or afflicted with mental diseases.

12 For the purpose of promoting mental health, the state  
13 board of health, and county, municipal, and combined  
14 local boards of health may train, or provide for the train-  
15 ing of, their employees in the problems, maintenance and  
16 treatment of mental health. With the consent of the state  
17 department of mental health, the state board of health,  
18 and county, municipal, and combined local boards of  
19 health, may train their employees in mental health by  
20 using such professional services and facilities as may be  
21 available at the state mental hospitals and state mental  
22 health clinics for such training. Any facilities or personnel  
23 of the state department of mental health used or em-  
24 ployed in such training shall be so used or employed  
25 only under the supervision and control of the state de-  
26 partment of mental health.

27 The state board of health, in cooperation with the state  
28 department of mental health, may also promote mental  
29 health by conducting and carrying on mental health pro-  
30 grams in the public schools, or elsewhere in this state, in  
31 cooperation with state and local boards of education, or  
32 in cooperation with other public or private institutions  
33 and agencies.

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## CHAPTER 135

(House Bill No. 184—By Mrs. Drewry and Mrs. Walker)

AN ACT to amend article two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five, relating to contracts between municipalities, counties and boards of education, and local boards of health,

for public health services and the use of public health facilities.

[Passed March 3, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 2. Local Health Officers.

### Section

#### 5. Contracts for public health services and facilities.

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

That article two, 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 five, to read as follows:

Section 5. *Contracts for Public Health Services and Facilities.*—Any municipality, county or board of education, may contract with any local board of health created, operated or existing under any provision of this chapter, for the rendering or providing of local health services or for the use of public health facilities. Any such contract may provide for payment, by such municipality, county or board of education, to such local board of health for such services or the use of such facilities, of a fixed sum of money on an annual, quarterly, or other periodic basis.

All of such contracts shall be in writing and limited in duration to not more than one fiscal year, with provision for renewal, by agreement of the parties, for successive like periods.

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## CHAPTER 136

(House Bill No. 186—By Mrs. Drewry and Mrs. Walker)

AN ACT to amend and reenact section six, article two-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the raising

and appropriation of funds for, the payment of funds to, and the receipt and disposition of funds by, local boards of health.

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[Passed March 11, 1959; in effect ninety days from passage. Approved by the Governor.]

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## **Article 2-a. Alternative Method of Organizing Local Health Agencies.**

### **Section**

6. County and municipal health officers; levy; receipt and disposition of funds by local boards of health.

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

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

### *Section 6. County and Municipal Health Officers; Levy;*

2 *Receipt and Disposition of Funds by Local Boards of*  
3 *Health.*—The county court of any county or the govern-  
4 ing body of any municipality in which a county or municipi-  
5 pal health officer is appointed pursuant to the provisions  
6 of this article, shall have the power and authority to  
7 provide funds for the payment of such health officer and  
8 the expenses of his administration, and for that purpose  
9 may levy a county or municipal tax, as the case may be,  
10 of not exceeding three cents on each one hundred dollars'  
11 assessed valuation of the taxable property in such county  
12 or municipality according to the last assessment thereof.

13 Any county or municipality may, whether it has exer-  
14 cised the power to lay the special levy hereinbefore pro-  
15 vided for or not, appropriate and expend money from the  
16 county or municipal general fund for public health pur-  
17 poses and to pay the expenses of operation and administra-  
18 tion of a county or municipal board of health and the public  
19 health facilities operated thereby or in conjunction there-  
20 with.



21 Any county or municipality in which there is a board  
22 of health created and maintained pursuant to the pro-  
23 visions of this article, may accept, receive and receipt for  
24 money or property from any federal, state, or local govern-  
25 mental agency, or from any public or private source, to be  
26 used for public health purposes, or for the establishment  
27 or construction of public health facilities. The state de-  
28 partment of health is hereby authorized and empowered  
29 to pay over and contribute to any board of health created  
30 and maintained pursuant to the provisions of this article  
31 such sum or sums of money as may be available from  
32 funds included in appropriations made for the state de-  
33 partment of health for such purpose. The amount of  
34 any such payment or contribution by the state depart-  
35 ment of health to any such local board of health shall  
36 be determined in accordance with regulations estab-  
37 lished by the state board of health. Such regulations  
38 shall provide a fixed formula for determining the amount  
39 of any payment or contribution, and this formula shall  
40 be uniformly applied in determining the amount of any  
41 payment or contribution to any such local board. All  
42 moneys accepted by any county or municipality pur-  
43 suant to the provisions of this paragraph shall be de-  
44 posited in the county or municipal treasury, and unless  
45 otherwise prescribed by the authority from which the  
46 money is received, shall be kept in separate funds,  
47 designated according to the purposes for which the  
48 money was made available, and held by the county or  
49 municipality in trust for such purposes: *Provided, how-*  
50 *ever,* That nothing contained in this section shall be con-  
51 strued to conflict with the provisions of section fifteen,  
52 article one, chapter sixteen of this code.

53 Expenditures from the county or municipal public  
54 health funds established under this article shall be paid  
55 out by the county or municipal treasurer upon sub-  
56 mission of vouchers approved by the county or municip-  
57 al board of health and signed by the county or municip-  
58 al health officer.

## CHAPTER 137

(Senate Bill No. 315—By Mr. Moats)

AN ACT to amend and reenact section nineteen, article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certain duties of the state registrar of vital statistics and county registers of births and deaths.

[Passed March 11, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 5. Vital Statistics.

#### Section

19. State registrar; duties; state and county registers of births and deaths; classification of diseases; private records filed with state registrar; transcripts.

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

That section nineteen, article five, 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 19. *State Registrar; Duties; State and County Registers of Births and Deaths; Classification of Diseases; Private Records Filed with State Registrar; Transcripts.*—
- 2 The state registrar shall prepare, print and supply to all  
3 registrars all blanks and forms necessary for registering,  
4 recording and preserving the state records, and shall pre-  
5 pare and issue such detailed instructions as may be re-  
6 quired to procure the uniform observance of its provi-  
7 sions and the maintenance of a perfect system of regis-  
8 tration; and no other blanks shall be used than those sup-  
9 plied by the state registrar. He shall carefully examine  
10 the certificates received monthly from the local registrars,  
11 and if any such are incomplete or unsatisfactory, he shall  
12 require such further information to be supplied as may  
13 be necessary to make the record complete and satisfac-  
14 tory. All physicians, midwives, informants, or under-

17 takers, and other persons having knowledge of the facts,  
18 are hereby required to supply, upon a form provided by  
19 the state registrar or upon the original certificate, such  
20 information as they may possess regarding any birth or  
21 death, upon demand of the state registrar, in person, by  
22 mail, or through the local registrar: *Provided*, That no  
23 certificate of birth or death, after its acceptance for regis-  
24 tration by the local registrar, and no other record made  
25 in pursuance of this article, shall be altered or changed  
26 in any respect otherwise than by amendments properly  
27 dated, signed and witnessed. The state registrar shall fur-  
28 ther arrange, bind and permanently preserve the certifi-  
29 cates in a systematic manner, and shall compile there-  
30 from a record of such births and deaths and shall enter  
31 the same in a systematic and orderly way in a well-bound  
32 register of births and a well-bound register of deaths,  
33 respectively, for the state, and shall prepare and maintain  
34 a comprehensive and continuous index of all births and  
35 deaths registered. The index shall be arranged alphabeti-  
36 cally, in the case of deaths, by the names of decedents,  
37 and in the case of births, by the names of the children,  
38 where stated, as well as of the fathers and mothers, sub-  
39 ject, however, to the provisions of sections seven and four-  
40 teen of this article. He shall inform all registrars what  
41 diseases are to be considered infectious or communicable  
42 and dangerous to the public health, as decided by the state  
43 public health council, in order that when deaths occur  
44 from such diseases proper precautions may be taken to  
45 prevent their spread.

46 In order that each county may have a complete record  
47 of the births and deaths occurring in said county, the state  
48 registrar shall transmit each month, to the several county  
49 clerks, the copies of the certificates of all births and deaths  
50 occurring in their respective counties furnished by the lo-  
51 cal registrars, and if any person shall die in a county other  
52 than that county within the state in which such person  
53 last resided prior to death, then the state registrar shall,  
54 if possible, also furnish a copy of such death certificate to  
55 the clerk of the county court of the county wherein such  
56 person last resided, from which copies the clerk shall com-  
57 pile a record of such births and deaths and shall enter the

58 same in a systematic and orderly way in a well-bound  
59 register of births and a well-bound register of deaths,  
60 respectively, for that county, which said registers shall  
61 be public records: *Provided*, That such copies and regis-  
62 ters shall not state that any child was either legitimate  
63 or illegitimate. The form of said registers of births and  
64 deaths shall be prescribed by the state registrar of vital  
65 statistics.

66 If any cemetery company or association, or any church  
67 or historical society or association, or any other company,  
68 society, or association, or any individual, is in possession  
69 of any record of births or deaths which may be of value  
70 in establishing the genealogy of any resident of this state,  
71 such company, society, association or individual may file  
72 such record, or a duly authenticated transcript thereof,  
73 with the state registrar, and it shall be the duty of the  
74 state registrar to preserve such record or transcript and  
75 to make a record and index thereof in such form as to fa-  
76 cilitate the finding of any information contained therein.  
77 Such record and index shall be open to inspection by the  
78 public, subject to such reasonable conditions as the state  
79 registrar may prescribe. If any person desires a transcript  
80 of any such record, the state registrar shall furnish the  
81 same upon application, together with a certificate that it  
82 is a true copy of such record, as filed in his office, and for  
83 his services in so furnishing such transcript and certifi-  
84 cate he shall be entitled to a fee of fifty cents per hour or  
85 fraction of an hour necessarily consumed in making such  
86 transcript, and to a fee of twenty-five cents for the certifi-  
87 cate, which fees shall be paid by the applicant.

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## CHAPTER 138

(Senate Bill No. 48—By Mr. Traubert)

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AN ACT to amend and reenact section one, article eight-a, chap-  
ter sixteen of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, relating to definitions of  
certain words and phrases dealing with narcotic drugs.

[Passed March 4, 1959; in effect from passage. Approved by the Governor.]

## Article 8-a. Narcotic Drugs.

### Section

#### 1. Definitions.

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

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

Section 1. *Definitions.*—The following words and phrases, as used in this article, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, co-partnership or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in the state and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who, by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include a pharmacist who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not prescriptions.

(7) "Pharmacist" means a licensed pharmacist as defined by the laws of this state.

(8) "Pharmacy owner" means the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a registered pharmacist; but nothing in this article contained shall be construed as conferring on a person who is not registered or licensed

30 as a pharmacist any authority, right or privilege that is  
31 not granted to him by the pharmacy laws of this state.

32 (9) "Hospital" means an institution for the care and  
33 treatment of the sick and injured, approved by the state  
34 board of pharmacy as proper to be entrusted with the cus-  
35 tody of narcotic drugs and the professional use of nar-  
36 cotic drugs under the direction of a physician, dentist or  
37 veterinarian.

38 (10) "Laboratory" means a laboratory approved by the  
39 state board of pharmacy as proper to be entrusted with the  
40 custody of narcotic drugs and the use of narcotic drugs for  
41 scientific and medical purposes and for purposes of in-  
42 struction.

43 (11) "Sale" includes barter, exchange, or offer there-  
44 for, and each such transaction made by any person,  
45 whether as principal, proprietor, agent, servant or em-  
46 ployee.

47 (12) "Coca leaves" includes cocaine and any compound,  
48 manufacture, salt, derivative, mixture, or preparation of  
49 coca leaves, except derivatives of coca leaves which do not  
50 contain cocaine, ecognine, or substances from which co-  
51 caine or ecognine may be synthesized or made.

52 (13) "Opium" includes morphine, codeine, and heroin,  
53 and any compound, manufacture, salt, derivative, mixture  
54 or preparation of opium.

55 (14) "Cannabis" includes all parts of the plant cannabis  
56 sativa L., whether growing or not; the seeds thereof; the  
57 resin extracted from any part of the plant; and every  
58 compound, manufacture, salt, derivative, mixture, or prep-  
59 aration of such plant, its seeds, or resin; but shall not in-  
60 clude the mature stalks of such plant, fiber produced from  
61 such stalks, oil or cake made from the seeds of such plant,  
62 or any other compound, manufacture, salt, derivative,  
63 mixture, or preparation of such mature stalks (except the  
64 resin extracted therefrom), fiber, oil, or cake, of the ster-  
65 ilized seed of such plant which is incapable of germina-  
66 tion.

67 (15) "Narcotic drugs" means coca leaves, opium, isoni-  
68 pecaine, cannabis, and every other substance neither  
69 chemically nor physically distinguishable from them, and  
70 any other drugs to which the federal laws relating to nar-

71 cotic drugs may now apply, and any drug hereafter found  
72 by the state board of pharmacy to have an addiction-  
73 forming or addiction-sustaining liability similar to mor-  
74 phine or cocaine.

75 (16) "Federal narcotic laws" means the laws of the  
76 United States relating to opium, coca leaves, cannabis, and  
77 other narcotic drugs.

78 (17) "Official written order" means an order written  
79 on a form provided for that purpose by the United States  
80 commissioner of narcotics, under any laws of the United  
81 States making provision therefor, if such order forms are  
82 authorized and required by federal law, and if no such or-  
83 der form is provided, then on an official form provided for  
84 that purpose by the state board of pharmacy.

85 (18) "Dispense" includes distribute, leave with, give  
86 away, dispose of, or deliver.

87 (19) "Registry number" means the number assigned to  
88 each person registered under the federal narcotic laws.

89 (20) "Isonipeccaine" means the substance identified  
90 chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic  
91 acid ethyl ester, or any salt thereof, by whatever trade  
92 name identified.

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## CHAPTER 139

(House Bill No. 128—By Mr. Robertson and Mr. Haught)

AN ACT to amend sections one, two, three, five, six, seven, eight, eleven and twelve, article fourteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of barbering, beauty culture and manicuring and of schools of barbering and beauty culture.

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[Passed February 27, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 14. Barbering, Beauty Culture and Manicuring.

#### Section

1. Division of barbers and beauticians; committee; certificate of registration.

2. Barbering, beauty culture and manicuring defined.
3. Committee; chairman to approve and enforce rules and regulations; secretary; expenses of members; powers and duties of committee; inspectors.
5. Qualifications of applicants; fees; examination; registration certificates.
6. Renewal of registration; fee.
7. Student's permit; qualifications; fee.
8. Display of certificate of registration.
11. Health certificates required before certificate of registration issued.
12. Requirements to operate shops and schools; sanitary rules and regulations.

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

That sections one, two, three, five, six, seven, eight, eleven and twelve, article fourteen, 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 1. *Division of Barbers and Beauticians; Committee; Certificate of Registration.*—There is hereby created in the state department of health, and under its jurisdiction, a division of barbers and beauticians. There is also hereby created a state committee of barbers and beauticians, hereinafter called the committee.

It shall be unlawful for any person to practice or offer to practice barbering, beauty culture or manicuring in this state without first obtaining a certificate of registration for such purpose from the committee.

Sec. 2. *Barbering, Beauty Culture and Manicuring Defined.*—For the purpose of this article "barbering" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to-wit: Shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, antiseptics, cosmetics, powders, clays or other preparations; and any such acts when done to encourage the use or sale of articles of trade, or for pay, rewards or other compensation, whether to be received directly or indirectly.

"Beauty culture" shall mean any one or combination of the following acts, when done on the human body,



16 and not for the treatment of disease, to-wit: The care,  
17 preservation and beautification of the hands and nails,  
18 commonly called manicuring; the cleansing, curling, wav-  
19 ing, permanent waving, straightening, arranging, dress-  
20 ing, bleaching, tinting, coloring and shaping the hair,  
21 including such cutting of the hair as is necessary for the  
22 purposes mentioned in this paragraph; the application  
23 to, or treatment and massage of, the scalp, face, neck,  
24 arms, hands, or upper part of the body with oils, creams,  
25 lotions, powders, clays, cosmetics, antiseptics, or other  
26 preparations; and any such acts when done to en-  
27 courage the use or sale of articles of trade, or for pay,  
28 reward or other compensation, whether to be received  
29 directly or indirectly.

30 "Manicuring," when done on the human body and not  
31 for the treatment of disease, shall mean the care, preser-  
32 vation and beautification of the hands and nails only.

33 The performance of any of the acts enumerated in this  
34 section shall not be deemed barbering, beauty culture or  
35 manicuring when done by duly licensed physicians, sur-  
36 geons, nurses, or morticians, in the proper discharge of  
37 their professional duties.

Sec. 3. *Committee; Chairman to Approve and Enforce*  
2 *Rules and Regulations; Secretary; Expenses of Members;*  
3 *Powers and Duties of Committee; Inspectors.*—The com-  
4 mittee shall consist of the director of health, ex officio,  
5 and four other members to be appointed by the governor,  
6 by and with the advice and consent of the senate, to  
7 serve at the will and pleasure of the governor. Of the  
8 four members thus appointed, one shall be an employing  
9 barber, one an employee barber, one an employing beauti-  
10 cian, and one an employee beautician. One of the four  
11 so appointed shall be a member of the Negro race. Each  
12 member of the committee so appointed shall have been  
13 engaged within this state in the practice of barbering  
14 or beauty culture, as the case may be, for a period of  
15 eight years immediately prior to his appointment, and  
16 not more than two of the four members of the committee  
17 so appointed shall belong to the same political party.

18 On or before the thirtieth day of June of each year the  
19 governor shall appoint one member of the committee to

20 serve for a term of four years, to begin on the first day  
21 of July. Any member of the committee shall be eligible  
22 for reappointment.

23 The director of health shall be ex officio chairman of  
24 the committee, and the enforcement of all rules and  
25 regulations promulgated by the committee pertaining  
26 to sanitary conditions of barbering and beauty shops  
27 and pertaining to the registration and qualifications of  
28 barbers, beauticians and manicurists shall be under his  
29 supervision and direction; no order, rule or regulation  
30 promulgated by the committee shall be in force and  
31 effect until approved by the director of health. The com-  
32 mittee shall designate one of its members, or some other  
33 person, to act as secretary of the committee, and it shall  
34 be the duty of the secretary to perform such duties as  
35 may be prescribed by the committee.

36 Each member of the committee, except the chairman,  
37 shall receive as compensation a per diem of fifteen dol-  
38 lars for each day he is in attendance upon the sessions of  
39 the committee, but such compensation for each member  
40 shall not exceed the sum of three hundred dollars in any  
41 calendar year. Each member shall be reimbursed for  
42 actual and necessary expenses incurred in the perform-  
43 ance of his duties, upon presentation of an itemized  
44 sworn statement thereof.

45 The committee shall examine all applicants for certifi-  
46 cates of registration and shall issue certificates to those  
47 entitled thereto; collect examination and registration fees;  
48 promulgate rules and regulations governing the opera-  
49 tion of barber shops, beauty shops, and schools of bar-  
50 bering and beauty culture, including the prescribing of  
51 curriculums and standards of instructions for such  
52 schools; promulgate rules and regulations for the physi-  
53 cal examination of barbers, beauticians, manicurists,  
54 junior barbers and beauticians, and students, and fix the  
55 standard form of report of such examinations; establish  
56 and enforce sanitary regulations in barber shops, beauty  
57 shops, and schools of barbering and beauty culture; en-  
58 force all such rules and regulations as are herein author-  
59 ized; and do all other things necessary to effectuate the

60 purposes of this article in the interest and protection of  
61 public health.

62 The director of health shall appoint not to exceed six  
63 inspectors, who shall be registered barbers and beauti-  
64 cians of this state, as herein provided, and it shall be their  
65 duty to make frequent inspections of all barber and  
66 beauty shops, and all schools of barbering and beauty  
67 culture in this state, and to report all violations to the  
68 director of health. The salaries and allowances for ex-  
69 penses of such inspectors shall be that fixed and allowed  
70 by the director of health and approved by the director of  
71 the budget, pursuant to his power to classify employment  
72 in the state government and its agencies.

Sec. 5. *Qualifications of Applicants; Fees; Examination;*  
2 *Registration Certificates.*—An applicant for registration  
3 as a barber, beautician or manicurist shall present satis-  
4 factory evidence that he or she is at least eighteen years  
5 of age, of good moral character and temperate habits, has  
6 completed at least the eighth grade of school, or the  
7 equivalent thereof, and has been graduated from a school  
8 of barbering or beauty culture approved by the state com-  
9 mittee of barbers and beauticians, or in the case of a  
10 manicurist has successfully completed an approved course  
11 in manicuring in such a school, and shall transmit with  
12 his application an examination fee of twenty dollars. The  
13 examination shall be of such character as to determine  
14 the qualifications and fitness of the applicant to practice  
15 barbering, beauty culture or manicuring as defined by  
16 this article, and shall cover such subjects germane to the  
17 inquiry as the committee may deem proper. If an appli-  
18 cant for registration as a barber or beautician successfully  
19 passes such examination and is otherwise duly qualified,  
20 as required by this section, the committee shall register the  
21 applicant as a duly qualified junior barber or beautician,  
22 for which certificate, or renewal thereof, the fee shall be  
23 five dollars. Upon proof that the holder of such a cer-  
24 tificate has served as a junior barber or beautician for a  
25 period of not less than twelve months from the original  
26 date of such certificate, accompanied by a certificate of  
27 health from a duly licensed physician, the committee  
28 shall issue to the applicant a certificate of registration

29 authorizing the applicant to practice barbering or beauty  
30 culture in this state. Any person who is able to furnish  
31 satisfactory proof that he has practiced barbering or  
32 beauty culture for at least twelve months prior to exami-  
33 nation, and any applicant for registration as a manicurist,  
34 may be registered as a duly qualified barber, beautician  
35 or manicurist immediately after he has passed the ex-  
36 amination. The committee shall charge for every such  
37 certificate of registration, or renewal thereof, issued by it,  
38 a fee of ten dollars.

39 Any person who meets the requirements of this section  
40 as to age, character and health, who is a graduate of a  
41 recognized school of barbering or beauty culture in an-  
42 other state, or has successfully completed an approved  
43 course in manicuring in such a school, and who holds a  
44 current certificate as a registered barber, beautician or  
45 manicurist in another state, may file with the committee  
46 an application for registration without examination, to-  
47 gether with a fee of twenty dollars. If in the opinion of  
48 the committee such applicant has had a prescribed course  
49 of instruction in barbering, beauty culture or manicuring  
50 equivalent to that required in this state at the time such  
51 course was completed, or is otherwise properly qualified,  
52 the committee may without examination issue to such  
53 applicant a certificate of registration as a duly qualified  
54 barber, beautician or manicurist.

Sec. 6. *Renewal of Registration; Fee.*—Every registered  
2 barber, beautician or manicurist who desires to continue  
3 in active practice or service shall, annually on or before  
4 the first day of January, renew his certificate of regis-  
5 tration and pay an annual renewal fee of ten dollars.  
6 For any renewal which is more than thirty days late, a  
7 penalty of two dollars shall be added to the regular re-  
8 newal fee. Every registered barber, beautician or mani-  
9 curist who does not desire to continue in active practice,  
10 shall notify the committee in writing and shall, during  
11 such period, be listed by the committee as being inactive,  
12 and shall not be required to renew his certificate until  
13 such time as he shall again become active, and during

14 such inactive period he or she shall not be liable for any  
15 renewal fees.

Sec. 7. *Student's Permit; Qualifications; Fee.*—All students, before entering upon their studies in approved schools of barbering or beauty culture in this state, shall apply for and receive a student's permit from the committee. The application shall be upon forms provided by the committee and shall include a health certificate from a duly licensed physician. An applicant for registration as a student shall present satisfactory evidence that he or she is at least seventeen years of age, of good moral character and temperate habits, and has completed at least the eighth grade of school or the equivalent thereof. Upon receipt of a fee of five dollars, the committee shall register each qualified applicant as a student barber, beautician or manicurist and shall issue the appropriate student's permit, which shall be good during the prescribed period of study for such student. A student may perform any or all acts constituting barbering, beauty culture or manicuring in a school of barbering or beauty culture under the immediate supervision of a registered instructor, but not otherwise.

Sec. 8. *Display of Certificate of Registration.*—Every person practicing barbering, beauty culture or manicuring and every student and junior barber and beautician shall display his certificate of registration or renewal thereof in a conspicuous place in the shop wherein he practices or is employed and whenever required shall exhibit such certificate to the state committee of barbers and beauticians or its authorized representative.

Sec. 11. *Health Certificates Required Before Certificate of Registration Issued.*—No person shall practice barbering, beauty culture or manicuring, or serve as a student or junior barber or beautician in this state while having an infectious, contagious or communicable disease. No person shall be registered as a barber, beautician, manicurist or student until he or she shall have obtained a certificate of health from a licensed physician under article three of this chapter certifying such person to be

10 free of all infectious, contagious and communicable dis-  
11 eases. Such certificate shall be filed with the state com-  
12 mittee of barbers and beauticians within ten days after  
13 the examination of the person is made by the physician,  
14 and a photograph of the applicant must accompany the  
15 application with such certificate. The certificate shall be  
16 in such form as the committee may prescribe. The com-  
17 mittee shall be empowered to compel any registered bar-  
18 ber, beautician, manicurist, student, or junior barber or  
19 beautician, to submit to a physical examination and file a  
20 certificate of health at any reasonable time.

Sec. 12. *Requirements to Operate Shops and Schools;*  
2 *Sanitary Rules and Regulations.*—It shall be unlawful for  
3 any person, firm or corporation to own or operate a beauty  
4 or barber shop, or a school of beauty culture or barbering,  
5 or to act as a barber, beautician or manicurist, unless:  
6 (a) Such beauty shop, barber shop, or school of beauty  
7 culture or barbering shall before opening its place of  
8 business to the public, have been approved by the com-  
9 mittee as having met all the requirements and qualifica-  
10 tions for such places of business as are required by this  
11 article and for this purpose. It shall be the duty of the  
12 owner or operator of each such beauty shop, barber shop,  
13 or school of beauty culture or barbering to notify the  
14 committee, in writing, at least ten days before the pro-  
15 posed opening date of such shop or school, whereupon it  
16 shall become the duty of the committee, through the in-  
17 spectors herein provided for, to inspect such shop or  
18 school. Upon given notice of the opening of any such  
19 shop or school, the owner or operator thereof shall pay  
20 to the committee an inspection fee of twenty-five dollars.  
21 In the event the shop or school fails to meet the require-  
22 ments of this article and is not approved, the inspection  
23 fee shall be returned to the person paying same. Any  
24 shop or school meeting the prescribed requirements shall  
25 be granted a certificate permitting it to do business as  
26 such. If, however, after the lapse of ten days after the  
27 giving of such notice of opening to the committee, an  
28 inspection is not made or such certificate of opening has  
29 not been granted or refused, the owner or operator of

30 such shop or school may open provisionally subject to  
31 later acquirement of such certificate and to all other pro-  
32 visions, rules and regulations provided for in this article;

33 (b) All such shops and schools, and bathrooms, toilets  
34 and adjoining rooms used in connection therewith, are  
35 kept clean, sanitary, well-lighted and ventilated at all  
36 times. The use of chunk alum, powder puffs and styptic  
37 pencils in any such shop or school is prohibited;

38 (c) Each barber, beautician, manicurist, instructor,  
39 junior barber and beautician, and student, shall thor-  
40 oughly cleanse his or her hands with soap and water im-  
41 mediately before serving any patron;

42 (d) Each patron is served with clean, freshly laun-  
43 dered linen which is kept in a closed cabinet used for that  
44 purpose alone. All linens, immediately after being used,  
45 shall be placed in a receptacle used for that purpose alone.

46 The committee shall prescribe such other rules and  
47 regulations in regard to sanitation and cleanliness in such  
48 shops and schools as it may deem proper and necessary  
49 and shall have power to enforce compliance therewith.  
50 Such rules and regulations shall be kept posted in a con-  
51 spicuous place in each shop or school.

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## CHAPTER 140

(Senate Bill No. 20—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend and reenact section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the method of payment of moneys due the state into the state treasury and the disposition thereof.

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[Passed March 13, 1959; in effect from passage. Approved by the Governor.]

### Article 2. Payment and Deposit of Taxes and Other Amounts Due the State or Any Political Subdivision.

#### Section

2. Method of payment by state officials and employees; credit to state fund; exceptions.

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

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

Section 2. *Method of Payment by State Officials and Employees; Credit to State Fund; Exceptions.*—All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury and shall deposit promptly with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. When so paid, such moneys shall be credited to the state fund and treated by the auditor and treasurer as part of the general revenue of the state, and shall not be used for any purpose whatsoever unless and until authorized and directed by the Legislature, except the following funds:

(a) All moneys received out of appropriations made by the Congress of the United States;

(b) All funds derived from the sale of farm and dairy products;

(c) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;

(d) All fees and funds collected at state educational institutions for student activities;

(e) All funds derived from collections from dormitories, boarding houses, cafeterias and road camps;

(f) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;

(g) All insurance collected on account of losses by fire and refunds;

(h) All funds derived from bookstores and sales of blank paper and stationery, and collections by the chief inspector of public offices;

(i) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking funds, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state



37 interest and sinking fund, state compensation funds, the  
38 fund maintained by the public service commission for the  
39 investigation and supervision of applications and licenses  
40 under article nine, chapter thirty-one of this code, and all  
41 funds and moneys payable to or received by the conserva-  
42 tion commission of West Virginia;

43 (j) All moneys collected or received under any act of  
44 the Legislature providing that funds collected or received  
45 thereunder shall be used for specific purposes.

46 All moneys, excepted as aforesaid, shall be paid into the  
47 state treasury in the same manner as collections not so  
48 excepted, and shall be carried in separate accounts to be  
49 used and expended only for the purposes for which the  
50 same are authorized to be collected by law. The gross  
51 amount collected in all cases shall be paid into the state  
52 treasury, and commissions, costs and expenses of collec-  
53 tion authorized by general law to be paid out of the gross  
54 collection are hereby authorized to be paid out of the  
55 moneys collected and paid into the state treasury in the  
56 same manner as other payments are made from the state  
57 treasury.

58 The official or employee making such deposits in the  
59 state treasury shall prepare such deposit lists in triplicate  
60 in such manner and upon such report forms as may be  
61 prescribed by the commissioner of finance and administra-  
62 tion. The original of this report shall accompany the de-  
63 posit to the treasurer's office. Certified or receipted copies  
64 shall be immediately forwarded by the official or employee  
65 making such deposit to the state auditor and to the com-  
66 missioner of finance and administration, and a copy shall  
67 be kept by the official or employee making the report and  
68 shall become a part of his permanent record.

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## CHAPTER 141

(Senate Bill No. 22—By Mr. Bean, Mr. President, and Mr. Carrigan)

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AN ACT to amend and reenact section five, article four, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the duties of the state auditor with respect to individual accounts.

[Passed March 13, 1959; in effect from passage. Approved by the Governor.]

#### **Article 4. Accounts, Reports and General Provisions.**

##### **Section**

5. Individual accounts; auditor to notify sureties when sheriff defaults.

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

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

Section 5. *Individual Accounts; Auditor to Notify Sureties When Sheriff Defaults.*—There shall be kept in the auditor's office all necessary and proper accounts of persons having pecuniary transactions with the state, and especially accounts of all persons employed in the collection of any part of the public revenue, including the school fund. In case of a default made by any sheriff in the prompt payment of money due from him as such sheriff of his county, it shall be the duty of the auditor, within sixty days after default is made by such sheriff, to notify the sureties on the official bond of such sheriff. In such notice to the sureties, the amount of indebtedness of such sheriff shall be stated, including all the funds due to the state from such sheriff, and the auditor shall also lodge a copy of such notice with the clerk of the county court of the county of such defaulting sheriff, and with the state tax commissioner.

## **CHAPTER 142**

(Com. Sub. for House Bill No. 218—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 13, 1959; in effect July 1, 1959. Approved by the Governor.]

**Article 2. Department of Public Safety.****Section**

3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

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

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

Section 3. *Companies and Platoons and how Constituted; Training of Members and other Peace Officers; Salaries and Bonds of Members.*—The superintendent shall create, appoint and equip a department of public safety which shall, in addition to the personnel provided for in section two of this article, consist of four companies or platoons. Each company or platoon shall be composed of one captain, one lieutenant, one first sergeant, five sergeants, ten corporals and such number of troopers as the superintendent may decide best, but such number of troopers in any company or platoon shall not at any time be less than twenty-five nor more than sixty-five.

The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in service 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 eight hundred twenty dollars; captains shall each receive an annual salary of five thousand forty dollars; lieutenants shall each receive an annual salary of four thousand seven hundred forty dollars; the master sergeants and first sergeants shall each receive an annual salary of four thousand three hundred eighty dollars; sergeants shall each receive an annual salary of four

32 thousand two hundred dollars; corporals shall each re-  
33 ceive an annual salary of four thousand eighty dollars;  
34 and each newly enlisted trooper shall receive a salary of  
35 two hundred fifty dollars during the period of his basic  
36 training, and upon the satisfactory completion of such  
37 training and assignment to active duty each such trooper  
38 shall receive, during the remainder of his first year's  
39 service, a salary of three hundred dollars monthly. During  
40 the second year of his service in the department each  
41 trooper shall receive an annual salary of three thousand  
42 seven hundred twenty dollars; during the third year of  
43 his service each trooper shall receive an annual salary of  
44 three thousand eight hundred forty dollars; and during  
45 the fourth and fifth years of his service each trooper shall  
46 receive an annual salary of three thousand nine hundred  
47 sixty dollars. Each member of the department entitled  
48 thereto by the provisions hereof shall receive an increase  
49 in salary over that hereinbefore set forth in this section,  
50 for grade and rank, based on length of service, including  
51 that heretofore and hereafter served, with the department,  
52 as follows: For each five-year period of service with the  
53 department from the date of first enlistment, each mem-  
54 ber of the department shall receive a salary increase of  
55 one hundred twenty dollars per year to be effective dur-  
56 ing his next five years of service, which increases shall  
57 be successive and cumulative until a total of five such  
58 increases shall be received.

59 In applying the foregoing salary schedule where salary  
60 increases are provided for length of service, members of  
61 the department in service at the time this article becomes  
62 effective shall be given credit for prior service and shall  
63 be paid such salaries as the same length of service will  
64 entitle them to receive under the provisions hereof.

65 Each member of the department of public safety, ex-  
66 cept the superintendent and civilian employees, shall, be-  
67 fore entering upon the discharge of his duties, execute a  
68 bond with security in the sum of three thousand five  
69 hundred dollars payable to the state of West Virginia,  
70 conditioned for the faithful performance of his duties  
71 as such, and such bond shall be approved as to form by

72 the attorney general, and as to sufficiency by the board  
73 of public works, and the same shall be filed with the  
74 secretary of state and preserved in his office.

## CHAPTER 143

(House Bill No. 316—By Mr. Bachmann and Mr. Omerberg)

AN ACT to amend and reenact sections three, six and eight, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of the director; procurement of, and compensation for, services in an emergency; and appointment of local civil defense organizations.

[Passed March 11, 1959; in effect from passage. Approved by the Governor.]

### Article 5. Civil Defense.

#### Section

3. State department of civil and defense mobilization.
6. Emergency powers.
8. Local organization for civil defense.

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

That sections three, six and eight, article five, 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. *State Department of Civil and Defense*

2 *Mobilization.*—There is hereby created within the executive branch of the state government a department to be  
3 known as the department of civil and defense mobilization, hereinafter referred to as the civil defense agency.  
4 A director of civil and defense mobilization, hereinafter  
5 called the director, shall be appointed by the governor to  
6 serve during the pleasure of the governor.

9 The director may employ such technical, clerical,  
10 stenographic and other personnel and fix their compensation, and may make such expenditures within the ap-

12 appropriation therefor, or from other funds made available  
13 to him for the purpose of civil defense and defense mobil-  
14 ization, as may be necessary to carry out the purpose of  
15 this article.

16 The director and other personnel of the civil defense  
17 agency shall be provided with appropriate office space,  
18 furniture, equipment, supplies, stationery and printing  
19 in the same manner as provided for personnel of other  
20 state agencies.

21 The director, subject to the direction and control of the  
22 governor, shall be executive head of the civil defense  
23 agency and shall be responsible to the governor for carry-  
24 ing out the program for civil defense and defense mobil-  
25 ization of this state. He shall coordinate the activities of  
26 all organizations for civil defense within the state, and  
27 shall maintain liaison with and cooperate with civil  
28 defense and defense mobilization agencies and organiza-  
29 tions of other states and of the federal government and  
30 shall have such additional authority, duties, and respon-  
31 sibilities authorized by this article as may be prescribed  
32 by the governor.

33 The director shall have the power to acquire in the  
34 name of the state by purchase, lease or gift, real property  
35 and rights or easements necessary or convenient to con-  
36 struct thereon the necessary building or buildings for  
37 housing a civil defense control center.

Sec. 6. *Emergency Powers.*—The provisions of this  
2 section shall be operative only during the existence of a  
3 state of civil defense emergency (referred to hereinafter  
4 in this section as “emergency.”) The existence of such  
5 emergency may be proclaimed by the governor or by con-  
6 current resolution of the Legislature if the governor in  
7 such proclamation, or the Legislature in such resolution,  
8 finds that an attack upon the United States has occurred  
9 or is anticipated in the immediate future, or that a natural  
10 disaster of major proportions has actually occurred within  
11 this state, and that the safety and welfare of the inhabi-  
12 tants of this state require an invocation of the provisions  
13 of this section. Any such emergency, whether proclaimed  
14 by the governor or by the Legislature, shall terminate

15 upon the proclamation of the termination thereof by the  
16 governor, or the passage by the Legislature of a con-  
17 current resolution terminating such emergency.

18 During such period as such state of emergency exists  
19 or continues, the governor shall have and may exercise  
20 the following additional emergency powers:

21 (a) To enforce all laws, rules, and regulations, relating  
22 to civil defense and to assume direct operational control  
23 of any or all civil defense forces and helpers in the state;

24 (b) To sell, lend, lease, give, transfer, or deliver  
25 materials or perform services for civil defense purposes  
26 on such terms and conditions as the governor shall pre-  
27 scribe and without regard to the limitations of any exist-  
28 ing law, and to account to the state treasurer for any  
29 funds received for such property;

30 (c) To procure materials and facilities for civil defense  
31 by purchase, condemnation under the provisions of  
32 chapter fifty-four of the code, or seizure pending institu-  
33 tion of condemnation proceedings within thirty days from  
34 the seizing thereof, and to construct, lease, transport,  
35 store, maintain, renovate, or distribute such materials  
36 and facilities. Compensation for the property so procured  
37 shall be as is provided in chapter fifty-four of the code;

38 (d) To obtain the services of necessary personnel,  
39 required during the emergency, and to compensate them  
40 for their services from his contingent funds, or such  
41 other funds as may be available to him;

42 (e) To provide for and compel the evacuation of all or  
43 part of the population from any stricken or threatened area  
44 or areas within the state and to take such steps as are  
45 necessary for the receipt and care of such evacuees;

46 (f) Subject to the provisions of the state constitution,  
47 to remove from office any public officer having administra-  
48 tive responsibilities under this article for wilful failure  
49 to obey an order, rule or regulation adopted pursuant to  
50 this article. Such removal shall be upon charges after  
51 service upon such person of a copy of such charges and  
52 after giving him an opportunity to be heard in his defense.  
53 Pending the preparation and disposition of charges, the  
54 governor may suspend such person for a period not ex-  
55 ceeding thirty days. A vacancy resulting from removal or

56 suspension pursuant to this section shall be filled by the  
57 governor until it is filled as otherwise provided by law;  
58 (g) To perform and exercise such other functions,  
59 powers, and duties as are necessary to promote and secure  
60 the safety and protection of the civilian population.

Sec. 8. *Local Organization for Civil Defense.*—Each  
2 political subdivision of this state is hereby authorized and  
3 directed to establish a local organization for civil defense  
4 in accordance with the state civil defense plan and pro-  
5 gram. Such political subdivision may confer or authorize  
6 the conferring upon members of the auxiliary police the  
7 powers of peace officers, subject to such restrictions as  
8 shall be imposed.

9 Each local organization for civil defense shall consist  
10 of a director and a local civil defense council, and any  
11 other members that may be required. The director shall  
12 be appointed by the executive officer or governing body  
13 of the political subdivision, to serve at the will and  
14 pleasure of said executive officer or governing body, and  
15 said political subdivisions are authorized to provide  
16 adequate compensation. The local civil defense council  
17 shall consist of five members, to be appointed by the  
18 executive officer or governing body of the political sub-  
19 division: *Provided*, That not more than three members of  
20 said council shall be members of the same political party.  
21 Two council members shall serve a term of years stagger-  
22 ed to provide continuity of service in accordance with  
23 local needs, without compensation, but shall be reimbursed  
24 for the reasonable and necessary expenses incurred in  
25 the performance of their duties.

26 The executive officer or governing body of the political  
27 subdivision shall have general direction and control of the  
28 local civil defense organization, and shall be responsible  
29 for carrying out the provisions of this article. The director,  
30 subject to the direction and control of said executive  
31 officer or governing body, shall be executive head of the  
32 local civil defense organization and shall be directly  
33 responsible to the said executive officer or governing  
34 body for the organization, administration and operation  
35 of the local civil defense program. The local civil defense  
36 council shall advise the director on all matters pertaining



37 to civil defense. Each local organization for civil defense  
38 shall perform civil defense functions within the territorial  
39 limits of the political subdivisions within which it is  
40 organized, and, in addition, shall conduct such functions  
41 outside of such territorial limits as may be required  
42 pursuant to the provisions of section nine of this article.

43 In carrying out the provisions of this article each  
44 political subdivision, in which any disaster as described  
45 in section one hereof occurs, shall have the power to  
46 enter into contracts and incur obligations necessary to  
47 combat such disaster, protecting the health and safety of  
48 persons and property, and providing emergency assistance  
49 to the victims of such disaster. Each political subdivision  
50 is authorized to exercise the powers vested under this  
51 section in the light of the exigencies of the extreme  
52 emergency situations without regard to time-consuming  
53 procedures and formalities prescribed by law, (excepting  
54 mandatory constitutional requirements), pertaining to the  
55 performance of public work, entering into contracts, the  
56 incurring of obligations, the employment of temporary  
57 workers, the rental of equipment, the purchase of supplies  
58 and materials, the levying of taxes, and the appropriation  
59 and expenditure of public funds.

— C —

## CHAPTER 144

(Senate Bill No. 29—By Mr. Jackson, of Logan, and Mr. Moats)

AN ACT to amend and reenact section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition, collection and disposition of special license fees payable by certain public utilities and manner of determination of such fees by the state auditor.

[Passed February 3, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 3. Duties and Privileges of Public Utilities Subject to Regulations of Commission.

#### Section

#### 6. Special license fee.

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

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

Section 6. *Special License Fee.*—(a) All public utilities  
2 subject to the provisions of this chapter shall pay a special  
3 license fee in addition to those now required by law. The  
4 amount of such fees shall be fixed by the auditor and  
5 levied by him upon each of such public utilities according  
6 to the value of its property as ascertained by the last  
7 assessment, and shall be apportioned among such public  
8 utilities upon the basis of such valuation, so as to produce  
9 a revenue of one hundred fifty thousand dollars per  
10 annum, which fees shall be paid on or before the twentieth  
11 day of January in each year. Such sum of one hundred  
12 fifty thousand dollars, together with that provided in sub-  
13 section (b) hereof shall be paid into the state treasury  
14 and kept as a special fund, designated "Public Service  
15 Commission Fund", to be appropriated as provided by  
16 law for the purpose of paying the salaries of the com-  
17 mission, as fixed by this chapter, its expenses and salaries,  
18 compensations, costs and expenses of its employees.  
19 (b) All public utilities subject to the provisions of this  
20 chapter shall pay a special license fee in addition to any  
21 and all fees now required by law. The amount of such  
22 fees shall be fixed by the auditor and levied by him  
23 upon each of such public utilities, in the proportion which  
24 the total gross revenue derived from intrastate business  
25 done by each of such public utilities in the calendar year  
26 next preceding bears to the total gross revenue derived  
27 from intrastate business done in such year by all public  
28 utilities subject to regulation by the public service com-  
29 mission, so as to produce a revenue of three hundred  
30 thousand dollars per annum, in addition to such fees as  
31 may be fixed by the auditor under the provisions of sub-  
32 section (a) hereof and which fees shall be paid on or  
33 before the first day of July in each year. Such sum of  
34 three hundred thousand dollars shall be paid into the state  
35 treasury and be kept, appropriated and used as provided  
36 in subsection (a) hereof.

37 (c) Any balance remaining in said fund at the end of  
38 any fiscal year shall not revert to the treasury but shall  
39 be credited by the auditor upon the amounts to be raised  
40 for the next fiscal year, under subsections (a) and (b),  
41 on the same basis and in the same proportion as said fund  
42 was raised under said subsections.

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## CHAPTER 145

(Senate Bill No. 28—By Mr. Jackson, of Logan, and Mr. Moats)

AN ACT to amend and reenact section three, article three, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the application for, issuance, transfer and revocation of permits for contract motor carriers by the public service commission of West Virginia and rules, regulations and procedure in connection therewith.

[Passed February 23, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Contract Carriers by Motor Vehicles.

#### Section

3. Permit; hearing or waiver of same on application; transfer; revocation.

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

That section three, article three, chapter twenty-four-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. *Permit; Hearing or Waiver of Same on Application; Transfer; Revocation.*—(a) It shall be unlawful for any contract carrier by motor vehicle to operate within this state without first having obtained from the commission a permit. Upon the filing of an application for such permit, the commission shall fix a time and place for hearing thereon: *Provided, however, That the com-*

8 mission may, after giving notice as hereinafter provided  
9 and if no protest is received, waive formal hearing on  
10 such application. Said notice shall be by publication in a  
11 newspaper of general circulation in the area of operation  
12 at least ten days prior to the date of hearing and shall state  
13 that formal hearing may be waived in the absence of pro-  
14 test to such application. After hearing or waiver of hear-  
15 ing as aforesaid, as the case may be, the commission shall  
16 grant or deny the permit prayed for or grant it for the  
17 partial exercise only of the privilege sought, and may  
18 attach to the exercise of the privilege granted by such per-  
19 mit such terms and conditions as in its judgment are  
20 proper and will carry out the purposes of this chapter. No  
21 permit shall be granted unless the applicant has estab-  
22 lished to the satisfaction of the commission that the privi-  
23 lege sought will not endanger the safety of the public or  
24 unduly interfere with the use of the highways or impair  
25 unduly the condition or unduly increase the maintenance  
26 cost of such highways, directly or indirectly, or impair the  
27 efficient public service of any authorized common carrier  
28 or common carriers adequately serving the same territory.

29 (b) The commission shall prescribe such rules and  
30 regulations as it may deem proper for the enforcement of  
31 the provisions of this section and may designate any of  
32 its employees to take evidence at the hearing on any  
33 application for a permit and submit findings of fact as a  
34 part of report or reports to be made to the commission.

35 (c) No permit issued in accordance with the terms of  
36 this chapter shall be construed to be either a franchise or  
37 irrevocable or to confer any proprietary or property  
38 rights in the use of the public highways. No permit issued  
39 under this chapter shall be assigned or otherwise trans-  
40 ferred without the approval of the commission. Upon the  
41 death of a person holding a permit, his personal represen-  
42 tative or representatives may operate under such permit  
43 while the same remains in force and effect and, with the  
44 consent of the commission, may transfer such permit.

45 (d) The commission may at any time, for good cause,  
46 suspend and, upon not less than fifteen days' notice to the  
47 grantee of any permit and an opportunity to be heard,  
48 revoke or amend any permit.

49 (e) Every contract carrier by motor vehicle who shall  
50 cease operation or abandon his rights under a permit  
51 issued shall notify the commission within thirty days of  
52 such cessation or abandonment.

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## CHAPTER 146

(Com. Sub. for Senate Bill No. 30—Originating in the Senate  
Committee on the Judiciary)

AN ACT to amend and reenact section three, article one, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation by the public service commission of motor carriers of persons and property for hire and exempting from the provisions of said chapter motor vehicles operated for certain purposes.

[Passed March 13, 1959; in effect from passage. Became a law without the approval of the Governor.]

### Article I. Purposes, Definitions and Exemptions.

#### Section

#### 3. Exemptions.

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

That section three, article one, chapter twenty-four-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. *Exemptions.*—The provisions of this chapter, except where specifically otherwise provided, shall not apply to:

(1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers;

(2) Motor vehicles owned and operated by the United States of America, the state of West Virginia, or any

9 county, municipality, or county board of education, or by  
10 any department thereof, and any motor vehicles operated  
11 under a contract with a county board of education ex-  
12 clusively for the transportation of children to and from  
13 school or such other legitimate transportation for the  
14 schools as the commission may specifically authorize;

15 (3) Motor vehicles used exclusively in the transporta-  
16 tion of agricultural or horticultural products, livestock,  
17 poultry, and dairy products from the farm or orchard on  
18 which they are raised or produced to markets, processing  
19 plants, packing houses, canneries, railway shipping points,  
20 and cold storage plants, and in the transportation of  
21 agricultural or horticultural supplies to such farms or  
22 orchards to be used thereon;

23 (4) Motor vehicles used exclusively in the transporta-  
24 tion of human or animal excreta;

25 (5) Motor vehicles used exclusively in ambulance serv-  
26 ice;

27 (6) Motor vehicles used exclusively for volunteer fire  
28 department service; and

29 (7) Motor vehicles used exclusively in the transporta-  
30 tion of coal from mining operations to loading facilities  
31 for further shipment by rail or water carriers.

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## CHAPTER 147

(Senate Bill No. 119—By Mr. Martin)

AN ACT to repeal article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article, designated article twelve, relating to real estate commission, brokers, salesmen, defining real estate brokers and real estate salesmen and providing for licensing, regulation and supervision of resident and nonresident real estate brokers and real estate salesmen and their business, and providing penalties for violations.

**Article 12. Real Estate Commission, Brokers and Salesmen.****Section**

1. Title of article; license required.
2. Definitions and exceptions.
3. Commission created; powers generally; membership; removal of members; organization; executive secretary and assistants; seal; admissibility of and inspection of records.
4. Qualifications for license.
5. Applications for licenses.
6. Nonresident reciprocity; consent to service of process, etc.; manner of service; bond.
7. Written examinations required; exception; examinations subsequent to revocation of license; reexamination after failure; examination where applicant a partnership, etc.
8. Place of business; display of certificate of registration; branch offices; change of employer or employment by real estate salesman.
9. License fees; annual registration; fees for additional offices, charge for change of location and for duplicate or transfer licenses.
10. Real estate license fund.
11. Grounds for refusal, suspension, or revocation of license.
12. Hearings.
13. Appeals.
14. Real estate courses; studies, surveys, etc.
15. Executive secretary's bond.
16. Penalties for violation.
17. Actions for commission; revocation of broker's license as suspending salesman's license; listing agreements; purchase agreements.
18. Trust fund accounts; records.
19. Rules and regulations.
20. Right to examine books.
21. Unconstitutionality; severance.
22. Repeal of inconsistent acts; rights of municipalities not affected.
23. Saving clause.

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

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

- Section 1. *Title of Article; License Required.* — This
- 2 article shall be known, and may be cited, as the real estate
  - 3 brokers license act of one thousand nine hundred fifty-
  - 4 nine, and from and after the effective date of this article
  - 5 it shall be unlawful for any person, partnership, associa-
  - 6 tion or corporation to engage in or carry on, directly or
  - 7 indirectly, or to advertise or hold himself, itself or them-
  - 8 selves out as engaging in or carrying on the business or
  - 9 act in the capacity of a real estate broker or a real estate
  - 10 salesman within this state, without first obtaining a license

11 as a real estate broker or real estate salesman as provided  
12 for in this article.

Sec. 2. *Definitions and Exceptions.* — The term “real  
2 estate broker” within the meaning of this article shall in-  
3 clude all persons, partnerships, associations and corpora-  
4 tions, foreign and domestic, who for a fee, commission or  
5 other valuable consideration or who with the intention or  
6 expectation of receiving or collecting the same, lists, sells,  
7 purchases, exchanges, rents, manages, leases or auctions  
8 any real estate or the improvements thereon, including op-  
9 tions, or who negotiates or attempts to negotiate any such  
10 activity; or who advertises or holds himself, itself or them-  
11 selves out as engaged in such activities; or who directs or  
12 assists in the procuring of a purchaser or prospect calcu-  
13 lated or intended to result in a real estate transaction. The  
14 term “real estate broker” shall also include any person,  
15 partnership, association or corporation employed by or on  
16 behalf of the owner or owners of lots, or other parcels of  
17 real estate, at a stated salary or upon a fee, commission  
18 or otherwise to sell such real estate, or any parts thereof,  
19 in lots or other parcels, and who shall sell, manage, ex-  
20 change, lease, offer, attempt or agree to negotiate the  
21 sale, exchange or lease of any such lot or parcel of real  
22 estate.

23 (a) The term “real estate” as used in this article shall in-  
24 clude leaseholds as well as any and every interest or  
25 estate in land, whether corporeal or incorporeal, freehold  
26 or nonfreehold, and whether said property is situated in  
27 this state or elsewhere.

28 (b) One act in consideration of or with the expectation  
29 or intention of or upon the promise of receiving compen-  
30 sation by fee, commission or otherwise, in the perform-  
31 ance of any act or activity contained in this section,  
32 shall constitute such persons, partnerships, association  
33 or corporation, a real estate broker and make him, them  
34 or it subject to the provisions and requirements of this  
35 article.

36 (c) The term “real estate salesman” shall mean and  
37 include any person employed or engaged by or on behalf  
38 of a licensed real estate broker to do or deal in any ac-



39 tivity as included in this section, for compensation or  
40 otherwise.

41 (d) Neither the term "real estate broker" nor "real  
42 estate salesman" shall be held to include any person,  
43 partnership, association or corporation, who, as a bona  
44 fide owner or lessor, shall perform any aforesaid act:

45 (1) With reference to property owned or leased by  
46 them or to the regular employees thereof, where such acts  
47 are performed in the regular course of or as an incident  
48 to the management of, such property and the investment  
49 therein;

50 (2) Nor shall this article be construed to include at-  
51 torneys at law;

52 (3) Nor any person holding in good faith a duly  
53 executed power of attorney from the owner authorizing  
54 the final consummation and execution for the sale, pur-  
55 chase, leasing or exchange of real estate;

56 (4) Nor to the acts of any person while acting as a  
57 receiver, trustee, administrator, executor, guardian, or  
58 under the order of any court or while acting under au-  
59 thority of a deed of trust or will;

60 (5) Nor shall this article apply to public officers while  
61 performing their duties as such.

Sec. 3. *Commission Created; Powers Generally; Mem-  
2 bership; Removal of Members; Organization; Executive  
3 Secretary and Assistants; Seal; Admissibility of and In-  
4 spection of Records.* — There shall be a commission known  
5 as the "West Virginia Real Estate Commission", which  
6 commission shall be a corporation and as such may sue  
7 and be sued, may contract and be contracted with and  
8 shall have a common seal. The commission shall consist  
9 of three persons to be appointed by the governor by and  
10 with the advise and consent of the senate. Two of such  
11 appointees each shall have been a resident and a citizen of  
12 this state for at least six years prior to his or her appoint-  
13 ment and whose vocation for at least ten years shall have  
14 been that of a real estate broker or real estate salesman  
15 and the third shall be a representative of the public gener-  
16 ally. Members in office on the date this section becomes  
17 effective shall continue in office until their respective

18 terms expire. The terms of the members of said commis-  
19 sion shall be for four years and until their successors are  
20 appointed and qualify. No more than two members of such  
21 commission shall belong to the same political party. No  
22 member shall be a candidate for or hold any other public  
23 office or be a member of any political committee while  
24 acting as such commissioner. In case any commissioner be  
25 a candidate for or hold any other public office or be a  
26 member of any political committee, his office as such com-  
27 missioner shall *ipso facto* be vacated. Members to fill va-  
28 cancies shall be appointed by the governor for the unex-  
29 pired term. No member may be removed from office by the  
30 governor except for official misconduct, incompetency,  
31 neglect of duty, gross immorality or other good cause  
32 shown and then only in the manner prescribed by law  
33 for the removal by the governor of state elective of-  
34 ficers. The governor shall designate one member of the  
35 commission as the chairman thereof and the members  
36 shall choose one of the members thereof as secretary.  
37 Two members of the commission shall constitute a quorum  
38 for the conduct of official business.

39 (a) The commission shall do all things necessary and  
40 convenient for carrying into effect the provisions of this  
41 article and may from time to time promulgate reasonable,  
42 fair and impartial rules and regulations. Each member of  
43 the commission shall receive as full compensation for his  
44 services the sum of twenty dollars per day for each full  
45 day actually spent on the work of the commission and his  
46 actual and necessary expenses incurred in the perform-  
47 ance of duties pertaining to his office.

48 (b) The commission shall employ an executive secre-  
49 tary and such clerks, investigators and assistants as it shall  
50 deem necessary to discharge the duties imposed by the  
51 provisions of this article and to effect its purposes, and  
52 the commission shall determine the duties and fix the com-  
53 pensation of such executive secretary, clerks, investigators  
54 and assistants, subject to the general laws of the state.

55 (c) The commission shall adopt a seal by which it shall  
56 authenticate its proceedings. Copies of all records and pa-  
57 pers in the office of the commission, duly certified and

58 authenticated by the seal of said commission, shall be re-  
59 ceived in evidence in all courts equally and with like effect  
60 as the original. All records kept in the office of the com-  
61 mission under authority of this article shall be open to  
62 public inspection under reasonable rules and regulations  
63 as shall be prescribed by the commission.

Sec. 4. *Qualifications for License.*—Licenses shall be  
2 granted only to persons who are trustworthy, of good  
3 character and competent to transact the business of a real  
4 estate broker or real estate salesman in such manner as  
5 to safeguard the interests of the public. Every applicant  
6 for a license as a real estate broker shall be of the age of  
7 twenty-one years or over, a citizen of the United States  
8 and shall have served a bona fide apprenticeship as a li-  
9 censed real estate salesman for two years or shall produce  
10 to the real estate commission satisfactory evidence of real  
11 estate experience. No broker's license shall be issued to a  
12 partnership, association or corporation unless each mem-  
13 ber or officer thereof who will actively engage in the real  
14 estate business be licensed as a real estate salesman when  
15 and after said broker shall have been granted a broker's  
16 license.

Sec. 5. *Applications for Licenses*—Every applicant for a  
2 real estate broker's license shall apply therefor in writing  
3 upon blanks prepared by the commission which shall con-  
4 tain such data and information as the commission shall  
5 require.

6 (a) Such application for broker's license shall be ac-  
7 companied by the recommendation of at least two citizens  
8 who are property owners at the time of signing said appli-  
9 cation and have been property owners for at least twelve  
10 months preceding such application, who have known the  
11 applicant for two years and are not related to the appli-  
12 cant, certifying that the applicant bears a good reputation  
13 for honesty and trustworthiness, and recommending that  
14 a license be granted to the applicant.

15 (b) Every applicant for a salesman's license shall apply  
16 therefor in writing upon blanks prepared by the commis-  
17 sion which shall contain such data and information as the  
18 commission may require. The application shall be accom-

19 panied by a sworn statement by the broker in whose em-  
20 ploy the applicant desires to enter, certifying that, in his  
21 opinion, the applicant is honest and trustworthy, and  
22 recommending the license be granted to the applicant.

Sec. 6. *Nonresident Reciprocity; Consent to Service of*  
2 *Process, etc.; Manner of Service; Bond.*—A nonresident of  
3 this state may become a real estate broker by conforming  
4 to all the provisions of this article, except that such non-  
5 resident broker regularly engaged in the real estate busi-  
6 ness as a vocation and who maintains a definite place of  
7 business and is licensed in some other state, which offers  
8 the same privileges to the licensed brokers of this state,  
9 shall not be required to maintain a place of business in this  
10 state. The commission shall recognize the license issued to  
11 a real estate broker or salesman by another state as satis-  
12 factorily qualifying him for license as a broker or sales-  
13 man: *Provided*, That said nonresident broker or salesman  
14 has qualified for license in his own state by written ex-  
15 amination and also that said other state permits license to  
16 be issued to licensed brokers or salesmen in this state with-  
17 out examination. Every nonresident applicant shall file an  
18 irrevocable written consent that suits and actions may be  
19 commenced against such applicant in the proper court of  
20 any county of the state in which a cause of action growing  
21 out of a real estate transaction may arise, in which the  
22 plaintiff may reside, by the service of any process or plead-  
23 ing authorized by the laws of this state, on any member of  
24 the commission, or the executive secretary, said consent  
25 stipulating and agreeing that such service of such process  
26 or pleading shall be taken and held in all courts to be as  
27 valid and binding as if due service had been made upon  
28 said applicant in this state. Said consent shall be duly ac-  
29 knowledged and if made by a corporation shall be authen-  
30 ticated by the seal of such corporation. Any service of proc-  
31 ess or pleading shall be by duplicate copies, one of which  
32 shall be filed in the office of the commission and the other  
33 immediately forwarded by registered mail to the last  
34 known main office of the applicant against whom said  
35 process or pleading is directed, and no default in any such  
36 proceeding or action shall be taken except upon certifica-

tion of the commission or the executive secretary that a copy of said process or pleading was mailed to the defendant as herein required, and no judgement by default shall be taken in any such action or proceeding until after twenty days from the date of mailing of such process or pleading to the nonresident defendant.

(a) Before a license as a real estate broker shall be issued to any person who does not have his principal place of business in the state of West Virginia, he shall file with the commission a bond in the penalty of two thousand dollars, in form and with security to be approved by the commission and conditioned so as to be for the benefit of and to indemnify any person in the state who may have any cause of action against the principal.

(b) Before a license as a real estate salesman shall be issued to any person who is not a bona fide resident of this state, whether he be an employee of a resident or a nonresident real estate broker, such applicant shall file with the commission a bond such as is herein required to be filed by a nonresident broker.

*Sec. 7. Written Examinations Required; Exceptions; Examinations Subsequent to Revocation of License; Reexamination after Failure; Examination Where Applicant a Partnership, etc.*—In addition to proof of honesty, trustworthiness, good character and good reputation of any applicant for a license, the applicant shall submit to a written examination to be conducted by the commission which shall include reading, writing, spelling, elementary arithmetic, a general knowledge of the statutes of this state relating to real property, deeds, mortgages, agreements of sale, agency contract, leases, ethics, appraisals and the provisions of this article: *Provided, however,* That any person who has been actively engaged in the real estate business as a real estate broker or real estate salesman within the year preceding the effective date of this article and is thus engaged in this state at the time this article goes into effect, may secure a license as a real estate broker or a salesman without an examination: *Provided further,* That such person shall make application to the commission for registration within ninety days after the effective

21 date of this article. The examination for a broker's license  
22 shall differ from the examination for a salesman's license  
23 in that it shall be of a more exacting nature and require  
24 higher standards of knowledge of real estate. The com-  
25 mission shall conduct examinations at such times and  
26 places as it shall determine.

27 (a) In event the license of any real estate broker or  
28 salesman shall be revoked by the commission, subsequent  
29 to the enactment of this article, no new license shall be  
30 issued to such person unless he complies with the pro-  
31 visions of this article.

32 (b) No person shall be permitted or authorized to act  
33 as a real estate broker until he has qualified by examina-  
34 tion, except as hereinbefore provided. Any individual  
35 who fails to pass the examination upon two occasions shall  
36 be ineligible for a similar examination until after the ex-  
37 piration of one full year from the time such individual  
38 took the last examination and then only upon making  
39 application as in the first instance.

40 (c) If the applicant is a partnership, association or  
41 corporation said examination shall be submitted to on  
42 behalf of said partnership, association or corporation by  
43 the member or officer thereof who is designated in the  
44 application as the person to receive a license by virtue of  
45 the issuing of a license to the partnership, association or  
46 corporation.

47 (d) Upon satisfactorily passing such examination and  
48 upon complying with all other provisions of law and con-  
49 ditions of this article a license shall thereupon be issued to  
50 the successful applicant who upon receiving such license  
51 is authorized to conduct the business of a real estate  
52 broker or real estate salesman in this state.

2 *Sec. 8. Place of Business; Display of Certificate of Regis-*  
3 *tration; Branch Offices; Change of Employer or Employ-*  
4 *ment by Real Estate Salesman.*—Every person, partner-  
5 ship, association or corporation licensed as a real estate  
6 broker shall be required to have and maintain a definite  
7 place of business within this state, which shall be a room  
8 or rooms used for the transaction of the real estate busi-  
ness, or such business and any allied business. The certifi-

9 cate of registration as broker and the certificate of each  
10 real estate salesman employed by such broker shall be  
11 prominently displayed in said office. The said place of busi-  
12 ness shall be designated in the license, and no license is-  
13 sued under the authority of this article shall authorize the  
14 licensee to transact business at any other address. In case  
15 of removal from the designated address, the licensee shall  
16 make application to the commission before said removal  
17 or within ten days after said removal, designating the new  
18 location of such office, whereupon the commission shall  
19 forthwith issue a new license for the new location for the  
20 unexpired period, if said new location is satisfactory, upon  
21 return to the commission of the license previously issued.

22 (a) Each and every branch office owned or operated  
23 by a duly licensed broker shall be supervised and oper-  
24 ated by a licensed broker or licensed salesman.

25 (b) All licenses issued to real estate salesman shall  
26 designate the employer of such salesman. Prompt notice  
27 in writing, within ten days, shall be given to the commis-  
28 sion by any real estate salesman of a change of employer,  
29 and of the licensed broker into whose employ the sales-  
30 man is about to enter, and a new license shall thereupon  
31 be issued by the commission to such salesman for the un-  
32 expired term of the original license, upon return to the  
33 commission of the license previously issued. The change  
34 of employer or employment by any licensed real estate  
35 salesman, without notice to the commission, as aforesaid,  
36 shall automatically cancel the license to him theretofore  
37 issued. Upon termination of a salesman's employment,  
38 the broker employer shall forthwith return the salesman's  
39 license to the commission for cancellation. It shall be un-  
40 lawful for any real estate salesman to perform any of  
41 the acts contemplated by this article either directly or in-  
42 directly after his employment has been terminated and  
43 license as a salesman has been returned for cancellation  
44 until said license has been reissued by the commission.

2 *Sec. 9. License Fees; Annual Registration; Fees for Ad-*  
3 *ditional Offices, Charge for Change of Location and for*  
4 *Duplicate or Transfer Licenses.*—The original fee and an-  
annual renewal fee for each real estate broker's license shall

5 be fifty dollars if such licensee's place of business is located  
6 in a city having a population of seventy-five hundred or  
7 more. The original fee and annual renewal fee for each  
8 real estate broker's license shall be ten dollars if such  
9 licensee's place of business is located in a town having a  
10 population of less than seventy-five hundred.

11 The original fee and annual renewal fee for each real  
12 estate salesman's license shall be twenty-five dollars if  
13 such licensee's place of business is located in a city having  
14 a population of seventy-five hundred or more. The original  
15 fee and annual renewal fee for each real estate salesman's  
16 license shall be five dollars if such licensee's place of busi-  
17 ness is located in a town having a population of less than  
18 seventy-five hundred.

19 If any applicant for a real estate broker's or salesman's  
20 license shall fail to pass the required examination, he may  
21 be eligible to take the next or succeeding examination  
22 without payment of an additional fee.

23 (1) It shall be the duty of all persons licensed who prac-  
24 tice as a real estate broker or salesman to register annually  
25 with the commission and to pay for each such annual  
26 registration the fees set forth above. Said application for  
27 renewal of real estate broker's license shall be made to the  
28 commission annually no later than June thirtieth of each  
29 succeeding year.

30 (2) For each additional office or place of business an ad-  
31 ditional annual fee of five dollars shall be collected.

32 (3) For each change of office or place of business, an ad-  
33 ditional fee of one dollar shall be collected.

34 (4) For each duplicate or transfer of salesman's license,  
35 an additional fee of one dollar shall be collected.

36 (5) For each duplicate license where the original license  
37 is lost or destroyed and affidavit made thereof, a fee of two  
38 dollars shall be collected.

Sec. 10. *Real Estate License Fund.*—All fees charged and  
2 collected under this article shall be paid by the executive  
3 secretary at least once a month into the treasury of the  
4 state to credit of a fund to be known as the "real estate lic-  
5 ense fund", which is hereby created. All moneys which  
6 shall be paid into the state treasury and credited to the



7 "real estate license fund" are hereby appropriated to the  
8 use of the commission in carrying out the provisions of this  
9 article, including the payment of salaries and expenses  
10 and the printing of an annual directory of licensees and  
11 for educational purposes.

12 (a) The amount paid to or expended by the commission  
13 shall not exceed the revenues derived under the provisions  
14 of this article as hereinbefore provided.

Sec. 11. *Grounds for Refusal, Suspension, or Revocation*  
2 *of License.*—The Commission may upon its own motion,  
3 and shall, upon the verified complaint in writing of any  
4 person setting forth a cause of action under this section,  
5 ascertain the facts and if warranted hold a hearing for the  
6 suspension or revocation of a license. The commission  
7 shall have full power to refuse a license for reasonable  
8 cause or to revoke or suspend a license where it has been  
9 obtained by false or fraudulent representation, or where  
10 the licensee in performing or attempting to perform any  
11 of the acts mentioned herein, is deemed to be guilty of:

12 (1) Making any substantial misrepresentation, or

13 (2) Making any false promises or representations of  
14 a character likely to influence, persuade, or induce, or

15 (3) Pursuing a continued or flagrant course of mis-  
16 representation, or making of false promises or representa-  
17 tions through agents or salesmen or any medium of ad-  
18 vertising or otherwise, or

19 (4) Any misleading or untruthful advertising, includ-  
20 ing the unauthorized use of the term "realtor" by one not  
21 a member of the national association of real estate boards,  
22 or using any other trade name or insignia of membership  
23 in any real estate organization, of which the licensee is not  
24 a member, or

25 (5) Acting for more than one party in a transaction  
26 without the knowledge of all parties for whom he acts, or

27 (6) Failing, within a reasonable time, to account for or  
28 to remit any moneys coming into his possession which be-  
29 long to others, or commingling of moneys belonging to  
30 others with his own funds, or

31 (7) Conviction in a court of competent jurisdiction of  
32 this or any other state of forgery, embezzlement, obtain-

33 ing money under false pretense, extortion, conspiracy to  
34 defraud or other like offense or offenses, or

35 (8) Of displaying a "for sale" or "for rent" sign on any  
36 property without an agency therefor or without the own-  
37 er's consent, or

38 (9) Of failing to furnish voluntarily copies of all listing  
39 and agreement of sale contracts to all parties executing  
40 the same, or

41 (10) Paying or receiving any rebate, profit, compensa-  
42 tion, or commission from any person other than his prin-  
43 cipal, or

44 (11) Inducing any party to a contract, sale, or lease to  
45 break such contract for the purpose of substituting in lieu  
46 thereof a new contract, where such substitution is moti-  
47 vated by the personal gain of the licensee, or

48 (12) Accepting a commission or valuable consideration  
49 as a real estate salesman for the performance of any of the  
50 acts specified in this article, from any person, except his  
51 employer, who must be a licensed real estate broker, or

52 (13) Any act or conduct, whether of the same or a dif-  
53 ferent character than hereinabove specified, which con-  
54 stitutes or demonstrates bad faith, incompetency or un-  
55 trustworthiness, or dishonest, fraudulent, or improper  
56 dealing, or

57 (14) Paid a commission or valuable consideration to any  
58 persons for acts or services performed in violation of this  
59 article, or

60 (15) The unlawful or unauthorized practice of law as  
61 defined by the supreme court of appeals of West Virginia,  
62 or

63 (16) Procuring an attorney for any customer or solicit-  
64 ing legal business for any attorney at law.

Sec. 12. *Hearings.*—Upon complaint initiated by the  
2 commission or filed with it, the licensee shall be given  
3 fifteen days' notice of hearing upon the charges filed, to-  
4 gether with a copy of the complaint. This applicant or  
5 licensee shall have an opportunity to be heard thereon in  
6 person, to offer testimony in his behalf and to examine  
7 the witnesses appearing in connection with the complaint.  
8 At such hearings, all witnesses shall be sworn by a mem-

9 ber of the commission or the executive secretary, and  
10 stenographic notes of the proceedings shall be taken and  
11 filed as a part of the record in the case. Any party to the  
12 proceedings desiring it shall be furnished with a copy of  
13 such stenographic notes, upon payment to the commission  
14 of such fees as it shall prescribe, not exceeding, however,  
15 twenty-five cents per one hundred words. The commis-  
16 sion shall render a decision on any complaint and shall  
17 immediately notify the parties to the proceedings in writ-  
18 ing of its ruling, order, or decision.

Sec. 13. *Appeals.*—Any applicant or licensee, or person  
2 aggrieved, shall have the right of appeal from any ad-  
3 verse ruling, order, or decision of the commission to the  
4 circuit court of the county where the hearing was held,  
5 within thirty days from the service of notice of the action  
6 of the commission upon the parties in interest.

7 (a) Notice of appeal shall be filed in the office of the  
8 clerk of the circuit court wherein the hearing was held,  
9 who shall issue a writ of certiorari directed to the com-  
10 mission, commanding it, within ten days after service  
11 thereof, to certify to such court, its entire record in the  
12 matter in which the appeal has been taken. The appeal  
13 shall thereupon be heard, in due course, by said court,  
14 which shall review the record and make its determination  
15 of the cause between the parties.

16 (b) Any order, rule, or decision of the commission  
17 shall not take effect until after the time for appeal to said  
18 court shall have expired. In event an appeal is taken by  
19 a licensee or applicant, such an appeal shall act as a  
20 supersedeas and the court shall dispose of said appeal and  
21 enter its decision promptly.

22 (c) Any person taking an appeal shall post a satisfac-  
23 tory bond in the amount of two hundred dollars for the  
24 payment of any costs which may be adjudged against  
25 him.

26 (d) Appeal may be taken from the circuit court to the  
27 supreme court of appeals by manner prescribed by law.

Sec. 14. *Real Estate Courses; Studies, Surveys, etc.*—The  
2 commission is hereby authorized to conduct or hold or to  
3 assist in conducting or holding real estate courses or insti-

4 tutes and to incur and pay the necessary expenses in con-  
5 nection therewith, which courses or institutes shall be open  
6 to any licensee without any charge or fee.

7 (a) The commission is hereby authorized to assist  
8 libraries, real estate institutes and foundations with finan-  
9 cial aid or otherwise, in providing texts, sponsoring  
10 studies, surveys and programs for the benefit of real estate  
11 and the elevation of the real estate business.

Sec. 15. *Executive Secretary's Bond.*—The executive  
2 secretary appointed by the commission shall give bond in  
3 such sum with such surety as the commission may direct  
4 and approve.

Sec. 16. *Penalties for Violation.*—Any person violating  
2 a provision of this article shall, upon conviction of a first  
3 violation thereof, if a person, be punished by a fine of  
4 not less than one hundred dollars nor more than five  
5 hundred dollars, or by imprisonment for a term not to  
6 exceed ninety days or both; and if a corporation, be pun-  
7 ished by a fine of not more than one thousand dollars.  
8 Upon conviction of a second or subsequent violation, if a  
9 person, shall be punished by a fine of not less than five  
10 hundred dollars nor more than one thousand dollars, or by  
11 imprisonment for a term not to exceed one year, or both;  
12 if a corporation, be punished by a fine of not less than  
13 two thousand dollars nor more than five thousand dollars.  
14 Any officer or agent of a corporation, or any member or  
15 agent of a partnership or association, shall be subject to  
16 the penalties herein prescribed for individuals.

Sec. 17. *Actions for Commission; Revocation of Broker's*  
2 *License as Suspending Salesman's License; Listing Agree-*  
3 *ments; Purchase Agreements.*—No person, partnership,  
4 association or corporation shall bring or maintain an ac-  
5 tion in any court of this state for the recovery of a com-  
6 mission, a fee, or compensation for any act done or service  
7 rendered, the doing or rendering of which is prohibited  
8 under the provisions of this article to other than licensed  
9 real estate brokers, unless such person was duly licensed  
10 hereunder as a real estate broker at the time of the doing  
11 of such act or the rendering of such service.

12 (a) No real estate salesman shall have the right to  
13 institute suit in his own name for the recovery of a fee,  
14 commission, or compensation for the services as a real  
15 estate salesman, but any such action shall be instituted  
16 and brought by the broker employing such salesman:  
17 *Provided, however,* That a real estate salesman shall have  
18 the right to institute suit in his own name for the re-  
19 covery of a fee, commission or compensation for services  
20 as a real estate salesman due him from the broker by  
21 whom he is employed.

22 (b) The revocation of a broker's license shall auto-  
23 matically suspend every real estate salesman's license  
24 granted to any person by virtue of his employment by the  
25 broker whose license has been revoked, pending a change  
26 of employer and the issuance of a new license. Such new  
27 license shall be issued without charge, if granted during  
28 the same year in which the original license was granted.

29 (c) A broker or salesman who obtains a listing shall,  
30 at the time of securing such listing, give the person or  
31 persons signing such listing a true, legible copy thereof.  
32 Every listing agreement, exclusive or nonexclusive, shall  
33 have set forth in its terms a definite expiration date; it  
34 shall contain no provision requiring the party signing  
35 such listing to notify the broker of his intention to cancel  
36 such listing after such definite expiration date; however,  
37 an exclusive listing agreement may provide that upon the  
38 expiration of the exclusive feature the listing shall con-  
39 tinue to a definite expiration date as a nonexclusive list-  
40 ing only.

41 (d) A broker or salesman shall promptly tender to the  
42 seller every written offer to purchase obtained on the  
43 property involved and, upon obtaining a proper accept-  
44 ance of the offer to purchase, shall promptly deliver true  
45 executed copies of same, signed by the seller and pur-  
46 chaser, to both purchaser and seller; all brokers and sales-  
47 men shall make certain that all of the terms and condi-  
48 tions of the real estate transaction are included in such  
49 offer to purchase.

2 Sec. 18. *Trust Fund Accounts; Records.*—Every person  
partnership or corporation holding a broker's license und-

3 er provisions of the real estate license law who does not im-  
4 mediately place all funds entrusted to him by his principal  
5 or others in a neutral escrow depository or in the hands  
6 of principals, shall maintain a trust fund account with  
7 some bank or recognized depository and place all such en-  
8 trusted funds therein upon receipt.

9 Said trust fund account shall designate him as trustee  
10 and all such trust fund accounts must provide for with-  
11 drawal of the funds without previous notice.

12 Every broker required to maintain such trust fund ac-  
13 count shall keep records of all funds deposited therein,  
14 which records shall clearly indicate the date and from  
15 whom he received the money, date deposited, date of with-  
16 drawals, and other pertinent information concerning the  
17 transaction, and shall clearly show for whose account the  
18 money is deposited and to whom the money belongs.

19 All such records and funds shall be subject to inspection  
20 by the commission.

Sec. 19. *Rules and Regulations.*—The commission may  
2 act by a majority of the members thereof, and authority  
3 is hereby given to the commission to adopt, fix, and estab-  
4 lish all reasonable, fair and impartial rules and regulations  
5 in its opinion necessary for the conduct of its business, the  
6 holding of hearings before it, and otherwise generally for  
7 the enforcement and administration of provisions of this  
8 article.

Sec. 20. *Right to Examine Books.* — The commission  
2 shall have a right to examine the books and records re-  
3 lating to the real estate business of a broker, if that broker  
4 is charged in a complaint of any violation of this article.  
5 Examination of broker's books and records shall not ex-  
6 tend beyond the specific violation as charged in the com-  
7 plaint.

Sec. 21. *Unconstitutionality; Severance.*—If any section,  
2 subsection, clause, phrase, or requirement of this article is  
3 for any reason held to be unconstitutional, such decision  
4 shall not affect the validity of the remaining portions. The  
5 Legislature hereby declares that it would have passed this  
6 article, and each section, subsection, sentence, clause, or

7 phrase and requirement thereof, irrespective of the fact  
8 that any one or more sections, subsections, clauses,  
9 phrases, or requirements be declared unconstitutional.

Sec. 22. *Repeal of Inconsistent Acts; Rights of Municipalities not Affected.*—All acts or parts of acts, including licensing acts, inconsistent with this article are hereby repealed. But nothing herein contained shall affect any right that municipalities may now or hereafter have to tax, license, or regulate persons engaged in the real estate business.

Sec. 23. *Saving Clause.*—All licenses issued either to a real estate broker or real estate salesman preceding the effective date of this article, shall be valid until June thirtieth, one thousand nine hundred fifty-nine, in absence of any reason appearing to the commission to cancel and withdraw any license issued by it, for violation of any provisions of this article.

## CHAPTER 148

(House Bill No. 379—By Mr. White)

AN ACT to amend and reenact section fifteen, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the application of proceeds by the court in sale of real property of infants, insane persons, or convicts, and lands held in trust.

[Passed March 12, 1959; in effect from passage. Approved by the Governor.]

### Article 1. Lands of Infants, Insane Persons, or Convicts, and Lands Held in Trust.

#### Section

15. Application of proceeds; costs.

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

That section fifteen, article one, 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 15. *Application of Proceeds; Costs.*—The provisions of section seven of this article shall govern as to the application of the proceeds of sale. The cost of the proceedings may be paid out of such proceeds, but no attorney's fee shall be taxed therein, except where, in the discretion of the court, it be reasonable and just.

## CHAPTER 149

(House Bill No. 216—By Mr. Wells)

AN ACT to amend and reenact section four-a, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to acknowledgment of persons in the military service of the United States and their spouses; who may take same, and form thereof.

[Passed February 24, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Authentication and Record of Writings.

#### Section

4-a. Acknowledgement of persons in the military service of the United States of America; who may take same, and form thereof.

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

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

Section 4-a. *Acknowledgment of Persons in the Military Service of the United States of America; Who May Take Same, and Form Thereof.*—Upon the request of any person interested therein, the clerk of the county court of any county in which any deed, contract, power of attorney, or other writing is to be, or may be, recorded, shall admit the same to record as to any person whose name is signed thereto who is in the military service of



9 the United States (including the Women's Army Auxil-  
10 iary Corps, Women's Appointed Volunteers for Emer-  
11 gency Service, Army Nurse Corps, "Spars", Women's Re-  
12 serve, or similar women's auxiliary unit officially con-  
13 nected with the military service of the United States) or  
14 who is the spouse of anyone in the military service of the  
15 United States (including the aforesaid components and  
16 auxiliary units officially connected therewith), upon the  
17 certificate of acknowledgment of such person before any  
18 commissioned officer of any branch of the military service  
19 of the United States, or auxiliary unit officially connected  
20 with such military service. Such acknowledgment may  
21 be taken at any place either within or outside of the United  
22 States of America, or any territory, possession or depend-  
23 ency thereof. The certificate of such acknowledgment  
24 need not state the place where same is taken and shall  
25 require no seal to be affixed thereto. The officer certifying  
26 such acknowledgment must state his rank, branch of mili-  
27 tary service, and identification number; and such certifi-  
28 cate of acknowledgment may be in form and effect as fol-  
29 lows:

30 IN THE MILITARY SERVICE OF THE  
31 UNITED STATES:

32 I, \_\_\_\_\_, a commissioned officer in the  
33 military service of the United States, do certify that  
34 \_\_\_\_\_, who is a member of the military  
35 service of the United States (or of \_\_\_\_\_, an  
36 auxiliary to the military forces of the United States),  
37 and/or \_\_\_\_\_, husband (or wife) of \_\_\_\_\_,  
38 a member of the military service of the United States (or  
39 of \_\_\_\_\_, an auxiliary to the military forces  
40 of the United States), whose name (s) is (are) signed to  
41 the foregoing writing bearing date on the \_\_\_\_\_ day  
42 of \_\_\_\_\_, 19 \_\_\_\_\_, has (have) this day acknowl-  
43 edged the same before me; and I further certify that I  
44 am a \_\_\_\_\_ in the \_\_\_\_\_ of the United  
45 States and my identification number is \_\_\_\_\_.  
46 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_,  
47 19 \_\_\_\_\_.

48  
49

\_\_\_\_\_  
(Official Title)

## CHAPTER 150

(Senate Bill No. 121—By Mr. Bean, Mr. President)

AN ACT to amend and reenact section four, article one, chapter thirty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to property of religious organizations.

[Passed February 25, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Religious Organizations.

#### Section

4. Insufficient designations of beneficiaries or objects not to cause failure of trust; acquisition, conveyance, etc., of property.

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

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

Section 4. *Insufficient Designations of Beneficiaries or Objects Not to Cause Failure of Trust; Acquisition, Conveyance, etc., of Property.*—No conveyance, devise, dedication, gift or bequest if the same does not conflict with the limitations of section eight of this article, and no gift or bequest hereafter made to any church, religious sect, society, denomination, or to any individual church, congregation, parish or branch within this state, or to the trustee or trustees for either, shall fail or be declared void for insufficient designation of the beneficiaries in, or the objects of, any trust annexed to such conveyance, devise, dedication, gift or bequest in any case where a lawful trustee or trustees of such church, religious sect, society, denomination, or of any individual church, parish, congregation or branch, are in existence or where such church, religious sect, society, denomination, or an individual church, parish,

17 congregation or branch, is capable of appointing such trustee or trustees as provided in this article; but such conveyance, devise, dedication, gift or bequest shall be valid; and  
18  
19 whenever the object of such trust shall be undefined, or so  
20 uncertain as not to admit of enforcement by a court of  
21 chancery, then such conveyance, devise, dedication, gift or  
22 bequest shall inure and pass to the trustee or trustees of  
23 the beneficiary church, religious sect, society, denomination,  
24 individual church, parish, congregation or branch, to  
25 be held, managed, and the principal or income appropriated  
26 for the religious and benevolent uses of such church, religious  
27 sect, society, denomination, or individual church, parish,  
28 congregation, or branch, as such trustee or trustees  
29 may determine, by and with the approval of the bishop,  
30 vestry, board of deacons, board of stewards, official board,  
31 board of elders, board of consultants, or other authorities  
32 which, under the rules of usages of such church, religious  
33 sect, society, denomination, or individual church, parish,  
34 congregation or branch, have charge of the administration  
35 of the temporalities thereof.  
36

37 Whenever the laws, rules or ecclesiastic polity of any  
38 church or religious sect, society or denomination commits  
39 to its duly elected or appointed bishop, minister or other  
40 ecclesiastical officer, authority to administer its affairs,  
41 such duly elected or appointed bishop, minister or other  
42 ecclesiastical officer shall have power to acquire by deed,  
43 devise, gift, purchase or otherwise, any real or personal  
44 property, for any purpose authorized and permitted by  
45 its laws, rules or ecclesiastic polity, and not prohibited  
46 by the laws of West Virginia, and the power to hold, improve,  
47 mortgage, sell and convey the same in accordance  
48 with such laws, rules and ecclesiastic polity, and in accordance  
49 with the laws of West Virginia. In the event of the  
50 transfer, removal, resignation or death of any such bishop,  
51 minister or other ecclesiastical officer, the title and all  
52 rights with respect to any such property shall pass to and  
53 become vested in his duly elected or appointed successor  
54 immediately upon election or appointment, and pending  
55 election or appointment of such successor, such title and  
56 rights shall be vested in such person or persons as shall be

57 designated by the laws, rules or ecclesiastic polity of such  
58 church or religious sect, society or denomination.

59 All deeds, deeds of trust, mortgages, wills or other in-  
60 struments heretofore made to or by a duly elected or  
61 appointed bishop, minister or other ecclesiastical officer,  
62 who, at the time of the making of any such deed, deed  
63 of trust, mortgage, will or other instrument, or there-  
64 after, had authority to administer the affairs of any church  
65 or religious sect, society or denomination under its laws,  
66 rules or ecclesiastic polity, transferring property, real or  
67 personal, of any such church, or religious sect, society or  
68 denomination, are hereby ratified and declared valid.  
69 All transfers of title and rights with respect to property,  
70 prior to the effective date of the ratification of this sec-  
71 tion, from a predecessor bishop, minister or other ec-  
72 clesiastical officer who had resigned or died, or has been  
73 transferred or removed, to his duly elected or appointed  
74 successor, by the laws, rules or ecclesiastic polity of any  
75 such church or religious sect, society or denomination,  
76 either by written instruments or solely by virtue of the  
77 election or appointment of such successor, are also hereby  
78 ratified and declared valid.

79 No gift, grant, bequest or devise hereafter made to any  
80 such church or religious sect, society or denomination,  
81 or the duly elected or appointed bishop, minister or other  
82 ecclesiastical officer authorized to administer its affairs,  
83 shall fail or be declared void for insufficient designa-  
84 tion of the beneficiaries in, or the objects of, any trust  
85 annexed to such gift, grant, bequest or devise; but such  
86 gift, grant, bequest or devise shall be valid, provided that  
87 whenever the objects of any such trust shall be unde-  
88 fined, or so uncertain as not to admit of specific enforce-  
89 ment by the chancery courts of the state, such gift, grant,  
90 bequest or devise shall be held, managed, and the prin-  
91 cipal or income appropriated, for the religious and benevo-  
92 lent uses of such church or religious sect, society or de-  
93 nomination by its duly elected or appointed bishop, minis-  
94 ter or other ecclesiastical officer authorized to administer  
95 its affairs.

96 This section shall not affect rights or litigation vested  
97 or pending on or before the day upon which this section

98 becomes effective, nor shall it be so construed as to effect  
99 an implied repeal of any other provisions of this chapter.  
100 The rights created and remedies provided herein shall  
101 be construed as cumulative and not exclusive.

## CHAPTER 151

(House Bill No. 311—By Mr. Speaker, Mr. Pauley, and Mr. Watson)

AN ACT authorizing the issuance and sale of not exceeding five million dollars of road bonds of the state of West Virginia to raise money for road construction and maintenance purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenues sufficient to pay semiannually the interest on such bonds and the principal thereof within twenty-five years.

[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### Road Bonds.

#### Section

1. Road bonds; amount; when may issue.
2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

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

Section 1. *Road Bonds; Amount; When May Issue.—*

2 Bonds of the state of West Virginia of the par value of

3 five million dollars are hereby authorized to be issued  
4 and sold for the purpose of raising funds for assisting in  
5 building, constructing and maintaining the system of  
6 roads and highways provided for by the constitution. Such  
7 bonds may be issued by the governor in such amounts, in  
8 coupon or registered form, in such denominations, at such  
9 times and bearing such date or dates as the governor may  
10 determine, and shall become due and payable serially  
11 in equal amounts beginning one year and ending twenty-  
12 five years from the date thereof: *Provided, however,* That  
13 no bonds may be issued under the provisions of this act  
14 until bonds authorized and issued under the provisions  
15 of the "Good Roads Amendment" to the constitution of  
16 the state, ratified at the general election held in November,  
17 one thousand nine hundred twenty, have been retired and  
18 canceled out of the state road sinking fund created by  
19 section six, chapter one hundred thirteen, acts of the Leg-  
20 islature of West Virginia, one thousand nine hundred  
21 twenty-one, in an amount equal to or greater than the  
22 amount to be issued hereunder at any one time.

Sec. 2. *Transfer Fee; Registration Fee; Where Payable; Interest Rate; Tax Exempt.*—The auditor and the treasurer are hereby authorized to arrange for the transfer of registered bonds, and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange shall be 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 state road 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 at a rate not exceeding four and one-half per cent per annum, payable semiannually, 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

22 at the bank designated by the governor, upon presenta-  
23 tion and surrender of interest coupons, then due, in the  
24 case of coupon bonds. In the case of registered bonds the  
25 treasurer of the state of West Virginia shall issue his  
26 check for the interest then due on the first day of \_\_\_\_\_,  
27 and \_\_\_\_\_ of each year, and mail it to the  
28 registered owner at the address as shown by the record  
29 of registration. Both the principal and interest of the  
30 bonds shall be payable in lawful money of the United  
31 States of America and the bonds shall be exempt from  
32 taxation by the state of West Virginia, or by any county,  
33 district, or municipality thereof, which facts shall appear  
34 on the face of the bonds as part of the contract with the  
35 holder thereof.

Sec. 3. *Form of Bond.*—The bonds and coupons shall be  
2 engraved and the bonds shall be signed on behalf of the  
3 state of West Virginia, by the treasurer thereof, under  
4 the great seal of the state, and countersigned by the audi-  
5 tor of the state, and shall be in the following form or to  
6 the following effect, as nearly as may be, namely:

7 COUPON ROAD BOND

8 (Or registered road bond, as the case may be)

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$ \_\_\_\_\_ No. \_\_\_\_\_

12 The state of West Virginia, under and by virtue of au-  
13 thority of an act of the Legislature passed at the regular  
14 session of one thousand nine hundred fifty-nine, on the \_\_\_\_  
15 day of \_\_\_\_\_, one thousand nine hundred fifty-  
16 nine, and approved by the governor on the \_\_\_\_\_ day of  
17 \_\_\_\_\_, one thousand nine hundred fifty-nine,  
18 which is hereby made a part hereof as fully as if set forth  
19 at length herein, acknowledges itself to be indebted to  
20 and hereby promises to pay to the bearer hereof (in the  
21 case of a coupon bond) or to \_\_\_\_\_ or  
22 assigns (the owner of record, in case of registered bonds)  
23 on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in lawful  
24 money of the United States of America at the office of  
25 the treasurer of the state of West Virginia at the capitol  
26 of said state, or at the option of the holder at \_\_\_\_\_  
27 bank in the city of New York, the sum of \_\_\_\_\_

28 dollars, with interest thereon at.....per centum  
29 per annum from date, payable semi-annually in like law-  
30 ful money of the United States of America at the treas-  
31 urer's office or bank aforesaid, on the first day of.....  
32 and the first day of.....of each year, (and in  
33 the case of coupon bonds) according to the tenor of the  
34 annexed coupons bearing the engraved facsimile signa-  
35 ture of the treasurer of the state of West Virginia, upon  
36 surrender of such coupons. This bond (in case of a coupon  
37 bond) may be exchanged for a registered bond of like  
38 tenor upon application to the treasurer of the state of  
39 West Virginia.

40 To secure the payment of this bond, principal sum and  
41 interest, when other funds and revenues sufficient are  
42 not available for that purpose, it is agreed that within the  
43 limits prescribed by the constitution, the board of public  
44 works of the state of West Virginia shall annually cause  
45 to be levied and collected an annual state tax on all prop-  
46 erty in the state, until this bond is fully paid, sufficient  
47 to pay the annual interest on this bond and the principal  
48 sum thereof within the time this bond becomes due and  
49 payable.

50 This bond is hereby made exempt from any taxation  
51 by the state of West Virginia, or by any county, district,  
52 or municipal corporation thereof.

53 In testimony whereof, witness the signature of the  
54 treasurer of the state of West Virginia, and the counter-  
55 signature of the auditor of the state, hereto affixed accord-  
56 ing to law, dated the.....day of....., one  
57 thousand nine hundred....., and the seal of  
58 the state of West Virginia.

59 (Seal)

60 \_\_\_\_\_  
61 Treasurer of the State of West Virginia

62 Countersigned:

63 \_\_\_\_\_  
64 Auditor of the State of West Virginia

Sec. 4. *Form of Coupon*.—The form of coupon shall be  
2 substantially as follows, to-wit:

3 STATE OF WEST VIRGINIA

4 Bond No.\_\_\_\_\_ Coupon No.\_\_\_\_\_



5 On the first day of ....., 19....., the state of  
6 West Virginia will pay to the bearer, in lawful money of  
7 the United States of America, at the office of the treasurer  
8 of the state, or at the option of the holder at.....  
9 bank in the city of New York, the sum of.....  
10 dollars, the same being semi-annual interest on Road Bond  
11 No.....

12

13

Treasurer of the State of West Virginia

14

The signature of the treasurer to such coupon shall be  
15 by his engraved facsimile signature and the coupons shall  
16 be numbered in the order of their maturity, from number  
17 one consecutively. The bonds and coupons may be signed  
18 by the present treasurer and auditor, or by any of their  
19 respective successors in office, and bonds signed by the  
20 persons now in office may be sold by the governor or his  
21 successor in office without being signed by the successor  
22 in office of the present treasurer or auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered  
2 bonds issued under this act shall be separately listed by  
3 the auditor of the state in books provided for the purpose.  
4 in each case giving the date, number, character and  
5 amount of obligations issued, and in case of registered  
6 bonds, the name and postoffice address of the person, firm  
7 or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund Sources Used to Pay*  
2 *Bonds and Interest; Investment of Remainder.*—Into the  
3 state road sinking fund there shall be paid all moneys re-  
4 ceived from the annual state tax levy on the taxable prop-  
5 erty in the state levied under the provisions of this act,  
6 from any and all appropriations made by the state from  
7 other sources for the purpose of paying the interest on such  
8 bonds or paying off and retiring the bonds, from fines,  
9 forfeitures and penalties, if any, made applicable by law  
10 for the payment of such bonds or the interest thereon,  
11 from transfer fees as herein provided, and from any source  
12 whatsoever, which is made liable by law for the payment  
13 of the principal of such bonds or the interest thereon.

14 All such funds shall be kept by the treasurer in a sepa-  
15 rate account, under the designation aforesaid, and all

16 money belonging to the fund shall be deposited in the  
17 state treasury to the credit thereof.

18 Such fund shall be applied by the treasurer of the state  
19 first to the payment of the semi-annual interest on such  
20 bonds as it shall become due as herein provided. The re-  
21 mainder of the fund shall be turned over by the state  
22 treasurer to the state sinking fund commission, whose  
23 duty it shall be to invest the same in bonds of the gov-  
24 ernment of the United States, bonds of the state of West  
25 Virginia, or any political subdivision thereof: *Provided,*  
26 *however,* That bonds so purchased by the state sinking  
27 fund commission shall mature so as to provide sufficient  
28 money to pay off all bonds herein provided to be issued  
29 as they become due; and the money so paid into the state  
30 road sinking fund under the provisions of this act shall  
31 be expended for the purpose of paying the interest and  
32 principal of the bonds hereby provided for as they sever-  
33 ally become due and payable and for no other purpose  
34 except that the fund may be invested until needed, as  
35 herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds Avail-*  
2 *able.*—In order to provide the revenue necessary for the  
3 payment of the principal and interest of such bonds, as  
4 hereinbefore provided, the board of public works, within  
5 the limits prescribed by the constitution, is authorized,  
6 empowered and directed to lay annually a tax upon all  
7 real and personal property subject to taxation within  
8 this state, sufficient to pay interest on the bonds accru-  
9 ing during the current year and one twenty-fifth of the  
10 total issue (at par value) of such bonds, for such number  
11 of years, not exceeding twenty-five, as may be necessary  
12 to pay the interest thereon and to pay off the principal  
13 sum of the bonds; and such taxes, when so collected,  
14 shall not be liable for or applicable to any other purpose:  
15 *Provided, however,* That if there be other funds in the  
16 state treasury, or in the state road funds, in any fiscal  
17 year, not otherwise appropriated, or if other sources of  
18 revenue be hereafter provided by law for the purpose,  
19 the board of public works is authorized, empowered and  
20 directed to set apart, in any year there be such funds,

21 or other sources of revenue provided for such purpose,  
22 a sum sufficient to pay the interest on bonds accruing  
23 during the current year, and to pay off, and retire the  
24 principal of such bonds, or any part thereof, at maturity.  
25 The authority hereby vested in the board of public  
26 works shall be in addition to the authority now vested  
27 in it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-  
2 ernor shall sell the bonds herein mentioned at such time  
3 or times as he may determine necessary to provide funds  
4 for road construction and maintenance purposes, as herein  
5 provided, upon recommendation of the state road com-  
6 missioner. All sales shall be at not less than par and ac-  
7 crued interest. All interest coupons becoming payable  
8 prior to the sale date shall be canceled by the treasurer  
9 and rendered ineffective, before the delivery of the bonds  
10 so sold.

Sec. 9. *Proceeds Paid into State Road Fund.*—The pro-  
2 ceeds of all sales of bonds herein authorized shall be paid  
3 into the state road fund created by section one, article  
4 three, chapter seventeen of the code of West Virginia, one  
5 thousand nine hundred thirty-one, as last amended.

Sec. 10. *Plates Property of State.*—The plates from  
2 which the bonds authorized by this act are engraved shall  
3 be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—The  
2 state auditor shall be the custodian of all unsold bonds  
3 issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-  
2 thorize the issuance of interim certificates to be issued to  
3 the purchasers of such bonds to be held by them in lieu  
4 of engraved bonds. When interim certificates are so is-  
5 sued, they shall become full and legal obligations of the  
6 state of West Virginia under all of the provisions of this  
7 act just as fully and completely as the engraved and per-  
8 manent bonds.

- Sec. 13. *Payment of Expenses.*—All necessary expenses  
2 incurred in the execution of this act shall be paid out of  
3 the state road fund on warrants of the auditor of the  
4 state drawn on the state treasurer.

## CHAPTER 152

(House Bill No. 10—By Mr. Bowman)

AN ACT to amend article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section forty-six, relating to commercial facilities for serving users of controlled-access facilities.

[Passed February 27, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 4. State Road System; Primary and Secondary Roads.

#### Section

46. Certain commercial enterprises prohibited on controlled-access facilities; commercial enterprises on service roads; turnpikes excepted.

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

That article four, chapter seventeen 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 forty-six, to read as follows:

- Section 46. *Certain Commercial Enterprises Prohibited on Controlled-Access Facilities; Commercial Enterprises on Service Roads; Turnpikes Excepted.*—No automotive  
2 service station or other commercial establishment for  
3 serving motor vehicle users shall be constructed or located  
4 within the right-of-way of, or on publicly-owned or  
5 publicly-leased land acquired or used for or in connection  
6 with, a controlled-access facility. Emergency services for  
7 disabled vehicles shall be authorized or conducted by the  
8 state road commissioner. The state road commissioner

11 may construct service roads adjacent to a controlled-  
12 access facility in such a manner as to facilitate the estab-  
13 lishment and operation of competitive commercial en-  
14 terprises for serving motor vehicle users on private prop-  
15 erty abutting such service roads.

16 Nothing in this section, however, shall have any appli-  
17 cation to any turnpike project as defined in section four,  
18 chapter one hundred thirty-nine, acts of the Legislature,  
19 regular session, one thousand nine hundred forty-seven,  
20 as amended.

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## CHAPTER 153

(House Bill No. 106—By Mr. Seibert)

AN ACT to amend article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three-a, pertaining to excess tolls collected.

(Passed February 27, 1959; in effect ninety days from passage. Approved by the Governor.)

### Article 17. Toll Bridges.

#### Section

23-a. Transfer of excess tolls collected.

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

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

#### Section 23-a. *Transfer of Excess Tolls Collected.*—

2 When the particular bonds issued for any bridge or  
3 bridges, and the interest thereon, shall have been paid,  
4 or a sufficient amount shall have been provided for the  
5 payment thereof and held for that purpose as in this  
6 article provided, and there remain in said fund a sum

7 or sums of money accumulated from tolls on such bridge  
8 or bridges, such money shall be used first for the con-  
9 version of such bridge or bridges from a toll bridge or  
10 bridges to a free bridge or bridges; and if, after paying  
11 the cost of such conversion there remain any sum or  
12 sums in such fund, the same shall, upon the determina-  
13 tion in writing by the commissioner to the state auditor  
14 that such conversion has been completed, and that there  
15 are no outstanding claims against such bridge or bridges  
16 by reason of the same and having been operated as a toll  
17 bridge or bridges, such remaining sum or sums of money  
18 shall be transferred to the state secondary road fund.

## CHAPTER 154

(House Bill No. 159—By Mr. Zabeau and Mr. Chilton)

AN ACT to amend and reenact section thirteen-b, article nine-  
teen, chapter seventeen of the code of West Virginia, one  
thousand nine hundred thirty-one, as amended, relating  
to the disposal of little and certain other material on and  
near highways and certain enumerated other locations,  
issuance of notice to the public and providing penalties.

[Passed March 2, 1959; in effect from passage. Approved by the Governor.]

### Article 19. General Criminal Provisions.

#### Section

- 13-b. Unlawful disposal of litter, etc.; prima facie evidence of viola-  
tion; notice of section; enforcement; penalty.

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

That section thirteen-b, 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 fol-  
lows:

- Section 13-b. *Unlawful Disposal of Litter, etc.; Prima*  
2 *Facie Evidence of Violation; Notice of Section; Enforce-*  
3 *ment; Penalty.*—It shall be unlawful to place, deposit,  
4 dump or throw, or cause to be placed, deposited, dumped

5 or thrown, any litter, garbage, refuse, trash, cans, bottles,  
6 papers, ashes, cigarette or cigar butts, junk, carcass of any  
7 dead animal, offal, waste, or any other offensive or un-  
8 sightly matter in or upon any public or private highway,  
9 road, street or alley, or upon the surface of any land with-  
10 in one hundred yards thereof without the consent of the  
11 owner, or in or upon any private property into or upon  
12 which the public is admitted by easement or license, or  
13 upon any private property without the consent of the own-  
14 er, or in or upon any public park or other public property  
15 other than in such place as may be set aside for such pur-  
16 pose by the governing body having charge thereof.

17 If any such material is thrown, cast, dumped or dis-  
18 charged from a motor vehicle in violation of this section,  
19 such action shall be deemed prima facie evidence that the  
20 owner and driver of such motor vehicle intended to violate  
21 this section.

22 The state commissioner of motor vehicles, upon register-  
23 ing a motor vehicle or issuing an operator's or chauffeur's  
24 license, shall issue to the owner or licensee, as the case  
25 may be, a copy of this section.

26 The state road commissioner shall cause appropriate  
27 signs to be placed at the state boundary on each primary  
28 and secondary road, informing those entering the state  
29 of the maximum penalty herein provided for disposing of  
30 litter in, upon and near highways and roads in violation  
31 of this section.

32 No portion of this section shall be construed to restrict a  
33 private owner or lessee in the use of his own private prop-  
34 erty or leased property, or to prohibit the disposal of ma-  
35 terials designated in this section in any manner author-  
36 ized by law.

37 In addition to enforcement by all proper law enforce-  
38 ment agencies, this section shall also be enforced by the  
39 state director of conservation, the United States forestry  
40 service and all other officers vested with powers and  
41 authority of game protectors.

42 Any person violating this section shall be guilty of a  
43 misdemeanor, and, upon conviction thereof, shall be fined  
44 not less than one hundred nor more than five hundred  
45 dollars.

## CHAPTER 155

(House Bill No. 81—By Mr. Brotherton)

AN ACT to amend and reenact section one, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to assessments, collection and enforcement of property taxes.

[Passed March 12, 1959; in effect ninety days from passage. Approved by the Governor.]

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

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

### CHAPTER 11. TAXATION

#### Article 3. Assessments Generally.

##### Section

1. Time and basis of assessment; true and actual value; default; reassessment; special assessors.

Section 1. *Time and Basis of Assessment; True and Actual Value; Default; Reassessment; Special Assessors.*—  
3 All property shall be assessed annually as of the thirty-  
4 first day of December, one thousand nine hundred fifty-  
5 nine, and each December thirty-first thereafter, at its  
6 true and actual value; that is to say, at the price for which  
7 such property would sell if voluntarily offered for sale  
8 by the owner thereof, upon such terms as such property,  
9 the value of which is sought to be ascertained, is usually  
10 sold, and not the price which might be realized if such  
11 property were sold at a forced sale, except that the true  
12 and actual value of all property owned, used and occu-



13   pied by the owner thereof exclusively for residential  
14   purposes and upon farms occupied and cultivated by their  
15   owners or bona fide tenants shall be arrived at by giving  
16   primary, but not exclusive, consideration to the fair and  
17   reasonable amount of income which the same might be  
18   expected to earn, under normal conditions in the locality  
19   wherein situated, if rented. The taxes upon all property  
20   shall be paid by those who are the owners thereof on  
21   that day, whether it be assessed to them or others. If at  
22   any time after the beginning of the assessment year, it  
23   be ascertained by the tax commissioner that the assessor,  
24   or any of his deputies, is not complying with this provi-  
25   sion or that he has failed, neglected or refused, or is  
26   failing, neglecting or refusing after five days' notice to  
27   list and assess all property therein at its true and actual  
28   value, the tax commissioner may order and direct a re-  
29   assessment of any or all of the property in any county,  
30   district or municipality, where any assessor, or deputy,  
31   fails, neglects or refuses to assess the property in the  
32   manner herein provided. And, for the purpose of making  
33   such assessment and correction of values, the tax com-  
34   missioner may appoint one or more special assessors, as  
35   necessity may require, to make such assessment in any  
36   such county, and any such special assessor or assessors,  
37   as the case may be, shall have all the power and authority  
38   now vested by law in assessors, and the work of such  
39   special assessor or assessors shall be accepted and treated  
40   for all purposes by the county boards of review and  
41   equalization and the levying bodies, subject to any re-  
42   visions of value on appeal, as the true and lawful assess-  
43   ment of that year as to all property valued by him or  
44   them. The tax commissioner shall, with the approval of  
45   the board of public works, fix the compensation of all  
46   such special assessors as may be designated by him, which,  
47   together with their actual expenses, shall be paid out of  
48   the county fund by the county court of the county in  
49   which any such assessment is ordered, upon the receipt  
50   of a certificate of the tax commissioner filed with the  
51   clerk of the court showing the amounts due and to whom

52 payable, after such expenses have been audited by the  
53 county court.

54 Any assessor who knowingly fails, neglects or refuses  
55 to assess all the property of his county, as herein pro-  
56 vided, shall be guilty of malfeasance in office, and, upon  
57 conviction thereof, he shall be fined not less than one  
58 hundred nor more than five hundred dollars, or imprisoned  
59 in the county jail not less than three nor more than six  
60 months or both, in the discretion of the court, and upon  
61 conviction, he shall be removed from office.

## CHAPTER 11-A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES

### Article 1. Accrual and Collection of Taxes.

#### Section

#### 2. Lien for real property taxes.

Section 2. *Lien for Real Property Taxes.*—There shall  
2 be a lien on all real property for the taxes assessed there-  
3 on, and for the interest and other charges upon such taxes,  
4 at the rate and for the period provided by law, which  
5 lien shall attach on the thirty-first day of December, one  
6 thousand nine hundred fifty-nine, and each December  
7 thirty-first thereafter for the taxes payable in the ensu-  
8 ing year.

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## CHAPTER 156

(Senate Bill No. 244—By Mr. Bean, Mr. President, and Mr. Carrigan)

AN ACT to amend article three, chapter eleven, by adding thereto a new section, designated section ten-b; to amend article five, chapter eleven, by adding thereto a new section, designated section ten-a; and to further amend said article five, chapter eleven, by amending and reenacting section ten thereof, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and relating to the release of ad valorem taxes, forfeitures and penalties on bank deposits and money and the effective date of such release.

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(Passed March 11, 1959; in effect from passage. Approved by the Governor.)

**Article****3. Assessments Generally.****5. Assessment of Personal Property.**

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

That article three, chapter eleven, be amended by adding thereto a new section, designated section ten-b; and that article five of said chapter eleven be amended by adding thereto a new section, designated section ten-a, and that said article five be further amended by amending and reenacting section ten thereof, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

**Article 3. Assessments Generally****Section**

- 10-b. Exemption of bank deposits and money from forfeitures and penalties.

Section 10-b. *Exemption of Bank Deposits and Money from Forfeitures and Penalties.*—No forfeiture or penalty imposed by the provisions of section ten of this article for failure to make a return of bank deposits or money shall be collectible unless the claim therefor shall have been reduced to judgment in favor of the state prior to the fourth day of November, one thousand nine hundred fifty-eight.

**Article 5. Assessment of Personal Property.****Section**

10. Entry of omitted personalty taxes.  
10-a. Release of taxes, interest, and charges on bank deposits and money not assessed prior to November Fourth, one thousand nine hundred fifty-eight.

Section 10. *Entry of Omitted Personalty Taxes.*—If the assessor discovers that any taxes on personal property, other than bank deposits and money, were omitted in any former years, he shall proceed as provided in section five of article three of this chapter.

Sec. 10-a. *Release of Taxes, Interest, and Charges on Bank Deposits and Money Not Assessed Prior to November Fourth, One Thousand Nine Hundred Fifty-Eight.*—In view of the adoption of section one-a, amending article ten of the constitution of West Virginia, at the general election held on the fourth day of November, one thousand nine

7 hundred fifty-eight, without any saving clause therein,  
8 and in order to give effect to the mandate of the people of  
9 the state, it is the intent and purpose of the Legislature to,  
10 and it hereby does, release all ad valorem taxes, interest,  
11 and charges on bank deposits and money unless an assess-  
12 ment therefor shall have been made, as provided in article  
13 three of this chapter, prior to the fourth day of November,  
14 one thousand nine hundred fifty-eight.

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## CHAPTER 157

(House Bill No. 145—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact section fourteen-a, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to taxation of building and loan associations and federal savings and loan associations and withdrawable investment shares and investment share accounts therein.

[Passed February 13, 1959; in effect from passage. Approved by the Governor.]

### Article 3. Assessments Generally.

#### Section

14-a. Taxation of building and loan associations and federal savings and loan associations.

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

That section fourteen-a, 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 14-a. *Taxation of Building and Loan Associations and Federal Savings and Loan Associations.*—The capital of every building and loan association and federal savings and loan association shall include all of its assets and shall be assessed at its true and actual value according to the rules prescribed by this chapter, to such building and loan association or federal savings and loan associa-

8 tion in the county, district and town where such associa-  
9 tion is located: *Provided, however,* That investment shares  
10 and investment share accounts in such associations repre-  
11 senting money withdrawable therefrom are hereby defined  
12 as money for purposes of taxation under this section and,  
13 as such, shall not be taxed but shall be deducted by the  
14 assessor in determining the true and actual value of the  
15 capital of any such association. The real and actual value  
16 of such capital shall be ascertained according to the best  
17 information which the assessor may be able to obtain,  
18 whether from any return made by such association to any  
19 officer of this state, or the United States, or from answers  
20 to questions by the assessor, as hereinafter provided, or  
21 from other trustworthy sources.

22 The secretary or principal accounting officer of every  
23 such building and loan association and federal savings and  
24 loan association shall cause to be kept a complete account-  
25 ing record, including a complete record of all such invest-  
26 ment shares and investment share accounts, which shall be  
27 open to the inspection of the assessors of the counties, and  
28 the tax commissioner or his assistants, and such secretary  
29 or officer shall answer under oath such questions as the  
30 assessor may ask him concerning the matters shown by  
31 such records and accounts, and shall be subject to the same  
32 penalties for failure to do so, which are imposed by law  
33 upon individuals failing to answer questions which the  
34 assessor is authorized to ask. The tax levied and assessed  
35 upon the capital of every such building and loan associa-  
36 tion and federal savings and loan association, shall be paid  
37 by such association in the manner and at the same time  
38 as other taxes are required to be paid in such county, dis-  
39 trict and town.

40 The real estate of any such building and loan associa-  
41 tion or federal savings and loan association shall be  
42 assessed as in other cases, and a proportionate share of  
43 such assessed value shall be deducted in ascertaining  
44 the value of such capital. And if the title to the building  
45 in which any such association does its business and the  
46 land on which such building stands is held by a separate  
47 corporation, in which any such association alone or to-  
48 gether with another such association or banking company

49 or companies own stock, and such building and land be  
50 assessed in such separate corporation, a proportionate  
51 share of the assessed value of such real estate of such  
52 separate company shall be deducted in ascertaining the  
53 value of the capital of such association. Every such asso-  
54 ciation shall make a return to the assessor as of the first  
55 day of the assessment year.

## CHAPTER 158

(Senate Bill No. 78—By Mr. Martin)

AN ACT to amend and reenact section six-c, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to maximum levies and levies to pay bond issues by county boards of education.

[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

### Article 8. Levies.

#### Section

6-c. Maximum levies on each classification by county boards of education; order of levy; exceeding levy for school bond issues.

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

That section six-c, article eight, 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-c. Maximum Levies on Each Classification by*

2 *County Boards of Education; Order of Levy; Exceeding*  
3 *Levy for School Bond Issues.*—County boards of educa-  
4 tion are hereby authorized to lay not in excess of the  
5 following maximum levies, for the purposes specified and  
6 in the following order:

7 (1) With respect to a magisterial, independent or other  
8 school district existing in a county prior to May twenty-  
9 second, one thousand nine hundred thirty-three, or any

10 special taxing district for which the board of education  
11 is required to lay the levy, for the payment of (a) interest  
12 and sinking fund requirements for bonded indebtedness  
13 incurred prior to the adoption of the tax limitation amend-  
14 ment; and (to the extent not so required), (b) other  
15 legally incurred contractual indebtedness not bonded, if  
16 any, incurred prior to the adoption of the tax limitation  
17 amendment as follows: On Class I property, thirty-five  
18 one-hundredths of one cent; on Class II property, seven-  
19 tenths of one cent; and on Classes III and IV property,  
20 one and four-tenths cents.

21 (2) For either or both of (a) the permanent improve-  
22 ment fund, and (b) the payment of interest and sinking  
23 fund requirements for bonded indebtedness incurred sub-  
24 sequent to the adoption of the tax limitation amendment,  
25 as follows: On Class I property, one and five-tenths cents;  
26 on Class II property, three cents; and on Classes III and  
27 IV property, six cents.

28 (3) For the general current expenses of schools as fol-  
29 lows: On Class I property, twenty-one and one-tenth  
30 cents; on Class II property, forty-two and two-tenths  
31 cents; and on Classes III and IV property, eighty-four and  
32 four-tenths cents. But if the tax commissioner has ap-  
33 proved the levy of an additional amount for the general  
34 current expenses of the county as authorized by section  
35 six-b, subsection three, the amount of the levy authorized  
36 for boards of education by this subsection shall be re-  
37 duced by the tax commissioner to that extent.

38 If the rates of levy under paragraph (2) above are  
39 not required in whole or in part for the purposes for  
40 which they are allocated by this section, the county board  
41 of education may, with the prior written approval of the  
42 state board of school finance, created by section three.  
43 article nine-b, chapter eighteen of the code, as amended  
44 lay such rates of levy or portion thereof not so required.  
45 for the general current expenses of schools: *Provided,*  
46 *however,* That if the rates of levy under paragraph (3)  
47 of this section are not sufficient for the purposes for which  
48 they are allocated, the county board of education may,  
49 with the prior written approval of the state tax commis-

50 sioner, lay such additional rates of levy or portion thereof,  
51 as are surrendered by the county court under paragraph  
52 (3), section six-b of this article: *Provided further*, That  
53 a county board of education shall be required to levy  
54 outside the levy rates hereinabove provided sufficient  
55 to pay the principal and interest requirements on bonds  
56 now or hereafter issued by any school district not exceed-  
57 ing in the aggregate five per cent of the assessed value of  
58 all taxable property in the county school district, to be  
59 ascertained by the last assessment for state and county  
60 taxes, previous to the incurring of such indebtedness, in  
61 the manner provided by sections eight and ten, article  
62 ten of the constitution as ratified.

## CHAPTER 159

(Senate Bill No. 79—By Mr. Martin)

AN ACT to amend and reenact section sixteen, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to elections to provide for increased levies by local levying bodies.

[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

### Article 8. Levies.

#### Section

16. What order for election to increase levies to show; vote required; amount and continuation of additional levy.

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

That section sixteen, article eight, 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 16. *What Order for Election to Increase Levies to Show; Vote Required; Amount and Continuation of Additional Levy.*—A local levying body may provide for



4 an election to increase the levies, by entering on its record  
5 of proceedings an order setting forth:

6 (1) The purpose for which additional funds are needed;

7 (2) The amount for each purpose;

8 (3) The total amount;

9 (4) The separate and aggregate assessed valuation of  
10 each class of taxable property within its jurisdiction;

11 (5) The proposed additional rate of levy in cents on  
12 each class of property;

13 (6) The proposed number of years, not to exceed three,  
14 to which the additional levy shall apply, except that in  
15 the case of county boards of education the proposed num-  
16 ber of years shall not exceed five.

17 The local levying body shall submit to the voters with-  
18 in their political subdivision, the question of the addi-  
19 tional levy at either a general or special election. If at  
20 least sixty per cent of the voters cast their ballots in  
21 favor of the additional levy, the local levying body may  
22 impose the additional levy. This levy shall not exceed  
23 fifty per cent of the rates authorized in sections ten and  
24 fourteen of this article for county courts and municipali-  
25 ties, nor one hundred per cent of the rates authorized in  
26 section twelve of this article for county boards of educa-  
27 tion, as the case may be.

28 Levies authorized by this section shall not continue for  
29 more than three years in the case of county courts and  
30 municipalities and five years in the case of county boards  
31 of education without resubmission to the voters.

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## CHAPTER 160

(Senate Bill No. 92—By Mr. Martin)

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AN ACT to amend article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen-a, relating to elections to provide for increased levies by county boards of education pursuant to the better schools amendment, where increased levies had been au-

thorized prior to the better schools amendment for a period of years extending beyond the effective date of this act.

[Passed February 2, 1959; in effect from passage. Approved by the Governor.]

## **Article 8. Levies.**

### **Section**

16-a. Immediate levies authorized pursuant to better schools amendment.

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

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

Section 16-a. *Immediate Levies Authorized Pursuant to Better Schools Amendment.*—A county board of education which has heretofore increased its levies pursuant to an election conducted prior to the adoption of the better schools amendment (section ten, article ten of the constitution), which election authorized such increased levies to continue for a period of years extending beyond the effective date of this act, said board of education having need of levies in excess of those authorized in such prior election, may, notwithstanding such prior increased levies, proceed at any time hereafter to hold a new election pursuant to the terms of section sixteen of this article, submitting to the voters the total amount by which the levies are proposed to be increased over those authorized in section twelve of this article, not exceeding one hundred per cent, and the total number of years, not exceeding five, after the date of such election for which said proposed increased levies shall continue; and if at least sixty per cent of the voters at such election cast their ballots in favor of such additional levy, the county board of education may impose the additional levy for the proposed number of years so submitted to the voters at such election; which higher rates and longer number of years shall then supersede and take the place of the increased

25 levies authorized at the election held prior to the adop-  
26 tion of section ten, article ten of the constitution.

27 In the event that at any such election held after the  
28 effective date of this act, less than sixty per cent of the  
29 voters at such election cast their votes in favor of any  
30 such proposed new increased levies and greater number  
31 of years, the increased levies approved at the election held  
32 prior to the adoption of the better schools amendment  
33 shall remain in full force and effect for the number of  
34 years authorized by such prior election.

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## CHAPTER 161

(House Bill No. 29—By Mr. Myles)

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AN ACT to amend and reenact section eleven, article eleven,  
chapter eleven of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to payment  
of inheritance and transfer taxes.

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[Passed February 17, 1959; in effect from passage. Approved by the Governor.]

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### Article 11. Inheritance and Transfer Taxes.

#### Section

#### 11. Payments and collection.

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

That section eleven, 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 11. *Payments and Collection.*—All taxes im-  
2 posed by this article shall be due and payable at the  
3 death of the transferor and if paid within thirteen months  
4 after the death of the transferor a discount of three per  
5 cent shall be allowed and deducted. If not paid within  
6 fourteen months after the death of the transferor taxes  
7 due under this article shall bear interest at the rate of

8 ten per centum per annum, to be computed from the  
9 expiration of fourteen months from the date of the death  
10 of the transferor until paid, and a penalty of five per cent  
11 shall be added. The tax commissioner may suspend pay-  
12 ment of such taxes, penalties and interest if there be  
13 necessary litigation pending at the time such taxes are  
14 due and payable, which involves the estate, or for other  
15 good and sufficient cause. Suits and actions brought for  
16 the purpose of defeating the payment of any such taxes,  
17 penalties and interest, shall not be deemed necessary liti-  
18 gation within the meaning of this section.

## CHAPTER 162

(Senate Bill No. 262—By Mr. Martin)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven-a, providing for compromise with other states of controversies involving inheritance or death taxes under certain circumstances.

[Passed February 19, 1959; in effect from passage. Approved by the Governor.]

### Article 11-a. Interstate Compromise of Inheritance and Death Taxes.

#### Section

1. Procedure.
2. Definition.
3. Interpretation.
4. Title.
5. Applicability.

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

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

- Section 1. *Procedure.*—When the state tax commissioner  
2 claims that a decedent was domiciled in this state at the

3 time of his death and the taxing authorities of another  
4 state or states make a like claim on behalf of their state  
5 or states, the state tax commissioner may make a written  
6 agreement of compromise with the other taxing authori-  
7 ties and the executor or administrator that a certain sum  
8 shall be accepted in full satisfaction of any and all inheri-  
9 tance taxes imposed by this state, including any interest  
10 or penalties to the date of filing the agreement. The agree-  
11 ment shall also fix the amount to be accepted by the other  
12 states in full satisfaction of death taxes. The executor or  
13 administrator is hereby authorized to make such agree-  
14 ment. Either the state tax commissioner or the executor  
15 or administrator shall file the agreement, or a duplicate,  
16 with the authority that would be empowered to assess  
17 inheritance taxes for this state if there had been no agree-  
18 ment; and thereupon the tax shall be deemed conclusively  
19 fixed as therein provided. Unless the tax is paid within  
20 thirty days after filing the agreement, interest and penal-  
21 ties shall thereafter accrue upon the amount fixed in the  
22 agreement but the time between the decedent's death and  
23 the filing shall not be included in computing the interest  
24 or penalties.

Sec. 2. *Definition.*—As used in this article the word  
2 “state” means any state, territory or possession of the  
3 United States, and the District of Columbia.

Sec. 3. *Interpretation.*—This article shall be so inter-  
2 preted and construed as to effectuate its general purpose  
3 to make uniform the law of those states which enact it.

Sec. 4. *Title.*—This article may be cited as the “Uniform  
2 Act on Interstate Compromise of Death Taxes”.

Sec. 5. *Applicability.*—This article shall apply to estates  
2 of decedents dying before or after its effective date.

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## CHAPTER 163

(Senate Bill No. 139—By Mr. Martin)

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AN ACT to amend chapter eleven of the code of West Virginia,  
one thousand nine hundred thirty-one, as amended, by

adding thereto a new article, designated article eleven-b, providing for arbitration with other states of controversies involving inheritance and death taxes under certain circumstances.

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[Passed February 19, 1959; in effect ninety days from passage. Approved by the Governor.]

### **Article 11-b. Interstate Arbitration of Inheritance and Death Taxes.**

#### **Section**

1. Arbitration authorized.
2. Hearings.
3. Powers of board.
4. Division of board.
5. Majority vote; exception.
6. Filing of board's determination.
7. Interest and penalties.
8. Compromise permitted.
9. Compensation and expenses of board.
10. Applicability.
11. Definition.
12. Interpretation.
13. Citation.
14. Estates affected.

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

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

- Section 1. *Arbitration Authorized.*—When the state tax
- 2 commissioner claims that a decedent was domiciled in this
  - 3 state at the time of his death and the taxing authorities
  - 4 of another state or states make a like claim on behalf of
  - 5 their state or states, the state tax commissioner may make
  - 6 a written agreement with the other taxing authorities
  - 7 and with the executor or administrator to submit the con-
  - 8 troversy to the decision of a board consisting of one or any
  - 9 uneven number of arbitrators. The executor or adminis-
  - 10 trator is hereby authorized to make the agreement. The
  - 11 parties to the agreement shall select the arbitrator or ar-
  - 12 bitrators.

2       Sec. 2. *Hearings.*—The board shall hold hearings at such  
3 times and places as it may determine, upon notice to the  
4 parties to the agreement, all of whom shall be entitled to  
5 be heard, to present evidence and to examine and cross-  
6 examine witnesses.

2       Sec. 3. *Powers of Board.*—The board shall have power  
3 to administer oaths, take testimony, subpoena and require  
4 the attendance of witnesses and the production of books,  
5 papers and documents, and issue commissions to take tes-  
6 timony. Subpoenaes may be signed by any member of the  
7 board.

2       Sec. 4. *Decision of Board.*—The board shall, by majority  
3 vote, determine the domicile of the decedent at the time  
4 of his death. This determination shall be final for purposes  
5 of imposing and collecting inheritance and death taxes  
6 but for no other purpose.

2       Sec. 5. *Majority Vote; Exception.*—Except as provided  
3 in section three in respect to the issuance of subpoenaes,  
4 all questions arising in the course of the proceeding shall  
5 be determined by majority vote of the board.

2       Sec. 6. *Filing of Board's Determination.*—The state tax  
3 commissioner, the board, or the executor or administrator  
4 shall file the determination of the board as to domicile,  
5 the record of the board's proceedings, and the agreement,  
6 or a duplicate, made pursuant to section one, with the  
7 authority having jurisdiction to assess the inheritance and  
8 death taxes in the state determined to be the domicile and  
9 shall file copies of all such documents with the authorities  
10 that would have been empowered to assess the inheritance  
and death taxes in each of the other states involved.

2       Sec. 7. *Interest and Penalties.*—In any case where it is  
3 determined by the board that the decedent died domiciled  
4 in this state, interest and penalties, if otherwise imposed  
5 by law, for nonpayment of inheritance taxes between the  
6 date of the agreement and of filing of the determination  
7 of the board as to domicile, shall not exceed six per cent  
8 per annum.

2       Sec. 8. *Compromise Permitted.*—Nothing contained  
3 herein shall prevent at any time a written compromise, if

3 otherwise lawful, by all parties to the agreement made  
4 pursuant to section one, fixing the amounts to be accepted  
5 by this and any other state involved in full satisfaction of  
6 inheritance and death taxes.

Sec. 9. *Compensation and Expenses of Board.*—The  
2 compensation and expenses of the members of the board  
3 and its employees may be agreed upon among such mem-  
4 bers and the executor or administrator and if they cannot  
5 agree shall be fixed by the probate court of the state de-  
6 termined by the board to be the domicile of the decedent.  
7 The amounts so agreed upon or fixed shall be deemed an  
8 administration expense and shall be payable by the execu-  
9 tor or administrator.

Sec. 10. *Applicability.*—This article shall apply only to  
2 cases in which each of the states involved has a law identi-  
3 cal with or substantially similar to this article.

Sec. 11. *Definition.*—As used in this article the word  
2 “state” means any state, territory or possession of the  
3 United States, and the District of Columbia.

Sec. 12. *Interpretation.*—This article shall be so inter-  
2 preted and construed as to effectuate its general purpose  
3 to make uniform the law of those states which enact it.

Sec. 13. *Citation.*—This article may be cited as the  
2 “Uniform Act on Interstate Arbitration of Death Taxes.”

Sec. 14. *Estates Affected.*—This article shall apply to  
2 estates of decedents dying before or after its enactment.

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## CHAPTER 164

(House Bill No. 304—By Mrs. Drewry and Mr. Poindexter)

AN ACT to amend and reenact section thirteen, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the annual license fee to conduct the business of an employment agent and an exemption therefrom.



[Passed March 2, 1959; in effect ninety days from passage. Approved by the Governor.]

## Article 12. License Taxes.

### Section

13. Employment agent; exemption.

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

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

Section 13. *Employment Agent; Exemption.*—The annual license fee to conduct the business of an employment agent, to receive applications for employment, to hire or contract with persons for employment shall be two hundred dollars, except that the annual license fee for an agency or registry for the employment of registered professional nurses, practical nurses or undergraduate nurses shall be twenty-five dollars: *Provided, however,* That the provisions of this section shall not be applicable to any such agency or registry operated by a registered professional nurses association or any district subdivision thereof for the exclusive benefit of its registrants and not for profit.

When used in this section the term "employment agent" shall be deemed to mean and include the same persons as defined in section four, article two, chapter twenty-one of this code.

## CHAPTER 165

(House Bill No. 100—By Mr. Chilton)

AN ACT to repeal section three, and to amend and reenact sections four and five, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the annual privilege tax on certain carrier corporations.

[Passed March 7, 1959; in effect July 1, 1959. Approved by the Governor.]

## **Article 12-a. Privilege Tax on Certain Carrier Corporations.**

### **Section**

4. Gross income of motor vehicle carrier, railroad car corporation, express company, pipe line corporation, telephone and telegraph corporation, airline corporation, and operator of steamboat or other watercraft.
5. Additional privilege tax on net income of business included in preceding section; computing tax.

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

That section three, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections four and five of said article twelve-a be amended and reenacted to read as follows:

Section 4. *Gross Income of Motor Vehicle Carrier, Railroad Car Corporation, Express Company, Pipe Line Corporation, Telephone and Telegraph Corporation, Airline Corporation, and Operator of Steamboat or Other Watercraft.*—Every motor vehicle carrier operating on the public highways of this state and every railroad car corporation, express corporation, or company, pipe line corporation, telephone and telegraph corporation, airline corporation or company, and operator of a steamboat or other watercraft, for the transportation of passengers or freight, doing business in the state shall pay to the state an annual privilege tax for each calendar year for the privilege of doing business in the state. This tax shall be equal to the gross income from all business beginning and ending within the state multiplied by the respective rates as follows: Motor vehicle carriers, railroad car corporations, express corporations or companies, pipe line corporations, one and one-half per cent; telephone corporations, two and three-fourths per cent; telegraph corporations, five per cent; and airline corporations and operators of steamboat or other watercraft, three per cent.

Sec. 5. *Additional Privilege Tax on Net Income of Business Included in Preceding Section; Computing Tax.*  
—In addition to the tax imposed in the preceding sections,

4 every motor vehicle carrier operating on the public high-  
5 ways of the state and every railroad corporation, railroad  
6 car corporation, express corporation or company, pipe line  
7 corporation, telephone and telegraph corporation, airline  
8 corporation or company, and operator of a steamboat or  
9 other watercraft, for the transportation of passengers or  
10 freight, doing business in this state shall pay an annual  
11 privilege tax for each calendar year for the privilege of  
12 doing business in the state, to be determined as follows:

13 (a) The tax as to motor vehicle carriers shall be equal  
14 to one and one-half per cent of the net income earned  
15 within the state, such income to be determined by ascer-  
16 taining a sum bearing the proportion to the total net in-  
17 come of the motor vehicle carrier that its business done  
18 in West Virginia measured in motor vehicle miles of motor  
19 vehicle carrier operation, bears to all business done, meas-  
20 ured in like fashion;

21 (b) The tax as to railroad corporations shall be equal  
22 to four per cent of the net income earned within the state,  
23 such income to be determined by ascertaining a sum bear-  
24 ing the proportion to total net income of the corporation  
25 that its business done in West Virginia, measured in ton-  
26 miles, bears to all business done, measured in like fashion;

27 (c) The tax as to railroad car corporations and as to  
28 express corporations or companies shall be one and one-  
29 half per cent of net income earned within the state, such  
30 income to be determined by ascertaining a sum bearing  
31 the proportion to the total net income of the corporation  
32 or company that its business done in West Virginia,  
33 measured in car-miles of car operation, bears to all busi-  
34 ness done, measured in like fashion: *Provided, however,*  
35 *That nothing in this act shall be construed as applying to*  
36 *railroad freight car corporations not owned by railroad*  
37 *corporations or their subsidiaries;*

38 (d) The tax as to pipe line corporations shall be three  
39 and one-half per cent of net income earned within the  
40 state, such income to be determined by ascertaining a sum  
41 bearing the proportion to the total net income of the  
42 corporation that its business done in West Virginia, meas-  
43 ured in barrel-miles in the case of oil and of thousand

44 cubic feet-miles in the case of gas, bears to all business  
45 done, measured in like fashion;

46 (e) The tax as to telephone and telegraph corporations  
47 shall be two and three-fourths per cent of net income  
48 earned within the state as to telephone corporations, and  
49 five per cent as to telegraph corporations, such income to  
50 be determined by ascertaining a sum bearing the propor-  
51 tion to the total net income of the corporation that its  
52 business done in West Virginia, measured in wire-miles,  
53 bears to all business done, measured in like fashion;

54 (f) The tax as to airline corporations and operators of a  
55 steamboat or other watercraft, for the transportation of  
56 passengers or freight, shall be three per cent of net in-  
57 come earned within the state, such income to be deter-  
58 mined by ascertaining a sum bearing the proportion to the  
59 total net income of the corporation that its business done  
60 in West Virginia, measured in passenger-miles in the case  
61 of airline corporations and ton-miles in the case of the  
62 operator of a steamboat or other watercraft, bears to all  
63 business done, measured in like fashion;

64 (g) In computing the tax imposed by this section the  
65 total net income of a taxpayer, who shall have been taxed  
66 under the preceding section, shall be reduced by an  
67 amount bearing the proportion to such total net income  
68 that the gross income of the taxpayer which is the  
69 measure of the tax under the preceding section bears to  
70 its total gross income from all business done wherever  
71 conducted. This section shall not apply to a taxpayer  
72 taxed under the preceding section and engaged exclusively  
73 in business within this state.

## CHAPTER 166

(House Bill No. 475—By Mr. Speaker, Mr. Pauley, and Mr. Seibert)

AN ACT to amend article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing section eleven of said article, and by adding thereto six new sections, to be designated sections six-a, eight-a, eight-b, eight-c, eight-d and eight-e,

relating to the assessment and the method of appeal therefrom, of the privilege tax on certain carrier corporations.

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[Passed March 14, 1959; in effect ninety days from passage. Approved by the Governor.]

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### **Article 12-a. Privilege Tax on Certain Carrier Corporations.**

#### **Section**

- 6-a. Erroneous computation.
  - 8-a. Assessment of tax when insufficiently returned.
  - 8-b. Jeopardy assessments.
  - 8-c. Notice of assessment; petition for reassessment; hearing.
  - 8-d. Appeal.
  - 8-e. Service of notice.
- 

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

That article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing section eleven of said article, and by adding thereto six new sections, to be designated sections six-a, eight-a, eight-b, eight-c, eight-d and eight-e, all to read as follows:

- Section 6-a. *Erroneous Computation.*—If the taxpayer
- 2 shall make any clerical error which shall be apparent on
  - 3 the face of the return in computing the tax assessable
  - 4 against him, the tax commissioner shall correct such
  - 5 error or reassess the proper amount of taxes, and notify
  - 6 the taxpayer of his action by mailing to him promptly
  - 7 a copy of the corrected assessment, and any additional
  - 8 tax for which such taxpayer may be liable shall be paid
  - 9 within fifteen days after the receipt of such statement.
  - 10 If the amount already paid exceeds that which should
  - 11 have been paid on the basis of the tax so recomputed,
  - 12 the excess so paid shall be immediately refunded to the
  - 13 taxpayer upon the requisition of the tax commissioner
  - 14 to the state auditor, who shall issue his warrant on the
  - 15 treasurer, which shall be payable out of any funds avail-
  - 16 able for the purpose. The taxpayer may, at his election,
  - 17 apply an overpayment credit to taxes subsequently ac-
  - 18 cruing hereunder.

2     *Sec. 8-a. Assessment of Tax When Insufficiently Re-*  
3     *turned.*—If the tax commissioner believes that the tax  
4     imposed by this article is insufficiently returned by a  
5     taxpayer, either because the taxpayer has failed to prop-  
6     erly remit the tax or has failed to make a return, or has  
7     made a return which is incomplete, deficient or other-  
8     wise erroneous, he may proceed to investigate and de-  
9     termine or estimate the tax liability of the taxpayer and  
   make an assessment therefor.

2     *Sec. 8-b. Jeopardy Assessments.*—If the tax commis-  
3     sioner believes that the collection of any tax which he  
4     is required to administer will be jeopardized by delay,  
5     he shall thereupon make an assessment of the tax, noting  
6     that fact upon the assessment. The amount assessed shall  
7     be immediately due and payable. Unless the taxpayer  
8     against whom a jeopardy assessment is made petitions for  
9     reassessment within twenty days after service of notice  
10    of the jeopardy assessment, such an assessment becomes  
   final.

11    A petition for reassessment by a taxpayer against whom  
12    a jeopardy assessment has been made must be accom-  
13    panied by such security as the tax commissioner may  
14    deem necessary to insure compliance with this article.

2     *Sec. 8-c. Notice of Assessment; Petition for Reassess-*  
3     *ment; Hearing.*—The tax commissioner shall give to the  
4     taxpayer written notice of any assessment made pursuant  
5     to this article. Unless the taxpayer to whom a notice of  
6     assessment is directed shall, within thirty days after  
7     service thereof (except in the case of jeopardy assess-  
8     ments), either personally or by registered mail, file with  
9     the tax commissioner a petition in writing, verified under  
10    oath by said taxpayer or his duly authorized agent, hav-  
11    ing knowledge of the facts, setting forth with definiteness  
12    and particularity the items of the assessment objected to,  
13    together with the reason for such objections, said assess-  
14    ments shall become due and be deemed conclusive and  
15    the amount thereof shall be payable at the end of the  
16    thirty-day period. In every case where a petition for  
17    reassessment as above described is filed, the tax commis-  
   sioner shall assign a time and place for the hearing of

18 same and shall notify the petitioner of such hearing by  
19 written notice at least twenty days in advance thereof  
20 and such hearing shall be held within sixty days from  
21 the filing of the petition for reassessment unless con-  
22 tinued by agreement or by the tax commissioner for good  
23 cause. The hearing shall be informal and may be con-  
24 ducted by an examiner designated by the tax commis-  
25 sioner. At such hearing evidence may be offered to sup-  
26 port the assessment or to prove that it is incorrect. After  
27 such hearing the tax commissioner shall, within a reason-  
28 able time, give notice in writing of the decision. Unless  
29 an appeal is taken within thirty days from service of this  
30 notice, the tax commissioner's decision shall be final.

Sec. 8-d. *Appeal*.—An appeal may be taken by the tax-  
2 payer to the circuit court of the county in which the  
3 activity taxed was engaged, or in which the taxpayer  
4 resides, or in the circuit court of Kanawha county, with-  
5 in thirty days after he shall have received notice from the  
6 tax commissioner of his determination as provided in sec-  
7 tion eight-c.

8 The appeal shall be taken by written notice to the tax  
9 commissioner and served as an original notice. When  
10 said notice is so served it shall, with the return thereon,  
11 be filed in the office of the clerk of the circuit court and  
12 docketed as other cases with the taxpayer as plaintiff and  
13 the tax commissioner as defendant. The plaintiff shall  
14 file with such clerk a bond for the use of the defendant,  
15 with sureties approved by such clerk, the penalty of such  
16 bond being not less than the total amount of tax and  
17 penalties appealed from, and in no case shall the bond be  
18 less than fifty dollars, conditioned that the plaintiff shall  
19 perform the orders of the court.

20 The court shall hear the appeal in equity and determine  
21 anew all questions submitted to it on appeal from the  
22 determination of the tax commissioner. In such appeal  
23 a certified copy of the tax commissioner's assessment shall  
24 be admissible and shall constitute prima facie evidence  
25 of the tax due under the provisions of this article. The  
26 court shall render its decree thereon and a certified copy  
27 of said decree shall be filed by the clerk of said court with

28 the tax commissioner who shall then correct the assess-  
29 ment in accordance with said decree. An appeal may be  
30 taken by the taxpayer or the tax commissioner to the  
31 supreme court of appeals of this state in the same manner  
32 that appeals are taken in equity.

Sec. 8-e. *Service of Notice*.—Any written notice re-  
2 quired by this article shall, unless otherwise specifically  
3 provided, be served upon the taxpayer personally or by  
4 registered mail.

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## CHAPTER 167

(Senate Bill No. 157—By Mr. Bean, Mr. President)

AN ACT to amend and reenact sections one, two-a, two-b,  
two-c, two-d, two-e, two-g, two-h, two-i, two-j and three-b,  
article thirteen, chapter eleven of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended,  
and to further amend said article thirteen, chapter eleven,  
by adding thereto two new sections, designated sections  
sixteen-a and twenty-five, and to further amend said article  
thirteen, chapter eleven, by repealing section three-a, all  
relating to business and occupation tax.

[Passed March 14, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 13. Business and Occupation Tax.

#### Section

1. Definitions.
- 2-a. Production of coal and other natural resource products.
- 2-b. Manufactured, compounded or prepared products; processing of poultry and turkeys not considered as manufacturing or compounding.
- 2-c. Business of selling tangible property; sales exempt.
- 2-d. Public service or utility business.
- 2-e. Business of contracting.
- 2-g. Business of operating amusements.
- 2-h. Service business or calling not otherwise specifically taxed.
- 2-i. Business of furnishing property for hire.
- 2-j. Small loan and industrial loan businesses.
- 3-a. Repeal of section three-a, article thirteen, chapter eleven of the code.
- 3-b. Definitions; reduction allowed in tax due; how computed.
- 16-a. Prerequisite to final settlement with nonresidence contractor; user personally liable.
25. Cities, towns or villages restricted from imposing additional tax.



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

That section three-a, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, that sections one, two-a, two-b, two-c, two-d, two-e, two-g, two-h, two-i, two-j and three-b, of said article, be amended and reenacted, and that said article be further amended by adding thereto two new sections, designated sections sixteen-a and twenty-five, all to read as follows:

Section 1. *Definitions.*—When used in this article, the term “person” or the term “company”, herein used interchangeably, includes any individual, firm, copartnership, joint adventure, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

“Tax year” or “taxable year” means either the calendar year, or the taxpayer’s fiscal year when permission is obtained from the tax commissioner to use same as the tax period in lieu of the calendar year.

“Sale”, “sales” or “selling” includes any transfer of the ownership of, or title to, property, whether for money or in exchange for other property.

“Taxpayer” means any person liable for any tax hereunder.

“Gross income” means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest or discount paid or any other expense whatsoever.

“Gross proceeds of sales” means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind.

33 The terms "gross income" and "gross proceeds of sales"  
34 shall not be construed to include (1) cash discounts  
35 allowed and taken on sales; (2) the proceeds of sale of  
36 goods, wares or merchandise returned by customers when  
37 the sale price is refunded either in cash or by credit;  
38 (3) the amount allowed as "trade-in value" for any article  
39 accepted as part payment for any article sold; or (4)  
40 excise taxes imposed by this state.

41 "Business" shall include all activities engaged in or  
42 caused to be engaged in with the object of gain or eco-  
43 nomic benefit, either direct or indirect. "Business" shall  
44 not include a casual sale by a person who is not engaged  
45 in the business of selling the type of property involved in  
46 such casual sale. "Business" shall include the production  
47 of natural resources or manufactured products which are  
48 used or consumed by the producer or manufacturer.

49 "Service business or calling" shall include all non-  
50 professional activities engaged in for other persons for a  
51 consideration, which involve the rendering of a service as  
52 distinguished from the sale of tangible property, but shall  
53 not include the services rendered by an employee to his  
54 employer. This term shall include persons engaged in  
55 manufacturing, compounding or preparing for sale, profit,  
56 or commercial use, articles, substances, or commodities  
57 which are owned by another or others, as well as persons  
58 engaged as independent contractors in producing natural  
59 resource products for persons required to pay the tax  
60 imposed by section two-a of this article.

61 "Selling at wholesale" or "wholesale sales" shall mean  
62 and include: (1) Sales of any tangible personal property  
63 for the purpose of resale in the form of tangible personal  
64 property; (2) sales of machinery, supplies or materials  
65 which are to be directly consumed or used by the pur-  
66 chaser in the conduct of any business or activity which is  
67 subject to the tax imposed by this article or by article  
68 twelve-a of this chapter; (3) sales of any tangible personal  
69 property to the United States of America, its agencies and  
70 instrumentalities or to the state of West Virginia, its in-  
71 stitutions or political subdivisions.

72 "Contracting" shall include the furnishing of work, or

73 both materials and work, in the fulfillment of a contract  
74 for the construction, alteration, repair, decoration or im-  
75 provement of a new or existing building or structure, or  
76 any part thereof, or for the alteration, improvement or  
77 development of real property.

Sec. 2-a. *Production of Coal and Other Natural Re-*  
2 *source Products.*—Upon every person engaging or con-  
3 tinuing within this state in the business of producing for  
4 sale, profit or commercial use any natural resource prod-  
5 ucts, the amount of such tax to be equal to the value of  
6 the articles produced as shown by the gross proceeds de-  
7 rived from the sale thereof by the producer, except as  
8 otherwise provided, multiplied by the respective rates as  
9 follows: Coal, one and thirty-five one-hundredths per  
10 cent; limestone or sandstone, quarried or mined, two per  
11 cent; oil, three and ninety-five one-hundredths per cent;  
12 natural gas, in excess of the value of five thousand dollars,  
13 seven and eighty-five one-hundredths per cent; blast  
14 furnace slag, three and ninety-five one-hundredths per  
15 cent; sand, gravel, or other mineral product not quarried  
16 or mined, three and ninety-five one-hundredths per cent;  
17 timber, two per cent; other natural resource products, two  
18 and six-tenths per cent. The measure of this tax is the  
19 value of the entire production in this state, regardless of  
20 the place of sale or the fact that the delivery may be made  
21 to points outside the state.

Sec. 2-b. *Manufactured, Compounded or Prepared Prod-*  
2 *ucts; Processing of Poultry and Turkeys Not Considered as*  
3 *Manufacturing or Compounding.*—Upon every person  
4 engaging or continuing within this state in the business of  
5 manufacturing, compounding or preparing for sale, profit,  
6 or commercial use, either directly or through the activity  
7 of others in whole or part, any article or articles, sub-  
8 stance or substances, commodity or commodities, or elec-  
9 tric power not produced by public utilities taxable under  
10 other provisions of this article, the amount of the tax to be  
11 equal to the value of the article, substance, commodity or  
12 electric power manufactured, compounded or prepared for  
13 sale, as shown by the gross proceeds derived from the sale

14 thereof by the manufacturer or person compounding or  
15 preparing the same, except as otherwise provided, multi-  
16 plied by a rate of four-tenths of one per cent. The meas-  
17 ure of this tax is the value of the entire product manufac-  
18 tured, compounded or prepared in this state for sale,  
19 profit or commercial use, regardless of the place of sale  
20 or the fact that deliveries may be made to points outside  
21 the state. However, the dressing and processing of poul-  
22 try and turkeys by a person, firm or corporation, which  
23 poultry and turkeys are to be sold on a wholesale basis  
24 by such person, firm or corporation shall not be con-  
25 sidered as manufacturing or compounding, but the sale of  
26 these products on a wholesale basis shall be subject to  
27 the same tax as is imposed on the business of selling at  
28 wholesale as provided in section two-c.

29 It is further provided, however, that in those instances  
30 in which the same person partially manufactures products  
31 within this state and partially manufactures such products  
32 outside of this state the measure of his tax under this  
33 section shall be that proportion of the sale price of the  
34 manufactured product that the payroll cost of manufac-  
35 turing within this state bears to the entire payroll cost  
36 of manufacturing the product; or, at the option of the  
37 taxpayer, the measure of his tax under this section shall  
38 be the proportion of the sales value of the articles that the  
39 cost of operations in West Virginia bears to the full cost  
40 of manufacture of the articles.

• **Sec. 2-c. Business of Selling Tangible Property; Sales**  
2 **Exempt.**—Upon every person engaging or continuing  
3 within this state in the business of selling any tangible  
4 property whatsoever, real or personal, including the sale  
5 of food, and the services incident to the sale of food in  
6 hotels, restaurants, cafeterias, confectioneries, and other  
7 public eating houses, except sales by any person engaging  
8 or continuing in the business of horticulture, agriculture  
9 or grazing, or of selling stocks, bonds or other evidences  
10 of indebtedness, there is likewise hereby levied, and shall  
11 be collected, a tax equivalent to one-half of one per cent  
12 of the gross income of the business, except that in the  
13 business of selling at wholesale the tax shall be equal to

14 twenty-five one-hundredths of one per cent of the gross  
15 income of the business.

Sec. 2-d. *Public Service or Utility Business.*—Upon any  
2 person engaging or continuing within this state in any  
3 public service or utility business, except railroad, railroad  
4 car, express, pipe line, telephone and telegraph companies,  
5 water carriers by steamboat or steamship and motor car-  
6 riers, there is likewise hereby levied and shall be col-  
7 lected taxes on account of the business engaged in equal  
8 to the gross income of the business multiplied by the re-  
9 spective rates as follows: Street and interurban and elec-  
10 tric railways, one and three-tenths per cent; water com-  
11 panies, four per cent except as to income received by  
12 municipally-owned water plants; electric light and power  
13 companies, five and two-tenths per cent on sales and de-  
14 mand charges for domestic purposes and commercial  
15 lighting and three and nine-tenths per cent on sales and  
16 demand charges for all other purposes, except as to in-  
17 come received by municipally-owned plants producing  
18 or purchasing electricity and distributing same; natural  
19 gas companies, three and nine-tenths per cent on the  
20 gross income, said gross income for this purpose to be  
21 determined by deducting from gross income from all sales  
22 of gas to consumers the amount of the tax paid by the tax-  
23 payer under section two-a of this article on the produc-  
24 tion of the same gas; toll bridge companies, three and  
25 nine-tenths per cent; and upon all other public service  
26 or utility business, two and six-tenths per cent. The  
27 measure of this tax shall not include gross income derived  
28 from commerce between this state and other states of  
29 the United States or between this state and foreign coun-  
30 tries. The measure of the tax under this section shall  
31 include only gross income received from the supplying  
32 of public services. The gross income of the taxpayer  
33 from any other activity shall be included in the measure  
34 of the tax imposed upon the appropriate section or sec-  
35 tions of this article.

Sec. 2-e. *Business of Contracting.*—Upon every person  
2 engaging or continuing within this state in the business

3 of contracting, the tax shall be equal to two and six-tenths  
4 per cent of the gross income of the business.

Sec. 2-g. *Business of Operating Amusements.*—Upon  
2 every person engaging or continuing within this state in  
3 the business of operating a theatre, opera house, moving  
4 picture show, vaudeville, amusement park, dance hall,  
5 skating rink, race track, radio broadcasting station or any  
6 other place at which amusements are offered to the public,  
7 the tax shall be equal to sixty-five one-hundredths of one  
8 per cent of the gross income of the business.

Sec. 2-h. *Service Business or Calling Not Otherwise*  
2 *Specifically Taxed.*—Upon every person engaging or con-  
3 tinuing within this state in any service business or calling  
4 not otherwise specifically taxed under this law, there is  
5 likewise hereby levied and shall be collected a tax equal  
6 to one and five one-hundredths per cent of the gross in-  
7 come of any such business.

Sec. 2-i. *Business of Furnishing Property for Hire.*—  
2 Upon every person engaging or continuing within this  
3 state in the business of furnishing any real or tangible  
4 personal property, which has a tax situs in this state, or  
5 any interest therein for hire, loan, lease or otherwise,  
6 whether the return be in the form of rentals, royalties,  
7 fees or otherwise, the tax shall be one and five one-hun-  
8 dredths per cent of the gross income of any such activity.  
9 The term "tangible personal property", as used herein,  
10 shall not include money or public securities.

Sec. 2-j. *Small Loan and Industrial Loan Businesses.*—  
2 Upon every person engaging or continuing within this  
3 state in the business of making loans of money, credit  
4 goods, or things in action, who because of such activity is  
5 required under the provisions of article seven-a, chapter  
6 forty-seven of the code of West Virginia, one thousand  
7 nine hundred thirty-one, as amended, to obtain a license  
8 from the commissioner of banking of the state of West  
9 Virginia, and upon each and every industrial loan com-  
10 pany, the tax shall be one and five one-hundredths per  
11 cent of the gross income of any activity, notwithstanding  
12 any other provisions of this article.

2       Sec. 3-a. *Repeal of Section Three-a, Article Thirteen,*  
3   *Chapter Eleven of Code.*—Section three-a, article thirteen,  
4   chapter eleven of the code of West Virginia, one thousand  
5   nine hundred thirty-one, as amended, is hereby repealed.

2       Sec. 3-b. *Definitions; Reduction Allowed in Tax Due;*  
3   *How Computed.*—When used in this section, the phrase  
4   “normal tax” shall mean the tax computed by the appli-  
5   cation of rates against values or gross income as set forth  
6   in sections two-a to two-j, inclusive, of this article, less  
7   exemption at the rate of fifty dollars annually or at the  
8   rate of four dollars and sixteen cents per month for the  
9   period actually engaged in business.

10      The normal tax shall be computed by the application of  
11   rates against values or gross income as set forth in sec-  
12   tions two-a to two-j, inclusive, of this article.

2       Sec. 16-a. *Prerequisite to Final Settlement with Non-*  
3   *resident Contractor; User Personally Liable.*—Any per-  
4   son, firm or corporation contracting with a nonresident  
5   person, firm or corporation engaged in a business or serv-  
6   ice taxed under this article shall withhold payment in suf-  
7   ficient amount to cover taxes assessed by this article in the  
8   final settlement of such contracts until the receipt of a  
9   certificate from the tax commissioner to the effect that  
10   all taxes levied and accrued under this article against the  
11   contractor have been paid.

12      If any person, firm or corporation shall fail to withhold  
13   as provided herein he shall be personally liable for the  
14   payment of all such taxes, and the same shall be recover-  
15   able by the tax commissioner by appropriate legal pro-  
16   ceedings.

2       Sec. 25. *Cities, Towns or Villages Restricted from Im-*  
3   *posing Additional Tax.*—Notwithstanding the provisions  
4   of section thirteen-b, article four, chapter eight, and the  
5   provisions of article five, chapter eight-a of this code, no  
6   city, town, or village shall impose a business and occupa-  
7   tion tax or privilege tax upon occupations or privileges  
8   taxed under sections two-a, two-b, two-c, two-d, two-e,  
9   two-g, two-h, two-i, and two-j of this article, in excess of  
10   rates in effect under this article on January one, one thou-  
11   sand nine hundred fifty-nine.

## CHAPTER 168

(Com. Sub. for Senate Bill No. 251—Originating in the Senate  
Committee on Finance)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one and six, article fourteen, and by adding thereto a new article, designated article fourteen-a, providing additional revenues to be used for the construction, maintenance and support of state roads and highways by imposing a tax upon certain motor carriers operating on said roads and highways based upon the amount of gasoline used by such motor carriers in this state; providing for the collection, adjustment and administration of such tax and appeals in connection therewith; conferring powers and imposing duties upon certain state officials and other persons in relation to such tax, and providing penalties.

[Passed March 13, 1959; in effect July 1, 1959. Became a law without the approval of the Governor.]

### Article

#### 14. Gasoline Tax.

##### 14-a. Motor Carrier Road Tax.

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

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

### Article 14. Gasoline Tax.

#### Section

1. Definitions; gasoline, person, company, distributor, retail dealer, importer, sale, purchase and motor vehicles.
6. Importer's monthly statement; payment of tax.

Section 1. *Definitions; Gasoline, Person, Company, Distributor, Retail Dealer, Importer, Sale, Purchase and Motor Vehicles.*—When used in this article: The term



4 "gasoline" means and includes casing head or natural  
5 gasoline, benzol, benzine, naphtha and any other liquid  
6 prepared, advertised, offered for sale, sold for use as, or  
7 used for the generation of power for the propulsion of  
8 motor vehicles, and diesel oil, oil or other liquids used in  
9 diesel engines or in internal combustion engines for the  
10 propulsion of motor vehicles, including any product ob-  
11 tained by blending together any one or more products of  
12 petroleum, with or without other products, if the resultant  
13 product is capable of such use.

14 The term "person" or the term "company" shall include  
15 any individual, firm, copartnership, joint adventure, asso-  
16 ciation, corporation, trust and any other group or combina-  
17 tion acting as a unit, and the plural as well as the singular  
18 number, unless the intention to give a more limited mean-  
19 ing is disclosed by the context, and when used in connec-  
20 tion with the penalties imposed by this article, shall mean  
21 and include the officers, directors, trustees, or members  
22 of any firm, copartnership, joint adventure, association,  
23 corporation, trust or any other group acting as a unit.

24 The term "distributor" shall mean and include every  
25 person who refines, produces, manufactures, compounds,  
26 or blends gasoline in this state for use or for sale to  
27 jobbers or consumers, and every person who is now  
28 engaged, or who may hereafter engage, in his own name  
29 or in the name of his representative or agent in this state,  
30 in the selling of gasoline for the purpose of resale or dis-  
31 tribution; and persons operating tank wagons into this  
32 state from places of business located outside this state and  
33 selling gasoline in quantities as desired by purchasers in  
34 this state without definite orders having been placed prior  
35 to the delivery of the product, shall be deemed distribu-  
36 tors in this state.

37 The term "retail dealer" shall mean and include any  
38 person not a distributor who sells gasoline in this state to  
39 consumers only.

40 The term "importer" shall mean any person who pur-  
41 chases or obtains gasoline in the amount of twenty-five  
42 gallons or more outside this state and uses the same with-  
43 in the state.

44 The term "sale" shall include any exchange, gift, or  
45 other disposition, and "purchase" shall include any ac-  
46 quisition of ownership.

47 The term "motor vehicle" shall mean automobiles,  
48 motor trucks and motorcycles, and shall include all other  
49 vehicles, engines or machines which are operated or pro-  
50 pelled by combustion of gasoline.

*Sec. 6. Importer's Monthly Statement; Payment of Tax.*

2 —Every importer shall, within thirty days after the close  
3 of each month, transmit to the tax commissioner a state-  
4 ment, on such forms as the tax commissioner shall pre-  
5 scribe, of all gallonage received by such importer during  
6 the month to be covered, which statement shall show the  
7 name and address of the person from whom each purchase  
8 was made; the point from which shipped or delivered;  
9 the point at which received; the date of each shipment or  
10 purchase; and the quantity of each shipment or purchase;  
11 and he shall at the same time pay to the tax commissioner  
12 the amount of tax due for such month.

**Article 14-a. Motor Carrier Road Tax.**

**Section**

1. Short title.
2. Definitions.
3. Imposition of tax; amount.
4. Credit for payment of gasoline tax; refunds; hearing upon com-  
missioner's refusal to make refund; appeals.
5. Refunds to carriers who give bond.
6. Penalty for false statements.
7. Report of carriers.
8. Joint reports by carriers.
9. Payment of tax.
10. Disposition and use of taxes.
11. How amount of gasoline used in state to be ascertained.
12. Identification required of motor carriers; fees; emergencies; pen-  
alties.
13. Assessment of tax when insufficiently returned; inspection and  
audit of books and records.
14. Department of public safety to assist in enforcement.
15. Exemptions.
16. Tax in addition to all other taxes.
17. Additional penalties; notice and hearing; suspension or revocation  
of certificate.
18. Same; appeal.
19. Severability.

Section 1. *Short Title.*—This article shall be known, and  
2 may be cited, as the "Motor Carrier Road Tax".

Sec. 2. *Definitions.*—The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them by this section, except where the context clearly indicates a different meaning:

“Motor carrier” means every person, firm or corporation who operates or causes to be operated on any highway in this state any passenger vehicle that has seats for more than nine passengers in addition to the driver, or any road tractor, or any tractor truck, or any truck having more than two axles.

“Operations” means operations of all such vehicles, whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

“Gasoline” means and includes casing head or natural gasoline, benzol, benzine, naphtha and any other liquid prepared, advertised, offered for sale, sold for use as, or used for the generation of power for the propulsion of motor vehicles, and diesel oil, oil or other liquids used in diesel engines or in internal combustion engines for the propulsion of motor vehicles, including any product obtained by blending together any one or more products of petroleum, with or without other products, if the resultant product is capable of such use.

“Commissioner” means the state tax commissioner of West Virginia.

Sec. 3. *Imposition of Tax; Amount.* — Every motor carrier shall pay a road tax equivalent to the amount of tax per gallon of gasoline assessed by article fourteen of this chapter calculated on each gallon of gasoline used in its operations in this state.

Sec. 4. *Credit for Payment of Gasoline Tax; Refunds; Hearing upon Commissioner's Refusal to Make Refund; Appeals.*—Every motor carried subject to the tax herein imposed shall be entitled to a credit on such tax equivalent to the amount of tax per gallon of gasoline assessed by article fourteen of this chapter on all gasoline purchased by such carrier within this state for use in operations eith-

8 er within or without this state and upon which gasoline the  
9 tax imposed by the laws of this state has been paid: *Pro-*  
10 *vided, however,* That such credit shall not be allowed for  
11 any gasoline taxes for which any motor carrier has applied  
12 for, or received, a refund of the taxes imposed by said ar-  
13 ticle fourteen, and no person applying for such credit or  
14 refund under this section shall be entitled to the refund  
15 under article fourteen of this chapter. Evidence of the pay-  
16 ment of such tax in such form as may be required by the  
17 commissioner shall be furnished by each motor carrier  
18 claiming the credit herein allowed. When the amount of  
19 the credit herein provided exceeds the amount of the tax  
20 for which the carrier is liable for the same quarter, such  
21 excess shall, under regulations of the commissioner, be al-  
22 lowed as a credit on the tax for which the carrier would  
23 be otherwise liable for any of the four succeeding quar-  
24 ters. The commissioner is, under regulations to be estab-  
25 lished by him, hereby authorized to refund from the funds  
26 collected under the provisions of this article the amount  
27 of the credit, if the motor carrier by duly filed petition  
28 requests the commissioner to do so and the commissioner  
29 is satisfied that said motor carrier is entitled to said refund  
30 and that said motor carrier has not applied for a refund  
31 of the tax imposed by article fourteen of this chapter:  
32 *Provided, however,* That such refund shall not be made  
33 until after audit of the applicant's records by the commis-  
34 sioner or upon the posting of a surety company bond by  
35 the applicant in an amount fixed by the commissioner con-  
36 ditioned to pay all road taxes due hereunder: *Provided*  
37 *further,* That said credit or refund shall in no case be  
38 allowed to reduce the amount of tax to be paid by a motor  
39 carrier below the amount due as tax on gasoline used in  
40 this state as provided by article fourteen of this chapter.  
41 If the commissioner shall refuse to allow a refund or  
42 credit in the amount claimed by the applicant, the appli-  
43 cant may request a hearing on said application. Such hear-  
44 ing shall be held within a reasonable time after such re-  
45 quest is made and after notice to the applicant of not less  
46 than ten days.

47 The hearing shall be informal and may be conducted by

48 an examiner designated by the tax commissioner. At such  
49 hearing evidence may be offered in support of the claim  
50 of credit or refund or to prove that such claim is incorrect.  
51 After such hearing the tax commissioner shall, within a  
52 reasonable time, give notice in writing of the decision.  
53 Unless an appeal is taken within thirty days from the  
54 service of this notice, the tax commissioner's decision  
55 shall be final.

56 An appeal may be taken by the taxpayer to the circuit  
57 court of Kanawha county, within thirty days after he  
58 shall have received notice from the tax commissioner of  
59 his determination as provided in this section.

60 The court shall hear the appeal in equity, and deter-  
61 mine anew all questions submitted to it on appeal from  
62 the determination of the tax commissioner. The court  
63 shall render its decree thereon and a certified copy of said  
64 decree shall be filed by the clerk of said court with the tax  
65 commissioner who shall then correct his decision accord-  
66 ingly and allow the credit or refund as decreed by said  
67 court.

68 An appeal may be taken by the taxpayer or the tax com-  
69 missioner to the supreme court of appeals of this state in  
70 the same manner that appeals are taken in equity.

Sec. 5. *Refunds to Carriers Who Give Bond.*—A motor  
2 carrier may give a surety company bond in the amount  
3 of ten thousand dollars payable to the state of West Vir-  
4 ginia and conditioned that the carrier will pay all taxes  
5 due and to become due under this article from the date of  
6 the bond to the date when either the carrier or the bond-  
7 ing company notifies the commissioner that the bond has  
8 been cancelled. The surety shall be a corporation author-  
9 ized to write surety bonds in West Virginia. So long as  
10 the bond remains in force the commissioner may order  
11 refunds to the motor carrier in the amounts appearing to  
12 be due on applications duly filed by the carrier under sec-  
13 tion four of this article without first auditing the records  
14 of the carrier. The surety shall be liable for all omitted  
15 taxes assessed against the carrier including the penalties  
16 and interest provided hereinafter, even though the assess-  
17 ment is made after cancellation of the bond, but only for

18 taxes due and payable while the bond was in force, and  
19 penalties and interest on said taxes.

Sec. 6. *Penalty for False Statements.*—Any person who  
2 wilfully and knowingly makes a false statement orally,  
3 or in writing, or in the form of a receipt for the sale of  
4 gasoline, for the purpose of obtaining or attempting to  
5 obtain or to assist any other person, partnership or cor-  
6 poration to obtain or attempt to obtain a credit or refund  
7 or reduction of liability for taxes under this article shall  
8 be guilty of a misdemeanor punishable by a fine of not  
9 less than fifty dollars nor more than one thousand dollars  
10 or imprisonment for not more than six months, or both  
11 such fine and imprisonment.

Sec. 7. *Report of Carriers.*—Every motor carrier subject  
2 to the tax imposed by this article shall on or before the  
3 thirtieth day of April, July, October and January of every  
4 year make to the commissioner such reports of its opera-  
5 tions during the quarter ending the last day of the preced-  
6 ing month as the commissioner may require and such  
7 other reports from time to time as the commissioner may  
8 deem necessary. The commissioner may, if he deems  
9 proper, in lieu of said quarterly report, require only an  
10 annual report from a motor carrier domiciled in this state  
11 and whose entire operations are within this state. provided  
12 all gasoline used by said motor carrier is purchased within  
13 this state. For good cause shown, the commissioner may  
14 extend the time for filing said reports for a period not  
15 exceeding thirty days.

Sec. 8. *Joint Reports by Carriers.*—Two or more motor  
2 carriers regularly engaged in the transportation of passen-  
3 gers, on through busses on through tickets in pool service,  
4 may, at their option, make joint reports of their entire  
5 operations in this state. The taxes imposed shall be calcu-  
6 lated on the basis of such joint reports as though such  
7 carriers were a single carrier; and the carriers making  
8 such reports shall be jointly and severally liable for the  
9 taxes. Such joint reports shall show the total number of  
10 over-the-road miles traveled in this state and the total  
11 number of gallons of gasoline purchased in this state by

12 the reporting carriers. Credits to which the carriers mak-  
13 ing a joint return are entitled shall not be allowed as  
14 credits to any other carrier; but carriers filing joint re-  
15 ports shall permit all carriers engaged in this state in  
16 pool operations with them to join in filing joint reports.  
17 The vehicles of carriers filing joint reports shall be deemed  
18 to have consumed on the average one gallon of gasoline  
19 for each six miles traveled unless persuasive evidence  
20 discloses that a different amount was consumed.

Sec. 9. *Payment of Tax.*—The tax hereby imposed shall  
2 be paid by each motor carrier quarterly to the commis-  
3 sioner on or before the thirtieth day of April, July, Oc-  
4 tober and January of each year and calculated upon the  
5 amount of gasoline used in its operations within this state  
6 by each such carrier during the quarter ending with the  
7 last day of the preceding month.

Sec. 10. *Disposition and Use of Taxes.*—All taxes col-  
2 lected under the provisions of this article shall be paid  
3 into the state treasury and shall be credited to the state  
4 road fund.

Sec. 11. *How Amount of Gasoline Used in State to be*  
2 *Ascertained.*—The amount of gasoline used in the opera-  
3 tion of any motor carrier within this state shall be such  
4 proportion of the total amount of such gasoline used in  
5 its entire operations within and without this state as the  
6 total number of miles traveled within this state bears to  
7 the total number of miles traveled within and without  
8 this state.

Sec. 12. *Identification Required of Motor Carriers; Fees;*  
2 *Emergencies; Penalties.*—No motor carrier shall operate  
3 or cause to be operated in this state any vehicle subject to  
4 this article without first securing from the tax commis-  
5 sioner a registration card and an identification marker for  
6 such vehicle. The registration card shall be of such form  
7 and design as the commissioner shall prescribe. The regis-  
8 tration card shall be carried in the vehicle for which it  
9 was issued at all times when the vehicle is within this  
10 state. Each identification marker for a particular vehicle

11 shall bear a number, which number shall be the same as  
12 that appearing on the registration card for the same  
13 vehicle. The identification marker shall be displayed on  
14 the vehicle as required by the commissioner. The regis-  
15 tration cards and markers herein provided for shall be  
16 valid for a period of one year. A fee of one dollar shall  
17 be paid to the commissioner for issuing each registration  
18 card and identification marker. Upon satisfactory proof  
19 being offered by a motor carrier, the commissioner may  
20 replace lost or damaged registration cards or identifica-  
21 tion markers: *Provided, however,* That all taxes due un-  
22 der this article shall be paid before the issuance of a new  
23 or replacement card or marker.

24 In an emergency, the commissioner, by letter or tele-  
25 gram, may authorize a vehicle to be operated without a  
26 registration card or identification marker for not more  
27 than ten days.

28 Upon conviction for failure to obtain, carry and display  
29 the registration card and identification marker provided  
30 herein, a motor carrier shall be fined not less than twenty  
31 nor more than one hundred dollars; and each day of such  
32 failure shall constitute a separate offense.

Sec. 13. *Assessment of Tax When Insufficiently Re-*  
2 *turned; Inspection and Audit of Books and Records.*—If  
3 the tax commissioner believes that the tax imposed by  
4 this article is insufficiently returned by a taxpayer, either  
5 because the taxpayer has failed to properly remit the tax  
6 or has failed to make a return, or has made a return which  
7 is incomplete, deficient or otherwise erroneous, he may  
8 proceed to investigate and determine or estimate the tax  
9 liability of the taxpayer and make an assessment therefor.  
10 The commissioner and his authorized agents and repre-  
11 sentatives shall have the right, at any reasonable time, to  
12 inspect and audit the books and records of any motor  
13 carrier subject to this article.

Sec. 14. *Department of Public Safety to Assist in En-*  
2 *forcement.*—The state department of public safety is here-  
3 by authorized and directed to assist in the enforcement of  
4 the provisions as directed by the tax commissioner.



Sec. 15. *Exemptions.*—Nothing in this article shall apply to any vehicle operated by or on behalf of any department, board, bureau, commission, or other agency of the federal government or of the state of West Virginia or any political subdivision thereof, nor shall the provisions of this article apply to any school bus operated by, for or on behalf of the state of West Virginia, any political subdivision thereof, or any private or privately operated school or schools.

Sec. 16. *Tax in Addition to all Other Taxes.*—The taxes imposed on motor carriers by this article are in addition to any taxes of whatever character imposed on such carriers by any other provisions of law.

Sec. 17. *Additional Penalties; Notice and Hearing; Suspension or Revocation of Certificate.*—The commissioner may, after a hearing had upon notice, duly served not less than ten days prior to the date set for such hearing, impose a penalty, which shall be in addition to any other penalty imposed by this article, of not less than fifty dollars and not more than five hundred dollars, upon any motor carrier which fails to file any report within the time prescribed which may be required by this article or by the commissioner pursuant to this article, or which violates any other provision of this article, or which fails to comply with any regulation of the commissioner promulgated pursuant to this article, each such failure or violation constituting a separate offense. The penalty shall be collectible by the process of the commissioner as provided by law. In addition to imposing such penalty, or without imposing any penalty, the commissioner may suspend or revoke any certificate, permit or other evidence or right issued by the commissioner which the motor carrier so found in default holds.

Sec. 18. *Same; Appeal.*—Any motor carrier penalized under section seventeen of this article shall have the right to appeal to the circuit court of Kanawha county in the same manner as provided by section four of this article.

Sec. 19. *Severability.*—If any of the provisions of this

- 2 article are held invalid, such invalidation shall not affect  
3 other provisions which can be given effect without the  
4 invalid provision, and to this end the provisions of this  
5 article are declared to be severable.

## CHAPTER 169

(Senate Bill No. 216—By Mr. Ballard)

AN ACT to amend and reenact sections three and twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition of an excise tax on the sale of gasoline produced, purchased, sold or used in this state; purposes for which tax to be used and penalties for violations.

[Passed March 6, 1959; in effect April 1, 1959. Approved by the Governor.]

### Article 14. Gasoline Tax.

#### Section

3. Amount, measure and lien of tax; notice of discontinuance of business.  
22. Taxes to be used for road purposes.

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

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

- Section 3. *Amount, Measure and Lien of Tax; Notice of Discontinuance of Business.*—There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline produced, purchased, sold or used in this state, which tax shall be equivalent to seven cents per gallon on all gasoline. The tax shall be paid as hereinafter provided.  
A distributor shall use as the measure of the tax the gallonage produced, purchased, sold or used in this state,

11 as provided in section four of this article. Gallonage shall  
12 be included in the measure of the tax by refiners and pro-  
13 ducers when such gallonage has been placed into any tank  
14 from which withdrawals are made for sales or transfer to  
15 any other person.

16 An importer shall use as the measure of the tax the gal-  
17 lonage purchased and received for whatever use, as pro-  
18 vided in section six of this article.

19 A retail dealer shall use as the measure of the tax the  
20 gallonage purchased or obtained by him, as provided in  
21 section five of this article.

22 The excise tax imposed by this article shall be paid by  
23 the person first producing, or receiving in this state, the  
24 gallonage of gasoline which under this article shall form  
25 the measure of such tax; but in no case shall any such gal-  
26 lonage be used more than once in determining taxes due  
27 hereunder.

28 The taxes imposed by this article are in addition to all  
29 other taxes now imposed by law.

30 The excise tax imposed by this article shall accrue from  
31 the date of production, purchase, sale or use of the gaso-  
32 line. The penalties imposed by section thirteen of this ar-  
33 ticle shall accrue from the date they become due and pay-  
34 able. A tax due and unpaid under this article shall be a  
35 debt due the state of West Virginia. It shall be a personal  
36 obligation of the taxpayer and shall be a lien in favor of  
37 the state of West Virginia upon all property and rights to  
38 property, whether real or personal, belonging to such tax-  
39 payer. The lien shall arise when a taxpayer fails to file  
40 his return and remit the tax at the time required by this  
41 article. Such lien shall not be valid or enforceable against  
42 a purchaser, including lien creditor, of real estate or per-  
43 sonal property for a valuable consideration without no-  
44 tice, unless docketed in the office of the clerk of the county  
45 court as provided in sections one and two, article ten-c,  
46 chapter thirty-eight of the code of West Virginia, one  
47 thousand nine hundred thirty-one, as last amended and  
48 reelected by chapter ninety-nine, acts of the Legislature,  
49 regular session, one thousand nine hundred forty-three.

50 Whenever a distributor, importer or retail dealer ceases  
51 to engage in business within this state by reason of the

52 discontinuance, sale or transfer of the business of such  
53 distributor, importer or retail dealer, it shall be his duty  
54 to notify the tax commissioner in writing at the time of  
55 the discontinuance, sale or transfer. Such notice shall  
56 give the date of discontinuance and in the event of the  
57 sale or transfer of the business the date thereof and the  
58 name and address of the purchaser or transferee thereof;  
59 all taxes accruing under this article, but not yet due and  
60 payable under the provisions of this article shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale or transfer, and  
62 it shall be the duty of such distributor, importer or retail  
63 dealer to make a report and pay all such taxes, and to surrender to the tax commissioner the license certificate  
64 theretofore issued, under the provisions of this article.

67 Unless the notice shall have been given to the tax commissioner as above provided such purchaser or transferee  
68 shall be liable to the state of West Virginia, for the  
69 amount of all taxes and penalties, under the article accrued against such distributor, importer or retail dealer  
70 so selling or transferring his business, on the date of such  
71 sale or transfer, but only to the extent of the value of the  
72 property and business thereby acquired from such distributor, importer, or retail dealer.

76 The revenue provided from one cent tax per gallon on  
77 gasoline imposed or levied by this section shall be used  
78 for matching federal funds allocated for the interstate  
79 road system in West Virginia.

Sec. 22. *Taxes to Be Used for Road Purposes.*—All taxes  
2 collected under the provisions of this article shall be paid  
3 into the state treasury and shall be used only for the purpose  
4 of the construction, reconstruction, maintenance and  
5 repair of roads and highways, payment of the interest and  
6 sinking fund on state bonds issued for road purposes and  
7 the cost of administration and enforcement of this article  
8 by the tax commissioner, which cost of administration and  
9 enforcement shall not exceed one half of one per cent of  
10 the total net gasoline excise tax collections during the fiscal year commencing July one, one thousand nine hundred  
11 fifty-nine, and each fiscal year thereafter.

13 Unless necessary for such bond requirements, two sev-  
14 ents of the taxes collected under the provisions of this  
15 article shall be used for secondary road purposes.

## CHAPTER 170

(House Bill No. 18—By Mr. Booth, of Fayette)

AN ACT to amend and reenact section four, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to amount of license tax on dealers in and of nonintoxicating beer.

[Passed March 14, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 16. Nonintoxicating Beer.

#### Section

4. Amount of license tax; Class A and Class B retail dealers.

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

That section four, article sixteen, 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 4. Amount of License Tax; Class A and Class B

2 *Retail Dealers.*—There is hereby levied and imposed an  
3 annual license tax upon all dealers in and of nonintoxi-  
4 cating beer as defined by this article, which license period  
5 shall begin on the first day of July of each year and end  
6 on the thirtieth day of June of the following year, and if  
7 granted for a less period the same shall be computed  
8 quarterly in proportion to the remainder of the fiscal year  
9 as follows:

10 (a) Retail dealers shall be divided into two classes,  
11 Class A and Class B. In the case of a Class A retail dealer  
12 the license fee shall be one hundred dollars for each place  
13 of business; the license fee for social, fraternal or private  
14 clubs not operating for profit, and having been in con-  
15 tinuous operation for two years or more immediately pre-

16 ceding the date of application, shall be one hundred dol-  
17 lars; and except that railroads operating in this state may  
18 dispense nonintoxicating beer upon payment of an annual  
19 license tax of ten dollars for each dining, club, or buffet  
20 car in which the same is dispensed.

21 Class A licenses issued for social, fraternal or private  
22 clubs and for railroad dining, club or buffet cars, as herein  
23 provided, shall authorize the licensee to sell nonintoxi-  
24 cating beer at retail for consumption only on the licensed  
25 premises where sold. All other Class A licenses shall  
26 authorize the licensee to sell nonintoxicating beer at  
27 retail for consumption on or off the licensed premises.

28 In the case of a Class B retailer, the license fee shall be  
29 fifteen dollars for each place of business. A Class B  
30 license shall authorize the licensee to sell nonintoxicating  
31 beer at retail in bottles, cans or other sealed containers  
32 only, and only for consumption off the licensed premises.  
33 Sales under this license to any person at any one time  
34 must be in less quantities than five gallons. Such license  
35 may be issued only to the proprietor or owner of a grocery  
36 store. For the purpose of this article the term "grocery  
37 store" means and includes any retail establishment com-  
38 monly known as a grocery store or delicatessen, where  
39 food or food products are sold for consumption off the  
40 premises.

41 (b) In the case of a distributor the license fee shall be  
42 two hundred fifty dollars for each place of business.

43 (c) In the case of a brewer with its principal place of  
44 business located in this state, the license fee shall be five  
45 hundred dollars for each place of manufacture.

— c —

## CHAPTER 171

(House Bill No. 45—By Mr. Kidd)

AN ACT to amend and reenact section thirteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unlawful acts of nonintoxicating beer licensees and the penalties therefor.

[Passed March 13, 1959; in effect from passage. Approved by the Governor.]

## Article 16. Nonintoxicating Beer.

### Section

#### 13. Unlawful acts of licensees; penalties.

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

That section thirteen, article sixteen, 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 13. *Unlawful Acts of Licensees; Penalties.*—It

2 shall be unlawful:

3 (a) For any licensee, his, its or their servants, agents  
4 or employees to sell, give or dispense, or any individual  
5 to drink or consume, in or on any licensed premises or  
6 in any rooms directly connected therewith, nonintoxicat-  
7 ing beer between the hours of midnight and seven o'clock  
8 the following morning on week days or before one o'clock  
9 in the afternoon of any Sunday;

10 (b) For any licensee, his, its or their servants, agents  
11 or employees, to sell, furnish or give any nonintoxicating  
12 beer to any person visibly or noticeably intoxicated, or to  
13 any insane persons, or to any habitual drunkard, or to  
14 any person under the age of eighteen years;

15 (c) For any distributor to sell or offer to sell, or any re-  
16 tailer to purchase or receive, any nonintoxicating beer  
17 except for cash; and no right of action shall exist to collect  
18 any claims for credit extended contrary to the provisions  
19 of this clause. Nothing herein contained shall prohibit a  
20 licensee from crediting to a purchaser the actual price  
21 charged for packages or containers returned by the  
22 original purchaser as a credit on any sale, or from refund-  
23 ing to any purchaser the amount paid or deposited for  
24 such containers when title is retained by the vendor;

25 (d) For any brewer or distributor or his, its or their  
26 agents, to transport or deliver nonintoxicating beer to any  
27 retail licensee on Sunday;

28 (e) For any brewer or distributor to give, furnish,  
29 rent or sell any equipment, fixtures, signs or supplies  
30 directly or indirectly or through a subsidiary or affiliate

31 to any licensee engaged in selling products of the brew-  
32 ing industry at retail, or to offer any prize, premium,  
33 gift, or other similar inducement, except advertising  
34 matter of nominal value, to either trade or consumer  
35 buyers: *Provided, however,* That nothing contained herein  
36 shall prohibit a distributor from offering for sale or rent-  
37 ing tanks of carbonic gas;

38 (f) For any licensee to transport, sell, deliver or pur-  
39 chase any nonintoxicating beer or product of the brew-  
40 ing industry upon which there shall appear a label or  
41 other informative data which in any manner refers to  
42 the alcoholic content of such beer or product of the brew-  
43 ing industry, or upon the label of which there appears  
44 the word or words "strong," "full strength," "extra  
45 strength," "prewar strength," "high test" or other similar  
46 expressions bearing upon the alcoholic content of such  
47 product of the brewing industry, or which refers in any  
48 manner to the original alcoholic strength, extract or ball-  
49 ing proof from which such beverage was produced, ex-  
50 cept that such label shall contain a statement that the  
51 alcoholic content thereof does not exceed three and two-  
52 tenths per cent by weight;

53 (g) For any licensee to permit in his premises any lewd,  
54 immoral or improper entertainment, conduct or practice;

55 (h) For any licensee to possess a federal license, tax  
56 receipt or other permit entitling, authorizing or allow-  
57 ing such licensee to sell liquor or alcoholic drinks;

58 (i) For any licensee to obstruct the view of the interior  
59 of his premises by enclosure, lattice, drapes or any means  
60 which would prevent plain view of the patrons occupying  
61 such premises. The interior of all licensed premises  
62 shall be adequately lighted at all times: *Provided, how-  
63 ever,* That provisions of this paragraph shall not apply to  
64 the premises of a Class B retailer;

65 (j) For any licensee to manufacture, import, sell, trade,  
66 barter, possess, or acquiesce in the sale, possession or con-  
67 sumption of any alcoholic liquors on the premises covered  
68 by such license or on premises directly or indirectly used  
69 in connection therewith;

70 (k) For any licensee to print, paint or place upon the  
71 door, window, or in any other public place in or about the



72 premises, the word "saloon" or word of similar character  
73 or nature, or for the word "saloon" or similar words to  
74 be used in any advertisement by the licensee;

75 (l) For any retail licensee to sell or dispense non-  
76 intoxicating beer purchased or acquired from any source  
77 other than a licensed distributor or brewer under the  
78 laws of this state;

79 (m) For any licensee to permit loud, boisterous or  
80 disorderly conduct of any kind upon his premises or to  
81 permit the use of loud musical instruments if either or  
82 any of same may disturb the peace and quietude of the  
83 community wherein such business is located: *Provided*,  
84 That no licensee shall have in connection with his place  
85 of business any loud speaker located on the outside of the  
86 licensed premises that broadcasts or carries music of any  
87 kind;

88 (n) For any person whose license has been revoked, as  
89 in this article provided, to obtain employment with any  
90 retailer within the period of one year from the date of  
91 such revocation, or for any retailer to employ know-  
92 ingly any such person within such time;

93 (o) For any distributor to sell, possess for sale, trans-  
94 port or distribute nonintoxicating beer except in the  
95 original container;

96 (p) For any licensee to permit any act to be done upon  
97 the licensed premises, the commission of which consti-  
98 tutes a crime under the laws of this state;

99 (q) For any Class B retailer to permit the consump-  
100 tion of nonintoxicating beer upon his licensed premises;

101 (r) For any licensee, his, its or their servants, agents, or  
102 employees, or for any licensee by or through such servants,  
103 agents or employees, to allow, suffer or permit any person  
104 under the age of eighteen years to loiter in or upon any  
105 licensed premises; except, however, that the provisions of  
106 this subsection shall not apply where such person under  
107 the age of eighteen years, is in, on or upon such premises  
108 in the immediate company of his or her parent or parents,  
109 or where and while such person under the age of eighteen  
110 years is in, on or upon such premises for the purpose of  
111 and actually making a lawful purchase of any items or  
112 commodities therein sold, or for the purchase of and

113 actually receiving any lawful service therein rendered,  
114 including the consumption of any item of food, drink or  
115 soft drink therein lawfully prepared and served or sold  
116 for consumption on such premises.

117 Any person who violates any provision of this article  
118 or who makes any false statement concerning any ma-  
119 terial fact in submitting application for license or for a re-  
120 newal of a license or in any hearing concerning the revo-  
121 cation thereof, or who commits any of the acts herein de-  
122 clared to be unlawful, shall be guilty of a misdemeanor,  
123 and shall be punished for each offense by a fine of not  
124 less than twenty-five dollars, nor more than five hundred  
125 dollars, or imprisoned in the county jail for not less than  
126 thirty days or more than six months, or by both fine and  
127 imprisonment in the discretion of the court. Justices of  
128 the peace shall have concurrent jurisdiction with the  
129 circuit court, and any other courts having criminal juris-  
130 diction in their county, for the trial of all misdemeanors  
131 arising under this article.

## CHAPTER 172

(Senate Bill No. 329—By Mr. Bean, Mr. President)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-one, relating to the imposition, collection and disposition of a state excise tax upon the privilege of transferring real property and providing penalties for violations hereof.

[Passed March 14, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 21. Excise Tax on Privilege of Transferring Real Property.

#### Section

1. Definitions.
2. Rate of tax; when and by whom payable.
3. Payment from proceeds of judicial sale.
4. Documentary stamps; affixing; cancellations; declaration of value.

5. Commissioner to provide for sale of stamps; rules and regulations.
6. Duties of clerk; declaration of consideration or value; remittance and use of proceeds.
7. Failure to affix stamps.
8. Penalty for recording without documentary stamp; effect.
9. Unlawful acts; penalty.

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

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

Section 1. *Definitions.*—The following words when used in this chapter shall have meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

“Association” means a partnership, limited partnership, or any other form of unincorporated enterprise, owned or conducted by two or more persons.

“Corporation” means a corporation or joint-stock association, organized under the laws of this state, the United States or any other state, territory, or foreign country, or dependency, including, but not limited to, banking institutions.

“Commissioner” means the state tax commissioner.

“Document” means any deed, or instrument or writing whereby any real property within this state or any interest therein shall be granted, conveyed or otherwise transferred to the grantee, purchaser, or any other person; but does not include wills, transfer of real property where the value of the property transferred or the face amount secured thereby is one hundred dollars or less, testamentary trusts, deeds of partition, deeds made pursuant to mergers of corporations, leases, transfers between husband and wife, or between parent and child without consideration, transfers without consideration between a principal and straw party for any purpose, quitclaim or corrective deeds without consideration, transfers to the United States, the state of West Virginia, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication, deed or condemnation proceedings.

31 "Person" means every natural person, association, or  
32 corporation. Whenever used in any clause prescribing and  
33 imposing a fine or imprisonment, or both, the term "per-  
34 son" as applied to associations, shall mean the partners  
35 or members thereof, and, as applied to corporations, the  
36 officers thereof.

37 "Transaction" means the delivering, accepting, or pre-  
38 senting for recording of a document.

39 "Value" means in the case of any document, not a gift  
40 and not given to secure a debt, the amount of the full  
41 actual consideration therefor, paid or to be paid, including  
42 the amount of any lien or liens assumed. In the case of a  
43 gift, or any other document without consideration, the  
44 actual monetary value of the property conveyed or trans-  
45 ferred. In the event any document includes real property  
46 or any interest therein lying outside the state of West  
47 Virginia or includes personal property, value shall be the  
48 proportion of the consideration paid in case of the transfer  
49 for consideration, the proportion of the true and actual  
50 value in case of a gift, which the actual value of the real  
51 property located in West Virginia bears to the total actual  
52 value of all the property, real or personal, transferred by  
53 the document. The value as herein defined shall be stated  
54 in the declaration of consideration of value provided for  
55 in section six hereof.

Sec. 2. *Rate of Tax; When and by Whom Payable.*—

2 Every person who delivers, accepts or presents for record-  
3 ing any document, or in whose behalf any document is de-  
4 livered, accepted or presented for recording, shall be sub-  
5 ject to pay for and in respect to the transaction or any part  
6 thereof, a state excise tax upon the privilege of transfer-  
7 ring title to real estate at the rate of one dollar and ten  
8 cents for each five hundred dollars value or fraction there-  
9 of as represented by such document as defined in section  
10 one hereof, which state tax shall be payable at the time of  
11 delivery, acceptance or presenting for recording of such  
12 document: *Provided, however,* That only one such state  
13 tax shall be paid on any one document; and the same shall  
14 be paid by the grantor therein unless the grantee accepts  
15 the same without such tax having been paid, in which

16 event such tax shall be paid by the grantee: *Provided fur-*  
17 *ther*, That on any transfer of real property from a trustee,  
18 a deputy commissioner of delinquent and forfeited lands  
19 or a county clerk transferring real estate sold for taxes,  
20 such tax shall be paid by the grantee.

Sec. 3. *Payment from Proceeds of Judicial Sale.*—The  
2 tax herein imposed shall be fully paid, and have priority  
3 out of the proceeds of any judicial sale of real estate be-  
4 fore any other obligation, claim, lien, judgment, estate  
5 or costs of the sale and of the writ upon which the sale is  
6 made, and the sheriff, commissioner, or other officer, con-  
7 ducting said sale, shall pay the tax herein imposed out of  
8 the first moneys paid to him in connection therewith.

Sec. 4. *Documentary Stamps; Affixing; Cancellation;*  
2 *Declaration of Value.*—The payment of the tax imposed  
3 by this article shall be evidenced by the affixing of a docu-  
4 mentary stamp or stamps to every document by the per-  
5 son executing, delivering or presenting for recording such  
6 document. Each stamp shall be affixed in such manner that  
7 its removal will require the continued application of  
8 steam or water, and the person using or affixing such  
9 stamps shall write or stamp or cause to be written or  
10 stamped thereon the initials of his name and the date upon  
11 which such stamps are affixed or used so that such stamps  
12 may not again be used: *Provided*, That the commissioner  
13 may prescribe such other method of cancellation as he  
14 may deem expedient.

Sec. 5. *Commissioner to Provide for Sale of Stamps;*  
2 *Rules and Regulations.*—The commissioner shall pre-  
3 scribe, prepare and furnish adhesive stamps of such de-  
4 nominations and quantities as may be necessary, for the  
5 payment of the tax imposed and assessed by this article, to  
6 the clerks of the various county courts whose duty it  
7 shall be to offer said stamps for sale.

8 The commissioner is hereby authorized and empowered  
9 to prescribe, adopt, promulgate and enforce rules and  
10 regulations relating to:

11 (a) The method and means to be used in affixing or

12 cancelling of stamps in substitution for or in addition to  
13 the method and means provided in this article.

14 (b) The denominations and sale of stamps.

15 (c) Any other matter or thing pertaining to the admin-  
16 istration and enforcement of the provisions of this article.

Sec. 6. *Duties of Clerk; Declaration of Consideration or*  
2 *Value; Remittance and Use of Proceeds.*—When any in-  
3 strument on which the tax as herein provided is imposed  
4 is offered for recordation, the clerk of the county court  
5 shall ascertain and compute the amount of the tax due  
6 thereon and shall ascertain if stamps in the proper amount  
7 are attached thereto as prerequisite to acceptance of the  
8 instrument for recordation.

9 When offered for recording on or after the first day of  
10 July, one thousand nine hundred fifty-nine, each instru-  
11 ment subject to the tax as herein provided shall have ap-  
12 pended on the face or at the end thereof, a statement or  
13 declaration signed by the grantor, grantee or other re-  
14 sponsible party familiar with the transaction therein in-  
15 volved declaring the consideration paid for or the value  
16 of the property thereby conveyed. Such declaration shall  
17 be under penalties of fine and imprisonment as provided  
18 by law and may be in the following language:

19 "DECLARATION OF CONSIDERATION OF VALUE

20 Under penalties of fine and imprisonment as provided  
21 by law, I hereby declare:

22 (a) The total consideration paid for the property con-  
23 veyed by the document to which this declaration is ap-  
24 pended is \$.....; or,

25 (b) The true and actual value of the property trans-  
26 ferred by the document to which this declaration is ap-  
27 pended is, to the best of my knowledge and belief  
28 \$.....; or,

29 (c) The face amount, if stated therein, or the true  
30 amount if the face amount is not stated therein, secured  
31 by the mortgage or deed of trust to which this declara-  
32 tion is appended, is \$ .....

33 The proportion of all the property included in the docu-  
34 ment to which this declaration is appended which is real  
35 property located in West Virginia is .....%; the

36 value or amount secured by all the property \$.....;  
37 the value, or amounts secured by real estate in West Vir-  
38 ginia, is \$.....

39 Given under my hand this ..... day of ..... ,  
40 19.....

41 Signature .....

42  
43 (Indicate whether grantor,  
44 grantee, or other interest  
45 in conveyance).  
46

47 Address .....

48 Such declaration shall be considered by the clerk in  
49 ascertaining the correct number of stamps required.

50 The clerk shall, at the end of the month, pay all of the  
51 proceeds collected from the sale of stamps into the county  
52 treasury and all such moneys so received shall be trans-  
53 mitted by the sheriff to the state treasurer in the manner  
54 provided by law which shall be credited to the state gen-  
55 eral revenue fund.

Sec. 7. *Failure to Affix Stamps.*—No document upon  
2 which a tax is imposed by this article shall be made the  
3 basis of any action or other legal proceeding, nor shall  
4 proof thereof be offered or received in evidence in any  
5 court of this state, nor shall the same be recorded in the  
6 office of any clerk of any county court of this state, unless  
7 or until a documentary stamp or stamps as provided in  
8 this article have been affixed thereto, but if recorded with-  
9 out stamps or without the proper amount of stamps, said  
10 document shall nevertheless be duly of record except  
11 that no copy thereof may be admitted in evidence until  
12 the proper amount of stamps has been placed on the  
13 original or such copy.

Sec. 8. *Penalty For Recording Without Documentary*  
2 *Stamp; Effect.*—Any clerk who shall record any docu-  
3 ment upon which a tax is imposed by this article without  
4 the proper documentary stamp or stamps affixed thereto  
5 as required by this article as is indicated in such docu-  
6 ment or accompanying declaration shall, upon conviction  
7 in a court of competent jurisdiction, be fined fifty dollars.

8 Failure of the clerk to require the attachment of the  
9 proper number of stamps shall not affect the recordability  
10 of the instrument, if otherwise recordable and regularly  
11 recorded. The failure to pay this tax and to attach the re-  
12 quired stamps shall not be or constitute a lien or claim  
13 against the property conveyed by the recorded instrument.

Sec. 9. *Unlawful Acts; Penalty.*—It shall be unlawful  
2 for any person to:

3 (1) Knowingly make a false statement in the declara-  
4 tion provided for in section six of this article; or,

5 (2) Fraudulently affix to any document upon which tax  
6 is imposed by this article any previously used documen-  
7 tary stamp which has been cut, torn or removed from any  
8 other document upon which tax is imposed by this  
9 article, or any forged or counterfeited stamp, or any  
10 impression of any forged or counterfeited stamp, die,  
11 plate or other article; or,

12 (3) Wilfully remove or alter the cancellation marks of  
13 any documentary stamp, or restore any such documentary  
14 stamp, with intent to use or cause the same to be used  
15 after it has already been used, or knowingly buy, sell, of-  
16 fer for sale, or give away any such altered or restored  
17 stamp to any person for use, or knowingly use the same;  
18 or,

19 (4) Knowingly have in his possession any altered or re-  
20 stored documentary stamp which has been removed from  
21 any document upon which tax is imposed by this article:  
22 *Provided*, That the possession of such stamps shall be  
23 *prima facie* evidence of an intent to violate the provisions  
24 of this clause; or,

25 (5) Knowingly or wilfully prepare, keep, sell, offer for  
26 sale, or have in his possession, any forged or counterfeited  
27 documentary stamps.

28 Any person violating any of the provisions of this sec-  
29 tion shall be guilty of a misdemeanor, and, upon convic-  
30 tion thereof, shall be sentenced to pay a fine of not less  
31 than one hundred dollars nor more than one thousand dol-  
32 lars or be imprisoned for not more than five years, or both,  
33 in the discretion of the court.



## CHAPTER 173

(House Bill No. 15—By Mr. Myles and Mr. Dahill)

AN ACT to amend and reenact section two, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sale of property for nonpayment of taxes.

[Passed February 12, 1959; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Sale of Land for Taxes.

#### Section

2. Second publication and posting of list of delinquent real estate; notice.

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

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

Section 2. *Second Publication and Posting of List of Delinquent Real Estate; Notice.*—On or before November tenth of each year the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his county remaining delinquent as of November first, together with a notice of sale, in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the county of....., which are delinquent for the nonpayment of taxes for the year (or years) 19....., will be offered for sale by the undersigned sheriff (or collector) at public auction at the front door of the courthouse of the county, either inside or outside the front door, between the hours of ten in the morning and four in the afternoon on the.....day of....., 19.....

Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, or so much

19 thereof as may be necessary, will be sold for the amount  
20 due thereon, as set forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale

21 Any of the aforesaid tracts or lots, or part thereof or  
22 an undivided interest therein, may be redeemed by the  
23 payment to the undersigned sheriff (or collector) before  
24 sale, of the total amount of taxes, interest and charges  
25 due thereon up to the date of redemption.

26 Given under my hand this ..... day of .....,  
27 19.....

28 \_\_\_\_\_  
29 Sheriff (or collector).

30 The sheriff shall publish the list and notice, once a  
31 week for four successive weeks prior to the sale date  
32 fixed in the notice, in two newspapers of opposite politics,  
33 if such there be in the county, and the costs of printing,  
34 not to exceed forty cents per item for each insertion in  
35 each newspaper, shall be paid out of the county treasury.  
36 He shall also post a copy of such list and notice at the  
37 front door of the courthouse at least four weeks before  
38 the sale. If there is no newspaper published in the county,  
39 or if no such newspaper will publish the list and notice  
40 for the compensation provided by law, then the sheriff  
41 shall also post a copy of the notice, but not of the delin-  
42 quent list, at some public place in each magisterial dis-  
43 trict at least twenty days before the sale. In such case  
44 the notice shall also state that the delinquent list has  
45 been posted at the front door of the courthouse.

46 To cover the costs of preparing, publishing and posting  
47 the delinquent list, a charge of two dollars and fifty cents

48 shall be added to the taxes, interest and charges already  
49 due on each item listed. The sum of the taxes, interest  
50 to the date of sale, and other charges shall be stated in  
51 the list as the total amount due.

52 Any person, whose taxes were delinquent on Novem-  
53 ber first, may have his name removed from the delin-  
54 quent list prior to the time the same is delivered to the  
55 newspaper or newspapers for publication by paying to  
56 the sheriff the full amount of taxes and costs owed by such  
57 person at the date of such redemption. In such cases,  
58 the sheriff shall include but fifty cents of the costs pro-  
59 vided in this section in making such redemption. Costs  
60 collected by the sheriff hereunder which are not expended  
61 for publication shall be paid into the general county  
62 fund.

## CHAPTER 174

(Senate Bill No. 374—By Mr. Carrigan)

AN ACT authorizing and directing the West Virginia department of employment security, acting by and through its director, to enter into an agreement in behalf of the state of West Virginia with the secretary of labor of the United States, which will permit said director to make, as agent of the United States, payments of temporary unemployment compensation in accordance with the terms and conditions of an act of Congress known as the "Temporary Unemployment Compensation Act of 1958" (Public Law 441, 85th Congress), as may be amended by the 86th Congress so as to extend the payment of such benefits for a period not to exceed one year beyond the present termination date of March thirty-first, one thousand nine hundred fifty-nine,

[Passed March 13, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Authorization for agreement to extend unemployment compensation.
2. Exhaustion date for purposes of determining individuals' entitlement or right to benefits.

WHEREAS, The 85th Congress of the United States enacted certain legislation known as the "Temporary Unemployment Compensation Act of 1958" (Public Law 441), providing for payment of temporary unemployment compensation benefits to unemployed workers who have exhausted their rights to benefits under present state unemployment compensation laws; and

WHEREAS, The Legislature of the state of West Virginia, convened in extraordinary session on the twenty-third day of June, one thousand nine hundred fifty-eight, enacted legislation effective from its date of passage authorizing and directing the department of employment security, acting by and through its director, to enter into an agreement with the secretary of labor of the United States to make such benefits available to the state of West Virginia; and

WHEREAS, Such legislative authorization and direction does not permit the state of West Virginia to make such payment of temporary unemployment compensation benefits to such eligible unemployed workers for any week of unemployment which begins after March thirty-first, one thousand nine hundred fifty-nine; and

WHEREAS, It is necessary for the Legislature of the state of West Virginia to authorize and direct the department of employment security, acting by and through its director, to enter into an agreement with the secretary of labor of the United States if such temporary unemployment compensation benefits as provided for by the "Temporary Unemployment Compensation Act of 1958" (Public Law 441, 85th Congress), as may be amended by the 86th Congress, are to be made available to the state of West Virginia, so as to extend the payment of such benefits for a period not to exceed one year beyond the present termination date of March thirty-first, one thousand nine hundred fifty-nine; now, therefore,

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

- Section 1. *Authorization for Agreement to Extend Un-*  
2 *employment Compensation.*—The West Virginia depart-  
3 ment of employment security, acting by and through its  
4 director, is hereby authorized and directed to enter into  
5 an agreement on behalf of the state of West Virginia with  
6 the secretary of labor of the United States, which agree-

7 ment will permit said director to make, as agent of the  
8 United States, payments of temporary unemployment  
9 compensation in accordance with the terms and conditions  
10 set forth in an act of Congress entitled the "Temporary  
11 Unemployment Compensation Act of 1958" (Public Law  
12 441, 85th Congress), as may be amended by the 86th Con-  
13 gress, so as to enable individuals who have exhausted  
14 their rights under the present unemployment compensa-  
15 tion laws of this state to receive the additional compensa-  
16 tion made available by the aforesaid "Temporary Unem-  
17 ployment Compensation Act of 1958", as may be amended  
18 by the 86th Congress so as to extend the payment of such  
19 benefits for a period not to exceed one year beyond the  
20 present termination date of March thirty-first, one thou-  
21 sand nine hundred fifty-nine.

Sec. 2. *Exhaustion Date for Purposes of Determining*  
2 *Individuals' Entitlement or Right to Benefits*—Payment of  
3 temporary unemployment compensation under this act  
4 shall be made to individuals, who have after June thir-  
5 tieth, one thousand nine hundred fifty-seven exhausted  
6 (within the meaning prescribed by the secretary of labor)  
7 all rights as prescribed in Section 101 of the "Temporary  
8 Unemployment Compensation Act of 1958", as may be so  
9 amended by the 86th Congress.

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## CHAPTER 175

(House Bill No. 57—By Mr. Speaker, Mr. Pauley, and Mr. Seibert)

AN ACT creating a "West Virginia Centennial Commission", providing for its powers and duties, authorizing it to plan and create an appropriate centennial celebration, establishing a special revenue fund entitled "The West Virginia Centennial Fund" to be administered and controlled by the commission, and providing for the acceptance of appropriations, donations, gifts and contributions toward the cost of such celebration.

**West Virginia Centennial Commission.****Section**

1. West Virginia centennial commission created; members; officers and employees; members to be paid expenses; filling of vacancies.
2. Powers and duties of the commission.
3. Creation of the West Virginia centennial fund.
4. Severability.
5. Act to be liberally construed.

WHEREAS, West Virginia is one of the later states to be admitted to the Union—only thirteen states having been added since its admission; and

WHEREAS, The State of West Virginia, born of travails of the Civil War, became a state on June 20, 1863, and will therefore reach its 100th anniversary in four years; and

WHEREAS, It is the sense of the Legislature that it is mete that a centennial celebration be organized and held during the year of 1963, the purpose of which shall be to point up progress during a century of statehood, and to bring favorable attention to the State of West Virginia, its people, its resources, and its potential for the future; now, therefore,

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

Section 1. *West Virginia Centennial Commission Created; Members; Officers and Employees; Members to Be Paid Expenses; Filling of Vacancies.*—There is hereby created a commission to be known as the West Virginia centennial commission, and to be composed of fifteen commissioners, as follows: The governor of West Virginia, the president of the state senate, the speaker of the house of delegates and the director of the West Virginia industrial and publicity commission, ex officio; five persons shall be appointed by the governor, two senators and one citizen, at large, shall be appointed by the president of the senate, and two delegates and one citizen, at large, shall be appointed by the speaker of the house of delegates. The commission is hereby authorized to expand its membership to include other citizens whose positions and enterprises are deemed essential by the executive committee to the success of the centennial and its program; the total membership, however, never at any time to exceed twenty-five.

20 All members shall be appointed for terms to expire  
21 December thirty-first, one thousand nine hundred sixty-  
22 four, except those representing the senate and the house  
23 of delegates who shall serve as long as they remain a  
24 member of their respective body. A vacancy shall be  
25 filled by the official authorized to make the original ap-  
26 pointment.

27 The members of the commission shall select a chairman,  
28 a vice chairman and a secretary from among their number.  
29 The commission shall name five of its members to con-  
30 stitute an executive committee. The commission shall  
31 employ an executive director and other such assistance  
32 as shall be required. Salaries shall be set by the com-  
33 mission.

34 The members of the commission shall serve without  
35 compensation but shall be reimbursed for actual and  
36 necessary expenses incurred in the discharge of their  
37 duties as members of the commission.

Sec. 2. *Powers and Duties of the Commission.*—It shall  
2 be the duty of the commission to plan for the proper ob-  
3 servance of West Virginia's first one hundred years of  
4 statehood, through an exposition or expositions of its  
5 varied resources and products as well as its industrial  
6 and cultural achievements, to be held at some point or  
7 points where such exposition can best be accommodated  
8 and also enjoy easy accessibility; and to plan such other  
9 appropriate methods for the observance of this anniver-  
10 sary as the commission shall deem suitable and proper.  
11 In connection therewith, the commission is authorized to  
12 make expenditures for preliminary and final surveys,  
13 plans, studies and designs; purchase of supplies and ma-  
14 terials; professional fees; personal services and expenses  
15 incurred pursuant thereto; rental and purchase of equip-  
16 ment; construction and labor costs; advertising and pub-  
17 licity; and for all other purposes deemed by it necessary  
18 and incidental to the centennial celebration.

19 It shall also be the duty of the commission to cooperate  
20 with historical and other groups in the purposes and plans  
21 of said celebration, and to give due and proper considera-  
22 tion to plans that may be submitted to them; to advise

23 with and encourage local and general celebrations by  
24 schools, churches, patriotic organizations, historical so-  
25 cieties, business, labor and civic organizations, and to do  
26 any and all things proper and practical to make such  
27 expositions and celebrations a pronounced success.

28 The commission is hereby authorized to form a non-  
29 profit educational, civic and cultural corporation as an  
30 instrumentality for assisting in details of the administra-  
31 tion of the centennial observance, and all private contri-  
32 butions to such funds and/or underwritings, shall be tax  
33 deductible.

34 The commission shall make an annual report of its ac-  
35 tivities to the Legislature.

Sec. 3. *Creation of the West Virginia Centennial Fund.*

2 —For the purpose of carrying out the provisions of this  
3 act, there is hereby created a special revenue fund en-  
4 titled "The West Virginia Centennial Fund," which fund  
5 shall remain in existence only to the end of fiscal year  
6 one thousand nine hundred sixty-four.

7 The commission shall have the duty of administering,  
8 managing and controlling said fund and shall make ex-  
9 penditures therefrom in accordance with the provisions  
10 of article three, chapter twelve of the code of West Vir-  
11 ginia, one thousand nine hundred thirty-one. Requisi-  
12 tions for expenditures from said fund shall be signed by  
13 either the chairman or vice chairman of the commission,  
14 secretary, treasurer or comptroller. All such requisitions  
15 shall require the signature of two such officers.

16 The commission is authorized to receive annual appro-  
17 priations from the Legislature of West Virginia and from  
18 counties and municipalities within the state which are  
19 hereby authorized and empowered to make appropri-  
20 ations as a budget expenditure and is empowered to allow  
21 such annual appropriations to accumulate until such time  
22 as it becomes necessary to make expenditures therefrom.  
23 The commission is further authorized and empowered to  
24 solicit, encourage and request tax-deductible donations,  
25 gifts and contributions from any source, both private and  
26 public. All such moneys shall be deposited in "The West



27 Virginia Centennial Fund" and expended as provided by  
28 this section.

Sec. 4. *Severability.*—If any section, subdivision, clause,  
2 sentence or paragraph in this act shall be held to be un-  
3 constitutional, the unconstitutionality thereof shall not  
4 affect the remaining parts of this act.

Sec. 5. *Act to Be Liberally Construed.*—This act being  
2 necessary for the health, welfare and convenience of the  
3 citizens of the state, it should be liberally construed to  
4 affectuate the purposes thereof.

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## CHAPTER 176

(House Bill No. 126—By Mr. Speaker, Mr. Pauley)

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 workmen's compensation.

[Passed March 13, 1959; in effect July 1, 1959. Approved by the Governor.]

### Article 4. Disability and Death Benefits.

#### Section

6. Classification of disability benefits.
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  
2 compensation is due an employee under the provisions of  
3 this chapter for a personal injury other than silicosis, such  
4 compensation shall be as provided in the following sched-  
5 ule:

6 (a) If the injury causes temporary total disability, the  
7 employee shall receive during the continuance thereof  
8 sixty-six and two-thirds per cent of his average weekly  
9 earnings, not to exceed thirty-five dollars a week nor to  
10 be less than twenty-two dollars a week.

11 (b) Subdivision (a) shall be limited as follows: Ag-  
12 gregate award for a single injury causing temporary dis-  
13 ability shall be for a period not exceeding two hundred  
14 eight weeks.

15 (c) If the injury causes permanent disability, the per-  
16 centage of disability to total disability shall be determined  
17 and the award computed and allowed as follows:

18 For permanent disability of from one per cent to eighty-  
19 four per cent, inclusive, sixty-six and two-thirds per cent  
20 of the average weekly earnings for a period to be com-  
21 puted on the basis of four weeks' compensation for each  
22 per cent of disability determined.

23 For a disability of eighty-five to one hundred per cent,  
24 sixty-six and two-thirds per cent of the average weekly  
25 earnings during the remainder of life.

26 (d) If the injury results in the total loss by severance  
27 of any of the members named in this subdivision, the per-  
28 centage of disability shall be determined in accordance  
29 with the following table, and award made as provided in  
30 subdivision (c) of this section:

31 The loss of a great toe shall be considered a ten per cent  
32 disability.

33 The loss of a great toe (one phalanx) shall be consid-  
34 ered a five per cent disability.

35 The loss of other toes shall be considered a four per cent  
36 disability.

37 The loss of other toes (one phalanx) shall be consid-  
38 ered a two per cent disability.

39 The loss of all toes shall be considered a twenty-five per  
40 cent disability.

41 The loss of fore part of foot shall be considered a thirty  
42 per cent disability.

43 The loss of foot shall be considered a thirty-five per cent  
44 disability.

45 The loss of leg shall be considered a forty-five per cent  
46 disability.

47 The loss of thigh shall be considered a fifty per cent  
48 disability.

49 The loss of thigh at hip joint shall be considered a sixty  
50 per cent disability.

51 The loss of little or fourth finger (one phalanx) shall be  
52 considered a three per cent disability.

53 The loss of little or fourth finger shall be considered a  
54 five per cent disability.

55 The loss of ring or third finger (one phalanx) shall be  
56 considered a three per cent disability.

57 The loss of ring or third finger shall be considered a  
58 five per cent disability.

59 The loss of middle or second finger (one phalanx) shall  
60 be considered a three per cent disability.

61 The loss of middle or second finger shall be considered a  
62 seven per cent disability.

63 The loss of index or first finger (one phalanx) shall be  
64 considered a six per cent disability.

65 The loss of index or first finger shall be considered a  
66 ten per cent disability.

67 The loss of thumb (one phalanx) shall be considered a  
68 twelve per cent disability.

69 The loss of thumb shall be considered a twenty per cent  
70 disability.

71 The loss of thumb and index finger shall be considered  
72 a thirty-two per cent disability.

73 The loss of index and middle finger shall be considered  
74 a twenty per cent disability.

75 The loss of middle and ring finger shall be considered a  
76 fifteen per cent disability.

77 The loss of ring and little finger shall be considered a  
78 ten per cent disability.

79 The loss of thumb, index, and middle finger shall be  
80 considered a forty per cent disability.

81 The loss of index, middle and ring finger shall be con-  
82 sidered a thirty per cent disability.

83 The loss of middle, ring and little finger shall be con-  
84 sidered a twenty per cent disability.

85 The loss of four fingers shall be considered a thirty-two  
86 per cent disability.

87 The loss of hand shall be considered a fifty per cent  
88 disability.

89 The loss of forearm shall be considered a fifty-five per  
90 cent disability.

91 The loss of arm shall be considered a sixty per cent  
92 disability.

93 The total and irrecoverable loss of the sight of one eye  
94 shall be considered a thirty-three per cent disability, and  
95 the injured employee shall be entitled to compensation  
96 for a period of one hundred and thirty-two weeks.

97 For the partial loss of vision in one, or both eyes, the  
98 percentage of disability shall be determined by the com-  
99 missioner, using as a basis the total loss of one eye.

100 (e) Should a claimant to whom has been made a  
101 permanent partial award of from one per cent to eighty-  
102 four per cent, both inclusive, die from sickness or non-  
103 compensable injury, the unpaid balance of such award  
104 shall be paid to claimant's dependents as defined in this  
105 chapter, if any; such payment to be in the same install-  
106 ments that would have been paid to claimant if living:  
107 *Provided, however,* That no payment shall be made to any  
108 widow of such claimant after her remarriage, and that  
109 this liability shall not accrue to the estate of such claim-  
110 ant and shall not be subject to any debts of, or charges  
111 against, such estate.

112 (f) The award for permanent disabilities intermediate  
113 to those fixed by the foregoing schedule and permanent  
114 disability of from one per cent to eighty-four per cent  
115 shall be in the same proportion and shall be computed and  
116 allowed by the commissioner.

117 (g) The percentage of all permanent disabilities other  
118 than those enumerated in subdivisions (c), (d), (e), and  
119 (f) of this section shall be determined by the commission-  
120 er and award made in accordance with the provisions of  
121 subdivision (c).

122 (h) Compensation payable under any subdivision of  
123 this section shall be limited as follows: Not to exceed

124 thirty-five dollars a week nor to be less than twenty-two  
125 dollars a week.

126 (i) Where an injury results in temporary total dis-  
127 ability for which compensation is awarded under sub-  
128 division (a) of this section and such injury is later deter-  
129 mined permanent partial disability under subdivision (c),  
130 the amount of compensation so paid under subdivision  
131 (a) of this section shall be considered as payment of the  
132 compensation payable for such injury in accordance with  
133 the schedule in subdivision (c). Compensation, either  
134 total temporary or permanent partial, under this section  
135 shall be payable only to the injured employee and the  
136 right thereto shall not vest in his or her estate, except  
137 that any unpaid compensation which would have been  
138 paid or payable to the employee up to the time of his  
139 death, if he had lived, shall be paid to the dependents of  
140 such injured employee if there be such dependents at the  
141 time of death.

142 (j) The following permanent disabilities shall be con-  
143 clusively presumed to be total in character:

144 Loss of both eyes or the sight thereof.

145 Loss of both hands or the use thereof.

146 Loss of both feet or the use thereof.

147 Loss of one hand and one foot or the use thereof.

148 In all other cases permanent disability shall be deter-  
149 mined by the commissioner in accordance with the facts  
150 in the case, and award made in accordance with the pro-  
151 visions of subdivision (c).

#### Sec. 10. *Classification of Death Benefits; "Dependent"*

2 *Defined.*—In case a personal injury other than silicosis or  
3 other occupational disease, suffered by an employee in the  
4 course of and resulting from his employment, causes death  
5 within the period of six years and disability is continuous  
6 from date of such injury until date of death, or if death  
7 results from determined third stage silicosis or from any  
8 other occupational disease within six years from the date  
9 of the last exposure to the hazard of silicon dioxide dust  
10 or to the other particular occupational hazard involved,  
11 as the case may be, the benefits shall be in the amounts  
12 and to the person as follows:

13 (a) If there be no dependents, the disbursements shall  
14 be limited to the expense provided for in sections three  
15 and four of this article.

16 (b) If the deceased employee leaves a dependent widow  
17 or invalid widower, the payment shall be sixty-five dol-  
18 lars a month until death or remarriage of such widow or  
19 widower, and in addition twenty dollars a month for each  
20 child under eighteen years of age, to be paid until such  
21 child reaches such age, or, if an invalid child, twenty  
22 dollars a month, to continue as long as such child re-  
23 mains an invalid: *Provided, however,* That if such widow  
24 or invalid widower shall remarry within ten years from  
25 the date of the death of such employee, such widow or  
26 widower shall be paid at the time of remarriage twenty  
27 per cent of the amount that would be due for the period  
28 remaining between the date of such remarriage and the  
29 end of ten years from the date of death of such employee,  
30 and such widow or widower shall be advised in writing  
31 by the commissioner of his or her rights under this pro-  
32 viso at the time of making the original award: *Provided*  
33 *further,* That if upon investigation and hearing, as pro-  
34 vided in article five of this chapter, it shall be ascertained  
35 that such widow or widower is living with a man or  
36 woman, as the case may be, as man and wife and not mar-  
37 ried, or that the widow is living a life of prostitution, the  
38 commissioner shall stop the payments of the benefits here-  
39 in provided to such widow or widower.

40 If the deceased employee be a widow or widower and  
41 leaves a child or children under the age of eighteen years,  
42 the payments shall be twenty-five dollars a month to each  
43 child until he or she reaches the age of eighteen years.

44 In all awards of compensation to children, unless other-  
45 wise provided herein, the award shall be until they reach  
46 the age of eighteen years or until their death prior there-  
47 to.

48 (c) If the deceased employee leaves no dependent  
49 widow or widower and leaves a wholly dependent father  
50 or mother, he or she shall be paid the sum of sixty dollars  
51 a month, payments to continue until death, and if there  
52 be no widow or widower and both the father and mother

53 are wholly dependent, then a joint award shall be made  
54 to the father and mother in the sum of sixty dollars a  
55 month until death. Upon the death of either the father or  
56 mother in any case in which a joint award has been made  
57 to them, the full award of sixty dollars a month shall be  
58 paid to the survivor until his or her death.

59 (d) If the deceased employee leaves no dependent  
60 widow or widower or wholly dependent father or mother  
61 but there are other wholly dependent persons, as defined  
62 in paragraph (f) of this section, the payment shall be  
63 fifty dollars a month, to continue for six years after the  
64 death of the deceased, except as otherwise provided here-  
65 in.

66 (e) If the deceased employee leaves no dependent  
67 widow or widower, child under eighteen years of age, or  
68 wholly dependent person, but there are partially depend-  
69 ent persons at the time of death, the payment shall be  
70 twenty dollars a month, to continue for such portion of  
71 the period of six years after the death as the commissioner  
72 may determine, but no such partially dependent person  
73 shall receive compensation payments as a result of the  
74 death of more than one employee.

75 Compensation under subdivisions (b), (c), (d), and  
76 (e) hereof shall, except as may be specifically provided  
77 to the contrary therein, cease upon the death of the de-  
78 pendent, and the right thereto shall not vest in his or  
79 her estate.

80 (f) Dependent, as used in this chapter, shall mean a  
81 widow, invalid widower, child under eighteen years of  
82 age, invalid child or a posthumous child, who, at the time  
83 of the injury causing death, is dependent in whole or in  
84 part for his or her support upon the earnings of the em-  
85 ployee; also the following persons who are and continue to  
86 be residents of the United States or its territorial posses-  
87 sions: Stepchild under eighteen years of age, child under  
88 eighteen years of age legally adopted prior to the injury  
89 causing death, father, mother, grandfather or grand-  
90 mother, who at the time of the injury causing death, is  
91 dependent in whole or in part for his or her support upon  
92 the earnings of the employee; an invalid brother or sister

93 wholly dependent for his or her support upon the earn-  
94 ings of the employee at the time of the injury causing  
95 death.

## CHAPTER 177

(Senate Bill No. 118—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, as amended, 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 13, 1959; in effect 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, as amended, 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 unex-



7    pended funds of said county and any surplus in any county  
8    fund, now or hereafter created, for the purpose of pur-  
9    chasing, operating and maintaining fire apparatus and  
10   equipment of all kinds used in furnishing fire protection,  
11   and is hereby further authorized and empowered to place  
12   or station such equipment and apparatus under the juris-  
13   diction and control of the city council of the city of Mar-  
14   tinsburg for the operation thereof. The county court of  
15   Berkeley county is also hereby authorized and empow-  
16   ered to use any such unexpended funds and surplus in an  
17   amount necessary for the rental of fire hydrants erected  
18   and maintained by any municipal corporation and/or san-  
19   itary district in said county. The authority hereby granted  
20   is in addition to the authority granted by chapter one hun-  
21   dred thirty-seven, acts of the Legislature, regular session,  
22   one thousand nine hundred forty-nine.

*Sec. 2. Use of Funds for Courthouse and Jail Repairs,*  
2    *Improvements and Additions; Apportionment of Funds:*  
3    *Expenditure.*—The county court of Berkeley county may,  
4    in its discretion, allocate the available moneys and funds,  
5    as provided in section one of this chapter, for such fire  
6    protection uses and services as it may find to be expedient  
7    and practicable, and is hereby authorized and empowered  
8    to use and expend the balance of all such available mon-  
9    eys and funds for repairs, improvements and additions to  
10   the courthouse and jail of Berkeley county. Such available  
11   moneys and funds may be used and expended for neces-  
12   sary or emergency repairs or improvements to the court-  
13   house or jail and may be accumulated for other repairs  
14   and improvements and structural additions to the court-  
15   house and jail of Berkeley county: *Provided, however,*  
16   That such moneys and funds may also, in the discretion  
17   of said court, be used or expended for the construction  
18   and/or purchase of an annex to said courthouse or the  
19   construction and/or purchase of a new courthouse, which  
20   may include a space for rooms for the county health de-  
21   partment and a public library.

## CHAPTER 178

(Com. Sub. for House Bill No. 214—Originating in the House Committee on Counties, Districts and Municipalities)

AN ACT to authorize and empower the county court of Cabell county to convert the Cabell county farm at Ona, West Virginia, into a youth center; to create a board of supervisors for the purpose of constructing buildings and making land improvements, and establishing, equipping, developing, operating, financing, administering and managing said youth center; to create as integral parts thereof, (a) a medium security school for juvenile delinquents, (b) a centralized foster home for homeless, abandoned, dependent and neglected children and (c) a recreational center for youth; and to vest authority in the county court of Cabell county to convey land to the Cabell county board of education for building sites for general and special school purposes.

[Passed March 2, 1959; in effect ninety days from passage. Became a law without the approval of the Governor.]

### **Cabell County Youth Center.**

#### **Section**

1. Use of county farm at Ona; Cabell county youth center; divisions.
2. Board of supervisors for Cabell county youth center; membership; how elected; tenure; compensation; removal; organization; powers.
3. Medium security school.
4. Foster homes division.
5. Recreation division of the Cabell county youth center.
6. Financing; expenditures; special fund.
7. Land for school purposes.
8. Provisions severable.

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

Section 1. *Use of County Farm at Ona; Cabell County Youth Center; Divisions.*—The county court of Cabell county is hereby authorized and empowered, by order entered of record, to convert the county farm at Ona, West Virginia, into a youth center, to be known as the Cabell county youth center. Its integral parts shall be

7 known as (a) medium security school, division of the  
8 Cabell county youth center; (b) foster homes division  
9 of the Cabell county youth center; and (c) recreation  
10 division of the Cabell county youth center.

Sec. 2. *Board of Supervisors for Cabell County Youth  
2 Center; Membership; How Elected; Tenure; Compensation;  
3 Removal; Organization; Powers.*—The Cabell county  
4 youth center and its integral parts shall be governed by  
5 a board known as the board of supervisors of the Cabell  
6 county youth center. It shall be created as hereinafter  
7 set forth, for the purposes of constructing buildings and  
8 making land improvements, and establishing, equipping,  
9 developing, operating, financing, administering and man-  
10 aging said youth center and its integral parts.

11 The board of supervisors shall consist of twelve regular  
12 members selected one by and from each of the twelve  
13 organizations, as follows: Huntington ministerial asso-  
14 ciation; Cabell county medical association; Cabell county  
15 bar association; county court of Cabell county; council  
16 of the city of Huntington; Huntington district labor coun-  
17 cil; Women's inter-club council; Cabell county parent-  
18 teachers association; Cabell county board of education;  
19 community welfare council of Huntington; Ona parent-  
20 teachers association; and, the Cabell county farm bureau.

21 The term of each board member so selected shall be for  
22 three years and until their successors have been duly  
23 chosen and qualified: *Provided, however,* That the first  
24 four hereinabove named shall be chosen for a term of one  
25 year, the second four hereinabove named shall be chosen  
26 for a term of two years and the last four hereinabove  
27 named shall be chosen for a term of three years. Upon the  
28 expiration of the initial appointments, each person there-  
29 after shall be appointed for a term of three years, except  
30 that any person appointed to fill a vacancy occurring prior  
31 to the expiration of the term for which his predecessor was  
32 chosen, shall be chosen only for the remainder of such  
33 term. Members shall be eligible to succeed themselves.

34 The mayor of each incorporated municipality within  
35 the county, the sheriff of Cabell county, and the Cabell  
36 county agricultural agent, shall each be ex officio mem-

37 bers of said board of supervisors, with voting privileges  
38 equal to that of each and every other member.

39 The board of supervisors, except the secretary, shall  
40 serve without compensation for their services, but may  
41 be reimbursed for any expenses incurred in the per-  
42 formance of their duties.

43 Each regular member of the board shall be a bona fide  
44 citizen and resident of said county and any regular mem-  
45 ber thereof who shall cease to be a bona fide citizen and  
46 resident of said county shall thereby be disqualified as a  
47 member of the board, and his office shall thereupon be-  
48 come vacant.

49 Any regular member of the board may be removed  
50 from office for incompetency or neglect of duty in office  
51 in the same manner and for the same reasons as, by the  
52 constitution and statutes of this state, are made and pro-  
53 vided for the removal of general county officers. The  
54 board shall also be answerable to the county court of  
55 Cabell county for the faithful performance of its duties  
56 and any regular member thereof may be proceeded against  
57 by the county court in the circuit court of said county  
58 for removal from the board for cause shown.

59 Within thirty days after the selection of a majority of  
60 the total regular membership of said board, and each so  
61 selected has qualified by taking an oath in writing to  
62 support the constitution of the United States and of West  
63 Virginia and to faithfully perform the duties of a member  
64 of said board, and has filed said written oath with the  
65 clerk of the county court of Cabell county, the said board  
66 shall meet and organize by designating one of its mem-  
67 bers as president, another vice president and by select-  
68 ing a secretary from the board membership or otherwise,  
69 and fixing the salary of said secretary. The board shall  
70 fix the time and place of its meetings: *Provided, however,*  
71 That the board shall hold at least one meeting each cal-  
72 endar month, and a majority of the members shall con-  
73 stitute a quorum.

74 Said board of supervisors shall provide for the employ-  
75 ment of and shall have the power to remove and fix the  
76 compensation of such persons as in its opinion may be

77 necessary for the operation, maintenance, administration  
78 and management of the property under its control;  
79 limited, however, by the authority vested in the depart-  
80 ment of public assistance by section four hereof, and  
81 limited further by the appropriation of funds for such  
82 purposes by the county court of Cabell county. The  
83 power and authority to manage and control said youth  
84 center shall include the power to make rules and regula-  
85 tions and to enforce such rules and regulations as may  
86 be necessary for the management and control of the said  
87 youth center and each of its integral parts.

Sec. 3. *Medium Security School.*—The medium security  
2 school division of the Cabell county youth center, shall  
3 be maintained at the Cabell county farm at Ona, West  
4 Virginia, by the board of supervisors as an integral part  
5 of the Cabell county youth center. It shall be used for the  
6 detention and training of juveniles who have been ad-  
7 judged delinquent and committed thereto by a court of  
8 competent jurisdiction. It shall not be deemed a penal  
9 institution, a jail or a prison. It shall be conducted and  
10 respected as comparable to a "school away from home."  
11 There shall be maintained at the school, or in close  
12 proximity thereto, by the board of supervisors, sufficient  
13 class rooms and equipment for the proper education and  
14 training during the regular nine months' school period of  
15 all juveniles residing in said medium security school.  
16 The board of education of Cabell county, at its own ex-  
17 pense, shall furnish sufficient teachers of proper qualifi-  
18 cations to adequately staff said class rooms and to fur-  
19 nish proper educational training for all those committed  
20 to said school, to the end that all those committed shall  
21 be allowed and required to progress in education, and in  
22 spiritual and moral development in preparation for a  
23 return to a normal life.

24 The juveniles while residing in the medium security  
25 school, at all times shall be kept separable and apart from  
26 and not permitted to mingle or associate with any of the  
27 youth using the facilities of the other two divisions of  
28 said youth center, or with youth in the public schools  
29 of the county: *Provided, however,* That nothing herein

30 contained shall prevent said residents of the school from  
31 being assigned to outdoor work in or about the farm dur-  
32 ing out of school periods and wherewith they may receive  
33 training in healthful pursuits and becoming more nearly  
34 self-supporting, said residents of the school shall likewise  
35 not be permitted to associate with other juveniles who  
36 are not delinquent and not committed to the school.

37 The board of supervisors shall appoint a superintendent  
38 who shall be in charge of the medium security school  
39 and answerable to the board. The superintendent shall  
40 have such other personnel as to the board may seem  
41 necessary to assist in maintaining the school, securing  
42 the custody of the juveniles therein, and carrying out  
43 general supervision of the school to the end that order  
44 and discipline shall be maintained. The compensation to  
45 be paid the superintendent and personnel of said school  
46 shall be fixed by the board and certified and paid as  
47 hereinafter provided.

Sec. 4. *Foster Homes Division.*—The foster homes divi-  
2 sion of the Cabell county youth center shall be erected and  
3 maintained at the Cabell county farm at Ona, West Vir-  
4 ginia, as a home for Cabell county children who are  
5 orphans, homeless, neglected or deserted, or who, if fur-  
6 ther permitted to run ungoverned or undisciplined, are  
7 apt to become delinquent, and which said children are  
8 within the age prescribed by the statutes of this state for  
9 juveniles.

10 The board of supervisors of the Cabell county youth  
11 center shall cause to be erected and maintained at said  
12 farm sufficient cottages and a capacity to house comfort-  
13 ably in each cottage not more than twenty children,  
14 each cottage when children are housed therein shall have  
15 as "cottage parents" a husband and wife team in charge,  
16 both of whom shall be persons of good moral character,  
17 experienced in child care, having proper understanding of  
18 children and temperamentally fit to care and rear them.  
19 Each cottage shall be conducted comparable to a well-  
20 ordered home, with proper supervision and understanding  
21 discipline maintained by the "cottage parents." The chil-  
22 dren therein housed shall be treated as members of a

23 well-ordered family where there is proper intellectual,  
24 physical, spiritual and exemplary moral training. Each  
25 child shall be given a home therein so long as its need  
26 therefor exists and it remains a juvenile or until a satis-  
27 factory permanent home has been found or it is placed  
28 for adoption.

29 The foster homes division shall be made available for  
30 any and all Cabell county children now or hereafter to  
31 be under the control of the department of public as-  
32 sistance, all Cabell county children cared for by any of  
33 the other welfare agencies, youth or child centers, private  
34 homes or institution within the county.

35 The department of public assistance, at the earliest  
36 practicable time after the facilities hereinabove provided  
37 have been made ready to receive said children, shall ap-  
38 pear before the juvenile court of Cabell county and  
39 bring to the court's attention the name of each and every  
40 Cabell county child in the custody of the said department,  
41 the then whereabouts of each child, and all facts and  
42 circumstances which to the department or the court may  
43 appear pertinent with relation to each child, and all of  
44 which the court shall consider, and having so considered  
45 shall then enter an order committing said child to the  
46 foster homes division, or otherwise, as to the court may  
47 seem just and proper, and the court may from time to  
48 time make such other and further orders for the disposi-  
49 tion of said child or children as may be just or proper:  
50 *Provided, however,* That the above procedure shall apply  
51 only to children of school age. All children of pre-school  
52 age may be maintained at said foster homes or elsewhere,  
53 within the sound discretion of the department of public  
54 assistance, but wherein children of pre-school age are  
55 placed in said foster homes, then such placement shall be  
56 by order of the juvenile court of Cabell county in the same  
57 manner as is hereinabove provided for all other children.

58 For the support and maintenance of the children placed  
59 in said foster homes by the department of public as-  
60 sistance, it shall contribute the standard amount paid by  
61 the department to private foster homes in other counties  
62 of the state. The money so contributed shall be paid to

63 the county court of Cabell county and by that court set  
64 aside for the use of said foster homes division.

65 The "cottage parents" and all other personnel required  
66 for the efficient operation of said cottages in which chil-  
67 dren are maintained shall be carefully selected by the  
68 department of public assistance. Said "cottage parents",  
69 under the guidance and supervision of the department of  
70 public assistance, shall be responsible for the supervision  
71 and training of all children committed to their care; for  
72 keeping them in school during school terms and hours;  
73 for teaching them to do a reasonable amount of work,  
74 and for making each cottage as nearly self-supporting as  
75 possible. The husband member of the "cottage parents"  
76 shall lead and teach the older male children under his  
77 care, at reasonable times and seasons, in agricultural prac-  
78 tices and methods, in gardening, truck farming, fruit  
79 growing, poultry raising, dairying, and like occupations,  
80 and upon such land as may be assigned by the board of  
81 supervisors for such purposes. The wife member of the  
82 "cottage parents" shall lead and teach the older female  
83 children under her care, at reasonable times, in the art  
84 and practices of home making (cooking, laundering, clean-  
85 ing, and the like).

86 The children residing in said foster homes shall be  
87 required, when within school age, and when their health  
88 and physical condition permits, to attend the public  
89 schools. The board of education of said county shall make  
90 provisions for them in the public school at Ona, West  
91 Virginia, or if any one or more of them be in a grade  
92 higher than is taught at Ona, then provision therefor shall  
93 be made in a school wherein such grade is taught.

94 Complete supervision of the foster homes division, to-  
95 gether with the employment and discharge of any and all  
96 personnel including "cottage parents" shall be under the  
97 department of public assistance. The salary of each per-  
98 son so employed shall be reasonable and be determined  
99 by the department, and when approved by the board of  
100 supervisors shall be certified for payment as is provided  
101 in section six hereof. In advance of the submission by the  
102 board of supervisors of the estimate of all monetary needs



103 of the Cabell county youth center to the county court as  
104 provided in section six hereof, the department of public  
105 assistance shall furnish to the board of supervisors an  
106 estimate of all reasonable monetary needs of the foster  
107 homes division for the next fiscal year, said estimate shall  
108 cover all anticipated costs for services for all employees  
109 and personnel employed in the reasonable operation of  
110 said foster homes, and all other reasonable expenses inci-  
111 dent thereto, and which said estimate shall be certified  
112 to the board of supervisors and by that board included in  
113 the estimate rendered to the county court of Cabell  
114 county as required by section six, paragraph one, hereof.

Sec. 5. *Recreation Division of the Cabell County Youth*  
2 *Center.*—The board of supervisors shall maintain a place  
3 for recreation for the youth of Cabell county at the Cabell  
4 county farm at Ona, West Virginia. The board is hereby  
5 authorized to erect, at said farm, such playgrounds, swim-  
6 ming pools, tennis courts, ball parks, golf courses, and  
7 such other facilities as to the board may seem advisable,  
8 where Cabell county youth may assemble, under proper  
9 supervision for play, sport, entertainment, recreation or  
10 instruction. The board is also authorized to erect and  
11 maintain as the needs require, cottages, assembly halls,  
12 kitchens, mess halls, and camping quarters, which may  
13 be leased at terms and rates as to the board may appear  
14 proper. It is the intent hereof to provide a place for  
15 assembly of youth groups from churches, scouts, clubs  
16 or any other worthy youth organizations, for purposes  
17 hereinabove set out and to the end that the recreation  
18 division may be used as a preventive of delinquency in  
19 youth and for the building of strong bodies and strong  
20 characters.

21 The board of supervisors is authorized to employ a camp  
22 manager and such other personnel as may be required  
23 to operate said facilities and to the end that the greatest  
24 possible value may accrue to youth and that same may  
25 be as nearly self-maintaining as possible. The manager  
26 and personnel shall be answerable to the board, and under  
27 its direct supervision at all times.

Sec. 6. *Financing; Expenditures; Special Fund.*—The  
2 board of supervisors shall annually prepare and submit  
3 to the county court of Cabell county, in advance of the  
4 levy term of said court, an estimate of all the monetary  
5 needs of the Cabell county youth center and each of its  
6 integral parts, for the next fiscal year, said estimate shall  
7 cover anticipated costs, for construction, maintenance and  
8 operation of buildings, and all anticipated expenses rela-  
9 tive to the operation of said youth center for the ensuing  
10 fiscal year. The county court of Cabell county shall re-  
11 ceive said estimate and reasonably provide in the annual  
12 budget of the county, for the reasonable requirements of  
13 said youth center as set forth in said estimate and for  
14 each of its divisions. But no obligations shall be incurred  
15 or debts contracted by the board of supervisors in excess  
16 of said budget, without prior consent of the county court.

17 All current expenses for salaries, supplies and such  
18 other things as are required for the efficient operation of  
19 the said youth center, including construction costs, shall  
20 be certified for payment at the end of each calendar month  
21 to the county court of Cabell county by the president and  
22 secretary of the board of supervisors, in writing, and  
23 signed by each of them. Thereupon the county court shall  
24 cause same to be paid out of the separate fund created  
25 for said Cabell county youth center, and otherwise to be  
26 paid in the same manner as general current county ex-  
27 penses are paid.

28 The county court of Cabell county shall have the power  
29 and authority to transfer moneys from inactive funds,  
30 special unused funds, or the general county fund to a  
31 separate fund for the use of the Cabell county youth cen-  
32 ter, as needs may require. The county court of Cabell  
33 county is further authorized and empowered to receive  
34 and expend for the purposes herein provided gifts, be-  
35 quests and donations from any person, corporation, firm  
36 or association.

Sec. 7. *Land for School Purposes.*—The county court of  
2 Cabell county is hereby authorized to convey to the board  
3 of education of Cabell county, a portion of said Cabell  
4 county farm, consisting of not more than twenty-five

5 acres, for the construction of a building or buildings to be  
6 used for general or special school purposes.

Sec. 8. *Provisions Severable.*—The several sections and  
2 provisions of this act are severable. If any section or  
3 provision hereof shall be held unconstitutional all the  
4 remaining sections and provisions of the act shall never-  
5 theless remain valid.

## CHAPTER 179

(House Bill No. 66—By Mr. Bias)

AN ACT to amend and reenact section twenty-four, chapter one hundred eighty-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three, fixing the salary of the judge of the common pleas court of Cabell county, West Virginia.

[Passed March 4, 1959; in effect ninety days from passage. Approved by the Governor.]

### Section

24. Salary of judge.

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

That section twenty-four, chapter one hundred eighty-two, acts of the Legislature, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 24. *Salary of Judge.*—The judge of the common  
2 pleas court of Cabell county shall receive for his services  
3 eleven thousand dollars annually, payable monthly in  
4 installments beginning on the first day of January, one  
5 thousand nine hundred sixty-one, which amount shall be  
6 provided for and paid by the county court out of the  
7 treasury of said county, which provision as to salary shall  
8 not repeal the existing provision until the first day of  
9 January, one thousand nine hundred sixty-one.

10 All acts or parts of acts inconsistent or in conflict with  
11 this act are hereby repealed.

## CHAPTER 180

(House Bill No. 67—By Mr. Bias)

AN ACT to amend and reenact section four, chapter one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-three, fixing the salary of the judge of the domestic relations court of Cabell county.

[Passed March 4, 1959; 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 one hundred eighty-one, acts of the Legislature, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 4. *Salary of Judge.*—The judge of the domestic relations court of Cabell county shall receive for his services eleven thousand dollars annually, payable monthly in installments beginning on the first day of January, one thousand nine hundred sixty-three, which amount shall be provided for and paid by the county court out of the treasury of said county, which provision as to salary shall not repeal the existing provisions until the said first day of January, one thousand nine hundred sixty-three.

All acts or parts of acts inconsistent or in conflict with this act are hereby repealed.

## CHAPTER 181

(House Bill No. 170—By Mr. Robertson)

AN ACT to authorize the library board of the city of Clarksburg to convey and quit claim to the city of Clarksburg, a municipal corporation, any equity or right, title or interest in and to a certain lot or parcel of land.

[Passed February 13, 1959; in effect from passage. Approved by the Governor.]

Section

1. Library board of the city of Clarksburg empowered to convey and quit claim any equity and all right, title and interest in certain land to the city of Clarksburg, a municipal corporation.

WHEREAS, The main city building of the city of Clarksburg, Harrison county, West Virginia, is situate upon a lot or parcel of land, hereinafter particularly described, which lot or parcel of land was purchased in the year one thousand nine hundred twenty-eight with funds obtained by a special levy for "library purposes"; and

WHEREAS, Subsequent to the land purchase of one thousand nine hundred twenty-eight, the library board obtained other property for its purposes and the city of Clarksburg assumed the entire support of the city library; and

WHEREAS, The original purpose for which said funds were raised possibly creates an equity or interest in said property although legal title is in the city; and

WHEREAS, Both the municipality, the city of Clarksburg, and the library board of the city of Clarksburg, in its statutory name, board of library directors of the city of Clarksburg, a corporation, operating and maintaining a public library, under and by virtue of chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, agree and desire to clear the possible cloud upon the title to said lot or parcel of land; and since the cloud upon the title to this real property can be cleared only by act of the Legislature; therefore,

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

- Section 1. *Library Board of the City of Clarksburg*  
2 *Empowered to Convey and Quit Claim Any Equity and*  
3 *All Right, Title and Interest in Certain Land to the City*  
4 *of Clarksburg, A Municipal Corporation.*—The state of  
5 West Virginia hereby grants unto the board of library  
6 directors of the city of Clarksburg, Harrison county, West  
7 Virginia, a corporation, permission to convey unto the  
8 city of Clarksburg any equity or right, title and interest

9 in and to a certain lot or parcel of land in the city of  
10 Clarksburg, in Clark district, and occupied by the main  
11 office building of the city of Clarksburg, Harrison county,  
12 West Virginia, and more particularly bounded and de-  
13 scribed as follows:

14 BEGINNING at a mark in the sidewalk on the south  
15 side of Main street in the said city of Clarksburg, and  
16 corner to a lot now or formerly owned by Jacobs, and  
17 running thence with said Jacobs' lot S.  $12^{\circ}55'W$ . 313.68  
18 feet to an iron pipe in the north line of Washington  
19 avenue; thence with said Washington avenue S.  $71^{\circ}26'$   
20 East 74.5 feet to an iron pipe, corner to a lot now oc-  
21 cupied by the Hope natural gas company; thence with the  
22 same N.  $20^{\circ}6'E$ . 309.54 feet to a stake in the South line of  
23 Main street; thence with Main street N.  $70^{\circ}6'W$ . 113.7  
24 feet to the place of beginning, being the same lot or  
25 parcel of land conveyed unto the city of Clarksburg, a  
26 municipal corporation, by the Lowndes savings bank  
27 and trust company, by deed dated the 14th day of July,  
28 1928, and of record in the office of the clerk of the county  
29 court of Harrison county, West Virginia, in deed book  
30 No. 391 at page 525.

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## CHAPTER 182

(House Bill No. 355—By Mr. Kidd)

AN ACT to authorize the county court of Gilmer county to use unexpended funds and surpluses in any funds of said county, up to the sum of twenty-five thousand dollars, for the purpose of creating a special building fund for the building and equipping of a dining hall at the Gilmer county recreation center and to expend for such purposes the fund so created.

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[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Gilmer county court authorized to create a special building fund.

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

Section 1. *Gilmer County Court Authorized to Create a Special Building Fund.*—The county court of Gilmer county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surplus of any funds, up to the sum of twenty-two thousand dollars, for the purpose of creating a special building fund for the building and equipping of a dining hall at the Gilmer county recreation center, and said county court is authorized to expend for such purposes the fund so created.

## CHAPTER 183

(House Bill No. 394—By Mr. Robertson and Mr. White)

AN ACT authorizing the county court of Harrison county to create an airport authority and providing for the membership and specifying the purposes of the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation of a public airport; for corporate existence of the authority; for the issuance of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and giving security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and obligations of the authority; for acquisition by the authority from the county court of Harrison county of the present county airport and the improvement and operation thereof; for the authority to lease the airport; for the county court of Harrison county to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court and others; for keeping the funds and accounts of the authority; for the disposition of any surplus funds; for covering the employees of the authority by workmen's compensation; and for dissolution of the authority.

[Passed February 27, 1959; in effect from passage. Approved by the Governor.]

Section

1. Benedum airport authority authorized.
2. Purposes.
3. Members of authority.
4. Qualification of members of the authority.
5. Compensation of members of the authority.
6. Authority to be a public corporation.
7. Powers.
8. Indebtedness of the authority.
9. Agreements in connection with obtaining fund.
10. Authority to have right of eminent domain.
11. Property, bonds and obligations of authority exempt from taxation.
12. County court authorized to convey present airport properties and facilities to the authority.
13. Authority may lease airport and facilities to county court or other lessee.
14. Disposition of surplus of authority.
15. Contributions to authority by county court and others; funds and accounts of the authority.
16. Employees to be covered by workmen's compensation.
17. Dissolution of authority.
18. Automatic termination of the right to establish the authority.
19. Liberal construction of act.
20. Provisions severable.

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

Section 1. *Benedum Airport Authority Authorized.*—

- 2 The county court of Harrison county is hereby authorized
- 3 to create and establish a public agency to be known as
- 4 the "Benedum Airport Authority" for the purposes and
- 5 in the manner hereinafter set forth.

- Sec. 2. *Purposes.*—The authority is hereby authorized
- 2 and empowered to acquire, equip, construct, improve,
  - 3 maintain and operate a public airport with all usual and
  - 4 convenient appurtenances and facilities in Harrison coun-
  - 5 ty, West Virginia, to serve as a public airport for the
  - 6 convenience and accommodation of the inhabitants of
  - 7 Harrison county and the public generally.

- Sec. 3. *Members of Authority.*—The management and
- 2 control of the Benedum Airport Authority, its property,
  - 3 operations, business and affairs, shall be lodged in a board
  - 4 of five persons who shall be known as the members of
  - 5 the authority and who shall be appointed for a term of



6 five years each by the county court of Harrison county,  
7 except that, as to the first board appointed, the term of  
8 one member shall expire on the first day of March next  
9 ensuing, the term of another member shall expire one  
10 year thereafter, the term of another member shall expire  
11 two years thereafter, the term of another member shall  
12 expire three years thereafter, and the term of the re-  
13 maining member shall expire four years thereafter. As  
14 a member's term expires, the county court of Harrison  
15 county shall appoint a member for a full term of five  
16 years. A member may be reappointed for such additional  
17 term or terms as the county court may deem proper. If  
18 a member resigns, is removed or for any reason his mem-  
19 bership terminates during his term of office, a successor  
20 shall be appointed by the county court to fill out the  
21 remainder of his term. Members in office at the expira-  
22 tion of their respective terms shall continue to serve until  
23 their successors have been appointed and have qualified.  
24 The county court of Harrison county may at any time  
25 for good cause remove a member or members of the  
26 board of the authority by an order duly entered of record  
27 and may appoint a successor member or successor mem-  
28 bers for any member or members so removed. If any  
29 member objects to being so removed, he may, in writing,  
30 demand a hearing, and the county court of Harrison  
31 county shall promptly thereafter hold a public hearing  
32 thereon. After such public hearing, the county court  
33 shall determine whether the member shall be removed or  
34 shall be permitted to continue in office.

*Sec. 4. Qualification of Members of the Authority.—*

2 All members of the board of the authority shall be citizens  
3 of West Virginia, over thirty years of age, and residents  
4 of Harrison county. No member of the board shall be  
5 engaged in the aviation business as a major part of his  
6 activities. Not more than three members of the authority  
7 shall belong to the same political party. One member  
8 of the board of the authority may also be a member of  
9 the county court of Harrison county.

*Sec. 5. Compensation of Members of the Authority.—*

2 No member of the board of the authority shall receive

3 any compensation, whether in form of salary, per diem  
4 allowances or otherwise, for or in connection with his  
5 services as such member. Each member shall, however,  
6 be entitled to reimbursement by the authority for any  
7 necessary expenditures in connection with the perform-  
8 ance of his general duties as such member.

Sec. 6. *Authority to Be a Public Corporation.*—The  
2 authority when created, and the members thereof, shall  
3 constitute and be a public corporation under the name of  
4 Benedum Airport Authority, and as such shall have per-  
5 petual succession, may contract and be contracted with,  
6 sue and be sued, plead and be impleaded, and have and  
7 use a common seal.

Sec. 7. *Powers.*—The Benedum Airport Authority is  
2 hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules  
4 and regulations for its organization and operations not  
5 inconsistent with law;

6 (2) To elect its own officers, to appoint committees  
7 and to employ and fix the compensation for personnel  
8 necessary for its operation;

9 (3) To enter into contracts with any person, govern-  
10 mental department, firm or corporation, including both  
11 public and private corporations, and generally to do any  
12 and all things necessary or convenient for the purpose  
13 of acquiring, equipping, constructing, maintaining, im-  
14 proving, extending, financing and operating a public air-  
15 port in Harrison county, West Virginia;

16 (4) To delegate any authority given to it by law to  
17 any of its officers, committees, agents or employees;

18 (5) To apply for, receive and use grants in aid, dona-  
19 tions and contributions from any source or sources, and  
20 to accept and use bequests, devices, gifts and donations  
21 from any person, firm or corporation;

22 (6) To acquire lands and hold title thereto in its own  
23 name;

24 (7) To purchase, own, hold, sell and dispose of per-  
25 sonal property and to sell, lease or otherwise dispose of  
26 any real estate which it may own;

27 (8) To borrow money and execute and deliver nego-  
28 tiable notes, mortgage bonds, other bonds, debentures,  
29 and other evidences of indebtedness therefor, and give  
30 such security therefor as shall be requisite, including  
31 giving a mortgage or deed of trust on its airport proper-  
32 ties and facilities in connection with the issuance of  
33 mortgage bonds;

34 (9) To raise funds by the issuance and sale of revenue  
35 bonds in the manner provided by the applicable pro-  
36 visions of article four-a, chapter eight of the code of  
37 West Virginia, being chapter sixty-eight, acts of the  
38 Legislature, one thousand nine hundred thirty-five, as  
39 amended, it being hereby expressly provided that the  
40 Benedum Airport Authority is a "municipal authority"  
41 within the definition of that term as used in said article  
42 four-a, chapter eight of the code; and

43 (10) To expend its funds in the execution of the  
44 powers and authority herein given.

Sec. 8. *Indebtedness of the Authority.*—The authority  
2 may incur any proper indebtedness and issue any obliga-  
3 tions and give any security therefor which it may deem  
4 necessary or advisable in connection with carrying out  
5 its purposes as hereinbefore mentioned. No statutory  
6 limitation with respect to the nature or amount of in-  
7 debtedness which may be incurred by municipalities or  
8 other public bodies shall apply to indebtedness of the  
9 authority. No indebtedness of any nature of the authority  
10 shall constitute an indebtedness of the county court of  
11 Harrison county or a charge against any property of said  
12 county court. No obligation incurred by the authority  
13 shall give any right against any member of the county  
14 court of Harrison county or any member of the board of  
15 the authority. The rights of creditors of the authority  
16 shall be solely against the authority as a corporate body  
17 and shall be satisfied only out of property held by it in  
18 its corporate capacity.

Sec. 9. *Agreements in Connection with Obtaining Funds.*  
2 —The authority may, in connection with obtaining funds  
3 for its purposes, enter into any agreement with any per-

4 son, firm or corporation, including the federal govern-  
5 ment, or any agency or subdivision thereof, containing  
6 such provisions, covenants, terms and conditions as the  
7 authority may deem advisable.

Sec. 10. *Authority to Have Right of Eminent Domain.*—

2 Whenever is shall be deemed necessary by the authority  
3 in connection with the exercise of its powers herein con-  
4 ferred to take or acquire any lands, structures or build-  
5 ings or other rights, either in fee or as easements for the  
6 purposes herein set forth, the authority may purchase  
7 the same directly or through its agents from the owner  
8 or owners thereof, or failing to agree with the owner or  
9 owners thereof, the authority may exercise the power of  
10 eminent domain in the manner provided for condemna-  
11 tion proceedings in chapter fifty-four of the code of West  
12 Virginia, as heretofore and hereafter amended.

Sec. 11. *Property, Bonds and Obligations of Authority*

2 *Exempt from Taxation.*—The authority shall be exempt  
3 from the payment of any taxes or fees to the state or any  
4 subdivisions thereof or to any officer or employee of the  
5 state or other subdivision thereof. The property of the  
6 authority shall be exempt from all local and municipal  
7 taxes. Bonds, notes, debentures and other evidence of  
8 indebtedness of the authority are declared to be issued for  
9 a public purpose and to be public instrumentalities, and,  
10 together with interest thereon, shall be exempt from  
11 taxes.

Sec. 12. *County Court Authorized to Convey Present*

2 *Airport Properties and Facilities to the Authority.*—The  
3 county court of Harrison county is hereby authorized to  
4 convey to the authority the present airport property  
5 owned by the county court, together with all the ap-  
6 purtenances and facilities therewith, such conveyance to  
7 be without consideration or for such price and upon such  
8 terms and conditions as the county court shall deem  
9 proper.

Sec. 13. *Authority May Lease Airport and Facilities to*

2 *County Court or Other Lessee.*—The authority may lease

3 its airport and all the appurtenances and facilities there-  
4 with to the county court of Harrison county or to any  
5 other available lessee at such rental and upon such terms  
6 and conditions as to the authority shall seem proper. If  
7 the authority determines to lease the airport and its  
8 appurtenances and facilities, it shall first offer the same  
9 to the county court of Harrison county upon an annual  
10 lease, and it shall not lease the airport and its appurten-  
11 ances and facilities to any other lessee until the county  
12 court of Harrison county has indicated that it does not  
13 desire to lease said properties. The county court of Harri-  
14 son county is hereby authorized to enter into a lease with  
15 the authority for said airport and appurtenances and  
16 facilities at such rental and upon such terms and condi-  
17 tions as it shall deem proper, and the county court of  
18 Harrison county is hereby authorized to levy taxes as  
19 provided by law for the purpose of paying the rent for  
20 said airport, appurtenances and facilities.

Sec. 14. *Disposition of Surplus of Authority.*—If the  
2 authority should realize a surplus, whether from operat-  
3 ing the airport or leasing it for operation, over and above  
4 the amount required for the maintenance, improvement  
5 and operation of the airport and for meeting all required  
6 payments on its obligations, it shall set aside such reserve  
7 for future operations, improvements and contingencies  
8 as it shall deem proper and shall then apply the residue  
9 of such surplus, if any, to the payment of any recognized  
10 and established obligations not then due; and after all  
11 such recognized and established obligations have been  
12 paid off and discharged in full, the authority shall, at  
13 the end of each fiscal year, set aside the reserve for future  
14 operations, improvements and contingencies, as aforesaid,  
15 and then pay the residue of such surplus, if any, to the  
16 county court of Harrison county, to be used by the county  
17 court of Harrison county for general county purposes.

Sec. 15. *Contributions to Authority by County Court  
2 and Others; Funds and Accounts of the Authority.*—  
3 Contributions may be made to the authority from time to  
4 time by the county court of Harrison county and by any

5 persons, firms or corporations that shall desire so to do.  
6 All such funds and all other funds received by the  
7 authority shall be deposited in such bank or banks as the  
8 authority may direct and shall be withdrawn therefrom  
9 in such manner as the authority may direct. The au-  
10 thority shall keep strict account of all its receipts and  
11 expenditures and shall each quarter make a quarterly re-  
12 port to the county court of Harrison county containing  
13 an itemized account of its receipts and disbursements  
14 during the preceding quarter. Such report shall be made  
15 within sixty days after the termination of the quarter.  
16 Within sixty days after the end of each fiscal year, the  
17 authority shall make an annual report containing an  
18 itemized statement of its receipts and disbursements for  
19 the preceding year, and such annual report shall be pub-  
20 lished once a week for two successive weeks in two news-  
21 papers of opposite politics of general circulation in, and  
22 published in, Harrison county, West Virginia. The books,  
23 records and accounts of the authority shall be subject  
24 to audit and examination by the office of the state tax  
25 commissioner of West Virginia and by any other proper  
26 public official or body in the manner provided by law.

Sec. 16. *Employees to Be Covered by Workmen's Com-*  
2 *pensation.*—All employees of the authority eligible thereto  
3 shall be deemed to be within the workmen's compensa-  
4 tion act of West Virginia, and premiums on their com-  
5 pensation shall be paid by the authority as required by  
6 law.

Sec. 17. *Dissolution of Authority.*—The authority may  
2 at any time pay off and discharge in full all of its indebted-  
3 ness, obligations and liabilities, reconvey the airport prop-  
4 erties, appurtenances and facilities to the county court  
5 of Harrison county and be dissolved. Before making such  
6 reconveyance of its properties, the authority shall first  
7 publish notice of its intention so to do and of its intention  
8 to be dissolved once a week for four successive weeks in  
9 two newspapers of opposite politics published in, and of  
10 general circulation in, Harrison county. Certificates from  
11 the publishers of the papers showing such publication  
12 shall be filed with the county court of Harrison county on

13 or before the deed reconveying said properties is de-  
14 livered. Any funds remaining in the hands of the au-  
15 thority at the time of the reconveyance of said properties  
16 shall be by the authority paid over to the county court  
17 of Harrison county to be used by it for purposes in con-  
18 nection with said airport. Upon the payment of its in-  
19 debtedness, obligations and liabilities, the publishing of  
20 the notices aforesaid, the reconveyance of its properties,  
21 and the paying over to the county court of any funds  
22 remaining in its hands, the authority shall cause a cer-  
23 tificate showing its dissolution to be executed under its  
24 name and seal and to be recorded in the office of the clerk  
25 of the county court of Harrison county, and thereupon its  
26 dissolution shall be complete.

2     Sec. 18. *Automatic Termination of the Right to Estab-*  
3     *lish the Authority.*—If on or before the first day of March,  
4     one thousand nine hundred sixty-nine, the county court  
5     of Harrison county has not appointed the members of  
6     the authority who are to constitute the board for manage-  
7     ment of its business and affairs, as provided in section  
8     three hereof, all right to create and establish Benedum  
9     Airport Authority under this act shall automatically  
9     terminate.

2     Sec. 19. *Liberal Construction of Act.*—It is the purpose  
3     of this act to provide for the acquisition, construction, im-  
4     provement, extending, maintenance and operation of a  
5     public airport in a prudent and economical manner, and  
6     this act shall be liberally construed as giving to the au-  
7     thority full and complete power reasonably required to  
8     give effect to the purposes hereof. The provisions of this  
9     act are in addition to and not in derogation of any power  
10    existing in the county court of Harrison county under any  
11    constitutional or statutory provisions which it may now  
11    have, or may hereafter acquire.

2     Sec. 20. *Provisions Severable.*—The several sections and  
3     provisions of this act are severable, and if any section  
4     or provision hereof shall be held unconstitutional, all  
5     the remaining sections and provisions of this act shall  
5     nevertheless remain valid.

## CHAPTER 184

(House Bill No. 191—By Mr. Robertson and Mr. White)

AN ACT authorizing and empowering the county court of Harrison county to transfer and expend the balance in the jail fund, the unexpended funds and surplus in the general fund of said county and surpluses in any special funds of said county to the airport fund for the purpose of constructing and improving the county airport in Harrison county.

[Passed February 11, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Harrison county court authorized to transfer and expend special and general surplus funds.

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

Section 1. *Harrison County Court Authorized to Transfer and Expend Special and General Surplus Funds.*—The county court of Harrison county is authorized and empowered to transfer and expend the balance in the jail fund, the unexpended funds and surplus in the general fund of said county and surpluses in any special funds of said county which are not required to be expended for other purposes or which have not been appropriated for other county expenditures to the airport fund for the purpose of constructing and improving the county airport in Harrison county.

## CHAPTER 185

(House Bill No. 429—By Mr. Goshorn and Mr. Chilton)

AN ACT to create and establish in Kanawha county a court to be known as the juvenile court of Kanawha county.



[Passed March 12, 1959; in effect ninety days from passage. Approved by the Governor.]

## **Juvenile Court of Kanawha County**

### **Section**

1. Court created and established.
2. Jurisdiction.
3. Judge; qualification, term, appointment and election.
4. Salary.
5. Clerk; his powers, and duties.
6. Power and duties of sheriff.
7. Transfer of pending causes.
8. Terms of court; maturity of causes; procedure.
9. Supplies; finances; seal; court rooms.
10. Contempt.
11. Appeals; limitations thereon.
12. Separability; repeal.

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

That a juvenile court of Kanawha county be created and established as hereinafter provided.

Section 1. *Court Created and Established.*—Notwithstanding section one, article five, chapter forty-nine of the code of West Virginia, there is hereby created and established in and for Kanawha county, with authority and jurisdiction coextensive with the county, a separate and distinct court of record and of limited jurisdiction to be known and designated as the juvenile court of Kanawha county. Wherever and whenever the word “court” is hereinafter in this act used, it shall be taken to mean and refer to the juvenile court of Kanawha county, unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction.*—The court shall have jurisdiction, within Kanawha county in all proceedings affecting delinquent, neglected, defective and state dependent children as set forth and enumerated in chapter forty-nine of the code of West Virginia; the adoption of adults and children; the care, custody, control and disposition of delinquent, mentally or physically disabled and neglected children under the age of eighteen years; to take, in the name of the state, all manner of recognizance, bonds and obligations heretofore or hereafter permitted to be taken in all cases where the person charged with delinquency is under the age of eighteen years and to con-

13 tinue or discharge such recognizance, bonds and obliga-  
14 tions.

15 The court shall have general equity jurisdiction in any  
16 causes or proceedings before it, with full power to grant  
17 injunctions and make monetary awards in matters involv-  
18 ing the care, custody, maintenance, preservation and pro-  
19 tection of infants under the age of eighteen years, who  
20 are delinquent, dependent or neglected.

21 The manner and modes of procedure, power and juris-  
22 diction conferred by law upon the circuit court of Kana-  
23 wha county in any and all of the foregoing matters and  
24 causes are hereby conferred upon and shall be exercised  
25 by the juvenile court of Kanawha county.

26 The said court shall also have and exercise such other  
27 jurisdiction and powers, not herein enumerated, as may  
28 have been heretofore or may be hereafter given to the  
29 juvenile courts within the several counties of this state,  
30 and proceedings affecting the treatment and control of  
31 dependent, neglected, defective and delinquent children  
32 under the age of eighteen years, and all general laws re-  
33 lating to jurisdiction and powers of any court sitting as  
34 a juvenile court are hereby made applicable to said juve-  
35 nile court.

Sec. 3. *Judge; Qualification, Term, Appointment and*  
2 *Election.*—The presiding officer of the court shall be a  
3 judge whose qualifications, term, appointment, election  
4 and tenure shall be as follows: The person elected or  
5 appointed to said office of judge shall be a member of the  
6 West Virginia state bar and a resident member in good  
7 standing of the organized bar of Kanawha county. On or  
8 after July first one thousand nine hundred fifty-nine the  
9 governor shall appoint some attorney, qualified as afore-  
10 said, to serve until January first, one thousand nine hun-  
11 dred sixty-one. At the general election to be held on the  
12 Tuesday after the first Monday in November, one thousand  
13 nine hundred sixty, and at the general election to be held  
14 at intervals of eight years thereafter, some attorney, quali-  
15 fied as aforesaid, shall be elected, in the manner provided  
16 by law for the election of circuit judges, to be judge of  
17 said court for the next ensuing term of eight years, be-

18 ginning on January first next following such election.  
19 Candidates for the office of judge of the court shall be  
20 nominated in the same manner as are candidates for the  
21 office of judge of the circuit court. The judge of the court  
22 may be removed from office for the same reasons and  
23 in the same manner as a judge of the circuit court. If from  
24 any cause the office of judge of the court shall become  
25 vacant, the vacancy shall be filled in the same manner as  
26 in the case of a vacancy in the office of the judge of the  
27 circuit court. Any judge so elected or appointed shall  
28 continue in said office until his successor is elected and  
29 qualified.

Sec. 4. *Salary.*—The judge of the juvenile court of  
2 Kanawha county shall for his services receive the sum  
3 of thirteen thousand five hundred dollars per annum, to  
4 be paid in monthly installments out of the county treasury  
5 of Kanawha county. The county court of Kanawha county  
6 shall annually make provisions by appropriate levy and  
7 appropriation for the payment of said salary.

Sec. 5. *Clerk; His Powers, and Duties.*—The clerk of  
2 the circuit court of Kanawha county shall, ex officio, be,  
3 act as and perform the duties of clerk of the juvenile  
4 court of Kanawha county and shall exercise the same  
5 power and duties arising within the jurisdiction of the  
6 court as are performed by him as clerk of the circuit court.  
7 All processes, rules and orders of the court, in the exercise  
8 of its jurisdiction, shall be signed by the clerk thereof to  
9 be directed to the sheriffs of the proper counties wherein  
10 the same are to be executed in like manner and with the  
11 same effect as processes issuing from the circuit court of  
12 Kanawha county.

Sec. 6. *Power and Duties of Sheriff.*—The sheriff of  
2 Kanawha county and the sheriffs of the several counties  
3 in the state shall by themselves or their deputies execute  
4 all processes of said court, issued by the clerk thereof,  
5 directed to them respectively, and all processes emanating  
6 from said court shall be directed to and be executed by  
7 them in the same manner as is provided by law as to  
8 processes issuing from the circuit court by said clerk.

9 The sheriff of Kanawha county shall perform the same  
10 duties and services for said court as he is now by law  
11 required to perform for the circuit court of Kanawha  
12 county. In the execution of processes, rules and orders  
13 of the court, the sheriff shall have the same powers and  
14 rights, be subject to the same liabilities, govern himself  
15 by the same rules and principles of law and the statutes  
16 of the state, as though said processes issued from the cir-  
17 cuit court of Kanawha county.

Sec. 7. *Transfer of Pending Causes.*—The judge of the  
2 domestic relations court of Kanawha county shall, not  
3 later than the first day of August, one thousand nine  
4 hundred fifty-nine, certify to the juvenile court of Kana-  
5 wha county any and all matters pending in said court  
6 and properly coming within the jurisdiction of this court  
7 as defined in section two hereof, and all such matters  
8 and proceedings so certified to the juvenile court of Ka-  
9 nawha county shall be docketed and thereafter proceeded  
10 with therein according to law.

Sec. 8. *Terms of Court; Maturity of Causes; Procedure.*  
2 —For the purpose of maturing, docketing, hearing and  
3 determining all matters, petitions and other proceedings  
4 properly determinable in the juvenile court of Kanawha  
5 county there shall be regularly continued and held four  
6 terms of court each year, beginning on the second Monday  
7 in February, May, August and November. Special terms  
8 of said court may be called and held whenever, in the  
9 discretion of the judge of the court, public interest re-  
10 quires such special terms. The judge of the court shall  
11 have like jurisdiction and authority in any matter, suit,  
12 action, petition or proceeding pending in the court, re-  
13 specting the care, custody, control and disposition of such  
14 delinquent, neglected or mentally or physically handi-  
15 capped children, as the judges of the circuit courts have  
16 under the laws of the state. All matters arising under the  
17 jurisdiction of the court, may be heard and determined  
18 either in term time or in vacation: *Provided, however,*  
19 *That proper notice of any such proceedings be given as*  
20 *provided by law for the particular case.*

21 The mode of procedure in causes instituted in this court  
22 shall be the same as that prescribed by chapter forty-nine  
23 of the code of West Virginia. The court is authorized and  
24 empowered to appoint and discharge such additional  
25 officers, probation officers, and such medical, clerical and  
26 secretarial assistance as shall enable the court to dis-  
27 charge all of the duties required of it under the provisions  
28 of this act and the general laws of the state, and such  
29 personnel shall be paid by the county court monthly such  
30 sums as are annually appropriated by the county court,  
31 plus reimbursement by the county court of his or her  
32 necessary expenses actually incurred monthly in the per-  
33 formance of official duties, including an allowance of  
34 seven cents per mile for his or her automobile driven in  
35 the performance of official duties.

Sec. 9. *Supplies; Finances; Seal; Court Rooms.*—It shall  
2 be the duty of the county court of Kanawha county to  
3 provide all record and other books and stationery that  
4 may be necessary for the court. Likewise a seal for the  
5 court shall be provided, but full faith and credit shall be  
6 given to the records of the court and certificates of its  
7 judge or clerk, whether the seal of the court be affixed  
8 thereto or not, in like manner and with the same effect  
9 as if the same were records of the circuit court similarly  
10 authenticated. The county court of Kanawha county shall  
11 likewise furnish such rooms, furniture and equipment for  
12 the proper conduct and administration of the court and  
13 shall, through annual levy and appropriations, make pro-  
14 vision for the payment for all such rooms, supplies and  
15 equipment and as well for such clerical, secretarial and  
16 other official help and expenses as may be required by the  
17 court.

Sec. 10. *Contempt.*—The court shall have the same  
2 powers to punish for contempt as are conferred upon the  
3 circuit court by law.

Sec. 11. *Appeals; Limitations Thereon.*—Appeals may  
2 be allowed and writs of error and supersedeas awarded  
3 to judgments, decrees, rulings and orders of the court,  
4 or the judge thereof, by the circuit court of Kanawha

5 county, or the judge thereof, in all matters arising within  
6 the jurisdiction of this court for which matters appeals  
7 may be allowed and writs of error and supersedeas award-  
8 ed by the supreme court of appeals if such matters had  
9 originally arisen in the circuit court of Kanawha county.  
10 In the event the circuit court of Kanawha county or the  
11 judge thereof refuses an application of writ of error and  
12 supersedeas or an appeal, application therefor may be  
13 made direct to the supreme court of appeals of the state  
14 or to any judge thereof. In all such cases such application  
15 shall be made within two months next following the date  
16 of the entry of the final order, judgment, or decree of this  
17 court or the circuit court as the case may be.

Sec. 12. *Separability; Repeal.*—The provisions of this  
2 act shall be construed as separable and severable and,  
3 should any provision or part hereof be held unconstitu-  
4 tional or for any reason invalid, the remaining provisions  
5 or parts shall not be thereby affected.

6 All acts or parts of acts in conflict herewith are hereby  
7 repealed.

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## CHAPTER 186

(Senate Bill No. 115—By Mr. Jackson, of Lincoln)

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AN ACT authorizing the county court of Lincoln county to re-  
imburse Robert Walker in the amount of one thousand  
three hundred fifty-nine dollars and ninety-three cents for  
payment by him of money stolen from the office of the  
sheriff of Lincoln county, and declaring the existence of a  
moral obligation on the part of the county court of Lincoln  
county in favor of said Robert Walker.

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[Passed February 23, 1959; in effect from passage. Became a law without the  
approval of the Governor.]

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### Section

1. Authority for reimbursement.
2. Finding of moral obligation.

WHEREAS, On the twenty-fifth day of May, one thousand nine hundred fifty-eight, Robert Walker held the office of sheriff of Lincoln county; and

WHEREAS, On the aforesaid day, the same being a Sunday, a person or persons unknown did break and enter into the office of the sheriff of Lincoln county located in the courthouse of said county in the city of Hamlin, West Virginia, and did further break into a safe located therein and rob the same of one thousand three hundred fifty-nine dollars and ninety-three cents; and

WHEREAS, The said person, or persons, was never apprehended nor was the aforesaid sum ever recovered; and

WHEREAS, The said Robert Walker has repaid the aforesaid sum from his own personal funds into the general tax fund of Lincoln county; and

WHEREAS, The said Robert Walker was in no sense at fault in the aforesaid premises; therefore,

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

Section 1. *Authority for Reimbursement.*—The county court of Lincoln county, West Virginia, is hereby authorized, as in its discretion it may see fit, to reimburse Robert Walker in the amount of one thousand three hundred fifty-nine dollars and ninety-three cents for money paid into the general tax fund of said county by him in payment of money stolen from the office of the sheriff of said county on the twenty-fifth day of May, one thousand nine hundred fifty-eight.

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 county court of Lincoln county exists in favor of the said Robert Walker with respect to the matters contained in section one of this act.

## CHAPTER 187

(House Bill No. 20—By Mr. Watson)

AN ACT to authorize the county court of Marion 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 16, 1959; in effect ninety days from passage. Approved by the Governor.]

**Section**

1. Marion county authorized to create special fund for repair and improvement of and construction of additions to county courthouse.
2. Retransfer of funds.

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

Section 1. *Marion County Authorized to Create Special Fund for Repair and Improvement of and Construction of Additions to County Courthouse.*—The county court of Marion 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.

Sec. 2. *Retransfer of Funds.*—In cases of emergency the county court of Marion county, by unanimous vote thereof, shall be empowered to retransfer funds from the special building fund herein created to the general fund.

## CHAPTER 188

(House Bill No. 470—By Mr. Callaway)

AN ACT to amend and reenact section nine, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended, concerning the judge of the criminal court of McDowell county.



[Passed March 9, 1959; in effect ninety days from passage. Approved by the Governor.]

Section

9. Salary of McDowell county criminal judge.

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

That section nine, chapter five, acts of the Legislature, regular session, one thousand nine hundred nineteen, **as last** amended, be amended and reenacted to read as follows:

Section 9. *Salary of McDowell County Criminal Judge.*

- 2 —The said criminal judge shall, for his services, receive  
3 eight thousand one hundred dollars per annum, to be paid  
4 out of the county treasury.

## CHAPTER 189

(Senate Bill No. 14—By Mr. Ballard)

AN ACT to authorize the county court of Mercer county to use unexpended funds, or surpluses in any fund of said county, now or hereafter created, for the purpose of acquiring by purchase or construction and to thereafter equip, furnish, operate, improve and extend a county public health center with all appurtenances, including the necessary real estate as a site therefor.

[Passed January 22, 1959; in effect from passage. Approved by the Governor.]

Section

1. Mercer county court authorized to use surplus funds for purchase or construction, operation and maintenance of a county public health center and facilities.

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

- Section 1. *Mercer County Court Authorized to Use Surplus Funds for Purchase or Construction, Operation and Maintenance of a County Public Health Center and Facili-*

4 ties.—The county court of Mercer county is hereby au-  
5 thorized and empowered to use any unexpended funds of  
6 said county and any surplus in any county fund, now or  
7 hereafter created, to acquire by purchase or construction  
8 and to thereafter own, equip, furnish, operate, improve  
9 and extend a county public health center with all appurte-  
10 nances, including the necessary real estate as a site there-  
11 for.

## CHAPTER 190

(Senate Bill No. 199—By Mr. Ballard)

AN ACT to amend and reenact section four, chapter eighteen, acts of the Legislature of West Virginia, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred eighty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, relating to the salary of the judge of the criminal court of Mercer county, West Virginia.

[Passed February 24, 1959; 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 of West Virginia, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred eighty-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, be amended and reenacted, to read as follows:

Section 4. *Salary of the Judge of the Criminal Court of Mercer County.*—On and after January one, one thousand nine hundred sixty-one, the judge of said court shall for his services receive ten thousand five hundred dollars per annum, payable out of the county treasury of said county.

## CHAPTER 191

(House Bill No. 199—By Mr. Floyd)

AN ACT to authorize the county court of Mingo county to transfer the sum of thirteen thousand three hundred dollars from the general fund to a "Special Armory Fund" for the purpose of paying a portion of the deferred purchase money upon the acquisition of five and one-tenth acres in West Williamson within the city of Williamson, Mingo county, West Virginia, by the Tug Valley industrial corporation and by it conveyed unto the state of West Virginia for the use and benefit of the state armory board, upon which said tract the said state armory board, with the aid of federal funds, is constructing a modern armory and community building.

[Passed February 12, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Mingo county authorized to transfer thirteen thousand three hundred dollars to "Special Armory Fund" to pay deferred purchase money upon land acquired by the state of West Virginia for benefit of state armory board.

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

Section 1. *Mingo County Authorized to Transfer Thirteen Thousand Three Hundred Dollars to "Special Armory Fund" to Pay Deferred Purchase Money Upon Land Acquired by the State of West Virginia for Benefit of State Armory Board.*—The county court of Mingo county, is hereby authorized to transfer from the general fund the sum of thirteen thousand three hundred dollars to a "Special Armory Fund" for the purpose of paying a portion of the deferred purchase money upon the acquisition of five and one-tenth acres in West Williamson within the city of Williamson, Mingo county, West Virginia, by the Tug Valley industrial corporation and by it conveyed unto the state of West Virginia, for the use and benefit of the state armory board, which, with the aid of federal funds, is constructing a modern armory and community building.

## CHAPTER 192

(House Bill No. 148—By Mr. Floyd)

AN ACT to authorize the county court of Mingo county to use unexpended funds or surplus in any fund of said county for the calendar year of one thousand nine hundred fifty-nine and for the four calendar years thereafter for the purpose of repairing and renovating the county jail, county courthouse, and other buildings belonging to the county court.

[Passed February 24, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Mingo county court authorized to use surplus funds for repairing and renovating the county jail, county courthouse, and other county buildings.

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

Section 1. *Mingo County Court Authorized to Use Surplus Funds for Repairing and Renovating the County Jail, County Courthouse, and Other County Buildings.*—The county court of Mingo county is hereby authorized and empowered to use any unexpended funds of said county, and any surplus in any county fund for the calendar year one thousand nine hundred fifty-nine and for the four calendar years thereafter, to repair and renovate the county jail, the county courthouse and any other building belonging to the county court.

## CHAPTER 193

(Senate Bill No. 43—By Mr. Parker)

AN ACT to authorize and empower the board of education of Monroe county to use funds levied and collected under authority of a special election for bonded indebtedness of the Alderson independent school district.

[Passed February 13, 1959; in effect from passage. Approved by the Governor.]

Section

1. Board of education of Monroe county authorized to expend funds collected under authority of a special election for a school bond issue.

WHEREAS, Under authority of an election held in the year one thousand nine hundred twenty-seven, there was laid and collected funds for servicing a school bond issue for the Alderson independent school district as then in existence; and

WHEREAS, Subsequent to the enactment of the county school unit act, first extraordinary session, one thousand nine hundred thirty-three, these funds were laid and collected by the county board of education in conformity with said act; and

WHEREAS, The said bonded indebtedness of the former Alderson independent school district has been fully and finally discharged; and

WHEREAS, There remain on deposit with the state sinking fund commission moneys to the amount of four thousand eight hundred forty-seven dollars thirty-one cents, more or less, collected to discharge the aforesaid bonded indebtedness, which indebtedness is fully and finally discharged; therefore,

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

Section 1. *Board of Education of Monroe County Authorized to Expend Funds Collected Under Authority of a Special Election for a School Bond Issue.*—The board of education of Monroe county is hereby authorized and empowered to use and expend the sum of four thousand eight hundred forty-seven dollars thirty-one cents, more or less, levied and collected under authority of a special election for bonded indebtedness of the Alderson independent school district for the purchase of a school bus to transport the children of the former Alderson independent school district and adjacent areas.

## CHAPTER 194

(House Bill No. 210—By Mr. Bachmann)

AN ACT to amend and reenact chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, relating to the authority of the board of commissioners of the county of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and a county building, providing for the leasing of temporary quarters during the construction of any county building, and for the construction, equipment and maintenance of any county building in conjunction with the city of Wheeling.

[Passed February 27, 1959; in effect ninety days from passage. Approved by the Governor.]

### Section

1. Board of commissioners of the county of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and a county building.
2. Inconsistent acts repealed.

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

Section 1. *Board of Commissioners of the County of Ohio Authorized to Lay an Additional Levy, and to Use Proceeds Therefrom for Construction and Maintenance of an Airport and a County Building.*—For a period of five years commencing with the fiscal year one thousand nine hundred sixty—one thousand nine hundred sixty-one, in addition to the levies heretofore authorized to be laid by county courts for general county current expense, and for the payment of interest and sinking fund requirements on bonded indebtedness incurred subsequent to the passage of the tax levy limitation amendment, the board of commissioners of the county of Ohio is hereby authorized and empowered to lay such additional levy as may not be required for bonded indebtedness, on all of the property in Ohio county, but not to exceed four and

16 nine-tenths cents on each one hundred dollars' assessed  
17 valuation on Class I property; nine and eight-tenths cents  
18 on Class II property; and nineteen and six-tenths cents  
19 on Classes III and IV property. The proceeds of said levy  
20 shall be placed in a separate fund designated "public im-  
21 provement fund," to be used solely for the construction,  
22 equipment and maintenance of an airport and a county  
23 building, and for the leasing of temporary quarters for a  
24 county building during any construction period. Any  
25 such county building may be constructed, equipped and  
26 maintained in conjunction with the city of Wheeling.

Sec. 2. *Inconsistent Acts Repealed.*—All acts and parts  
2 of acts inconsistent or in conflict herewith, insofar as the  
3 same may be applicable to the county of Ohio, or the said  
4 board of commissioners of the county of Ohio, are hereby  
5 repealed.

## CHAPTER 195

(House Bill No. 162—By Mr. Smith, of Putnam)

AN ACT to authorize the county court of Putnam county to em-  
ploy a clerk for the detachment of the West Virginia de-  
partment of public safety located in Putnam county.

[Passed February 20, 1959; in effect from passage. Approved by the Governor.]

### Section

1. Putnam county court authorized to employ a clerk for the de-  
tachment of the West Virginia department of public safety  
located in Putnam county.

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

Section 1. *Putnam County Court Authorized to Employ  
2 a Clerk for the Detachment of the West Virginia Depart-  
3 ment of Public Safety Located in Putnam County.*—The  
4 county court of Putnam county is hereby authorized and  
5 empowered to employ, at a salary of not more than two  
6 hundred twenty-five dollars a month, a clerk for the de-  
7 tachment of the West Virginia department of public safety  
8 located in Putnam county.

## CHAPTER 196

(House Bill No. 303—By Mr. Smith, of Putnam)

AN ACT to authorize the county court of Putnam county to expend funds out of the general fund for the purchase of land for and construction and maintenance of a county Four-H camp and to appoint an advisory committee for a Four-H camp.

[Passed March 10, 1959; in effect July 1, 1959. Approved by the Governor.]

### Section

1. Putnam county court authorized to expend funds from general funds for construction and maintenance of county Four-H camp.
2. County court authorized to appoint advisory committee for Four-H camp; powers of committee.

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

Section 1. *Putnam County Court Authorized to Expend Funds from General Funds for Construction and Maintenance of County Four-H Camp.*—The county court of Putnam county is hereby authorized and empowered to expend funds in an amount not to exceed twenty-five thousand dollars out of the county general fund for the purchase of land for and construction and maintenance of a county Four-H camp.

Sec. 2. *County Court Authorized to Appoint Advisory Committee for Four-H Camp; Powers of Committee.*—The county court of Putnam county is hereby authorized to appoint a committee of not less than five, nor more than nine members who shall serve in an advisory capacity to the county court for the construction and maintenance of the Four-H camp provided for in section one of this act. The committee members shall be residents of Putnam county and the county court may designate one of the members as chairman of the committee. The advisory committee is authorized to receive gifts from individuals, firms, associations and corporations for the purpose of applying such funds to the construction and maintenance of the Four-H camp.



## CHAPTER 197

(Senate Bill No. 247—By Mr. Nuckols)

AN ACT authorizing the county court of Raleigh county to compensate prisoners for work done by them in improving, maintaining and caring for the courthouse and other county buildings and properties.

[Passed February 23, 1959; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Section

1. Raleigh county authorized to pay prisoners for work in improvement and maintenance of county buildings and property.

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

Section 1. *Raleigh County Authorized to Pay Prisoners for Work in Improvement and Maintenance of County Buildings and Property.*—The county court of Raleigh county is hereby authorized to pay any county prisoner, incarcerated in the county jail, not to exceed twenty-five cents per day for each day any such prisoner may perform janitor services, paint, or do any other work necessary in the maintenance, improvement and care of the county courthouse and other county buildings and property. Such payments shall be charged to the general county fund.

Any payments heretofore made to prisoners for such work and services are hereby validated and approved.

## CHAPTER 198

(House Bill No. 395—By Mr. Hall and Mr. Harmon)

AN ACT to authorize the county court of Raleigh county to appropriate funds to be expended for the purpose of establishing an office and to provide personnel to carry out a program conducted by the Beckley area rural development council.

[Passed March 10, 1959; in effect from passage. Approved by the Governor.]

### **Intermediate Court of Wood County.**

#### **Section**

1. Raleigh county court authorized to appropriate and expend funds to be used in a program conducted by the Beckley area rural development council; power to levy therefor.

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

Section 1. *Raleigh County Court Authorized to Appropriate and Expend Funds to be Used in a Program Conducted by the Beckley Area Rural Development Council; Power to Levy Therefor.*—In order to assist in the development of agriculture, in the development of community improvement programs, in the establishment of sanitary land fills for the disposal of trash and garbage and in other programs carried on and conducted by the Beckley area rural development council, the county court of Raleigh county is hereby authorized and empowered to appropriate and expend funds for the purpose of establishing an office and providing personnel to carry out the above functions. The county court of Raleigh county is authorized to levy for the purpose of obtaining the money for expenditures made under this section.

## **CHAPTER 199**

(Senate Bill No. 179—By Mr. Handlan)

AN ACT to create and establish in the county of Wood a court of limited jurisdiction to be known and designated as "The Intermediate Court of Wood County", and to define its jurisdiction.

[Passed February 13, 1959; in effect July 1, 1959. Approved by the Governor.]

### **Intermediate Court of Wood County**

#### **Section**

1. Court created and established.
2. Jurisdiction.
3. Contempt.
4. Judge, qualifications, term, appointment and election.
5. Salary.

6. Clerk; powers, duties and compensation.
7. Sheriff; powers and duties.
8. Prosecuting attorney; powers and duties.
9. Transfer of pending cases; certification of matters to other court.
10. Terms of court; maturity of causes; procedure.
11. Appointment of probation staff; clerical and secretarial assistants; fixing salary and manner of payment.
12. Supplies; finances; seal; court rooms and offices.
13. Appeals.
14. Separability; repeal.

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

That an intermediate court of Wood county be created and established as hereinafter provided.

Section 1. *Court Created and Established.*—There is hereby created and established in and for the county of Wood, with authority and jurisdiction coextensive with the county, a court of limited jurisdiction to be known and designated as “The Intermediate Court of Wood County”, to be held and presided over by a judge to be appointed or elected as provided by this act. Wherever and whenever the word “Court” is hereinafter in this act used, it shall be taken to mean and refer to the intermediate court of Wood county, unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction.*—The court shall have jurisdiction within Wood county, concurrent with the circuit court of said county of causes, matters, proceedings and suits relating to (a) affirmation of marriages, annulment of marriages, separate maintenance, divorce, alimony, the care, custody, maintenance and education of children of litigants and the adjudication of property rights arising out of same, and all other causes and matters arising within the provisions of chapter forty-eight, article two of the official code of West Virginia, commonly known as “the divorce law”, and of all amendments and reenactments thereof; (b) adoption proceedings arising out of article four of the chapter last aforesaid, and of all amendments and reenactments thereof; (c) proceedings for a change of name arising out of article five of the chapter last aforesaid, and of all amendments and reenactments thereof; (d) the enforcement of support of dependents arising out of article nine of the chapter last aforesaid, and of all

19 amendments and reenactments thereof; (e) the care and  
20 disposition of delinquent, defective, neglected and de-  
21 pendent children and juvenile offenders arising out of  
22 chapter forty-nine, articles five, six and seven of the offi-  
23 cial code of West Virginia, and of all amendments and re-  
24 enactments thereof; (f) compulsory school attendance  
25 and truancy arising out of article eight, chapter eighteen  
26 of the official code of West Virginia, and of all amend-  
27 ments and reenactments thereof; (g) habeas corpus pro-  
28 ceedings involving the award and custody of children  
29 under the age of twenty-one years; (h) the collection of  
30 recognizances and bonds taken by said court, or of bonds  
31 taken by the clerk thereof in vacation, to secure the pay-  
32 ment of judgments for fines and costs rendered by said  
33 court; and (i) any and all other matters arising under  
34 the present and future laws of the state of West Virginia,  
35 common or statutory, incidental to the foregoing, includ-  
36 ing, but not limited to, the disposition of property and  
37 property interests involved in any such matters, and, as  
38 well, the adjudication of any and all rights, titles and  
39 interests necessary or incidental to a full determination  
40 of all such matters pending in said court.

41 Said court shall have general equity jurisdiction in  
42 causes, matters, proceedings and suits before it within its  
43 jurisdiction with power to grant injunctions and to re-  
44 quire and take recognizances.

45 The proceedings, modes of procedures, power and juris-  
46 diction conferred by law upon the circuit court of Wood  
47 county in any and all said causes, matters, proceedings and  
48 suits, are hereby conferred upon and shall be exercised  
49 by said court.

50 The judge of said court shall have the same powers in  
51 vacation as to any and all of said causes, matters, proceed-  
52 ings and suits that are conferred upon the judge of the  
53 circuit court of said county.

54 It shall not be necessary in any such causes or proceed-  
55 ings to set forth upon the record the facts authorizing said  
56 court to take jurisdiction thereof, but jurisdiction shall be  
57 presumed unless the contrary plainly appears from the  
58 record.

Sec. 3. *Contempt.*—Said court shall have the same  
2 powers to punish for contempt as are conferred upon said  
3 circuit court by law.

Sec. 4. *Judge, Qualifications, Term, Appointment and*  
2 *Election.*—The principal presiding officer of said court  
3 shall be a judge whose qualifications, term, appointment  
4 and election shall be as follows: The person appointed  
5 or elected to the office of judge shall be a member of the  
6 West Virginia state bar and a resident member in good  
7 standing of the organized bar of Wood county. The gov-  
8 ernor of this state, on or before the first day of July, one  
9 thousand nine hundred fifty-nine, shall designate, appoint  
10 and commission a judge of said court, who shall preside  
11 over said court and serve as such from the first day of  
12 July, one thousand nine hundred fifty-nine, until the first  
13 day of January, one thousand nine hundred sixty-one. At  
14 the general election regularly held on the Tuesday after  
15 the first Monday in November, one thousand nine hundred  
16 sixty, and thereafter at intervals of eight years, some per-  
17 son qualified as aforesaid shall be elected in the manner  
18 provided by law for the election of circuit judges, to be  
19 the judge of said court for the next ensuing term of eight  
20 years, beginning on January first, next following such  
21 election. The judge of said court may be removed from  
22 office for the same reasons and in the same manner as  
23 judges of the circuit court and shall be, except as to his  
24 term of office and jurisdiction, subject to the laws in force  
25 governing circuit judges. If from any cause the office shall  
26 become vacant, the vacancy shall be filled in the same  
27 manner as in the case of a vacancy in the office of the  
28 judge of the circuit court. Any judge so appointed or  
29 elected shall continue in such office until his successor is  
30 elected and qualified. Such judge, during his tenure in  
31 office, shall not engage in the practice of law.

Sec. 5. *Salary.*—The judge of said court shall, for his  
2 services, receive the sum of ten thousand dollars per  
3 annum, to be paid in monthly installments out of the  
4 treasury of Wood county. The county court shall annual-  
5 ly make provision by appropriate levy and appropriation  
6 for the payment of said salary.

Sec. 6. *Clerk; Powers, Duties and Compensation.*—The clerk of the circuit court of Wood county shall, *ex officio*, be, act as and perform the duties of the clerk of the said court and shall exercise the same power and duties arising within the jurisdiction of said court as are performed by him as clerk of the circuit court. All processes, rules and orders of the court, in the exercise of its jurisdiction, shall be signed by the clerk thereof to be directed to the sheriffs of the proper counties wherein the same are to be executed in like manner and with the same effect as processes issuing from the circuit court of Wood county. For his services under and pursuant to this act, the clerk shall receive, in addition to his annual salary as provided by general statute, additional compensation not to exceed six hundred dollars annually, payable in monthly installments out of the county treasury of Wood county, beginning contemporaneously with salary payments hereunder to the judge of said court, and the county court of Wood county shall annually make provision by levy and appropriation for the payment of said additional compensation.

Sec. 7. *Sheriff; Powers and Duties.*—The sheriff of Wood county and the sheriffs of the several counties in the state shall, by themselves or their deputies, execute all processes of said court, issued by the clerk thereof, directed to them respectively, and all processes emanating from said court shall be directed to and be executed by them in the same manner as is provided by law as to processes issuing from the circuit court by said clerk. The sheriff of Wood county shall perform the same duties and services for said court as he is now by law required to perform for the circuit court of Wood county. In the execution of processes, rules and orders of the court, the sheriff shall have the same powers and rights, be subject to the same liabilities, govern himself by the same rules and principles of law and the statutes of the state, as though said processes issued from the circuit court of Wood county.

Sec. 8. *Prosecuting Attorney; Powers and Duties.*—The prosecuting attorney of Wood county shall attend the

3 terms of said court, either by himself or his assistant, and  
4 shall perform the duties of his office as required by law.

Sec. 9. *Transfer of Pending Cases; Certification of Mat-*  
2 *ters to Other Court.*—The judge of the circuit court of  
3 said county may, in his discretion, certify to said court,  
4 on and after the first day of July, one thousand nine  
5 hundred fifty-nine, any portion or all of the causes,  
6 matters, proceedings and suits within the herein defined  
7 jurisdiction of said court pending in said circuit court  
8 on the first day of July, one thousand nine hundred  
9 fifty-nine, or thereafter instituted therein, and all causes,  
10 matters, proceedings and suits so certified to said court  
11 shall be docketed and thereafter proceeded with therein  
12 according to law. The judge of said circuit court, in his  
13 discretion, may also direct the clerk of said circuit court  
14 to certify to and docket in said court all such causes, mat-  
15 ters, proceedings and suits properly within the jurisdic-  
16 tion of said court as may be instituted on and after the  
17 first day of July, one thousand nine hundred fifty-nine, in  
18 said circuit court. In the event of the absence or dis-  
19 qualification of the judge of said circuit court or said inter-  
20 mediate court, any matter coming within the purview of  
21 the act pending in either court may be certified to the  
22 other court, docketed therein and proceeded with accord-  
23 ing to law.

Sec. 10. *Terms of Court; Maturity of Causes; Procedure.*  
2 —For the purpose of maturing, docketing, hearing and  
3 determining all causes, matters, proceedings and suits  
4 properly determinable in said court there shall be regu-  
5 larly continued and held four terms of court each year,  
6 beginning on the second Monday in February, May,  
7 August and November. Special terms of said court may  
8 be called and held whenever, in the discretion of the judge  
9 of said court, public interest requires such special terms.  
10 The judge of said court shall have like jurisdiction and  
11 authority in vacation of said court to make and enter  
12 such proper orders in any cause, matter, proceeding or  
13 suit pending in said court as the judge of the circuit court  
14 has under the laws of the state. All matters arising under  
15 the jurisdiction of said court, other than suits for divorce,

16 separate maintenance, annulment of marriages and  
17 affirmation of marriages, may be heard and determined  
18 either in term time or in vacation: *Provided, however,*  
19 That proper notice of any such proceedings be given as  
20 provided by law for the particular case.

21 The mode of procedure in causes instituted in said court  
22 shall be the same as that prescribed for the circuit court  
23 in similar causes. The court is authorized and empowered  
24 to appoint such additional officers, divorce commissioners,  
25 commissioners in chancery, special commissioners, jury  
26 commissioners and such clerical and secretarial assistants  
27 as shall enable said court to discharge all the duties re-  
28 quired of it under the provision of this act and the general  
29 laws of the state. Such appointments shall be made by  
30 the judge and the appointees shall serve during the pleas-  
31 ure of the judge.

32 The judge shall maintain a political balance between  
33 the two major political parties of Wood county in his  
34 appointments of divorce commissioners, commissioners  
35 in chancery and special commissioners so that at no time  
36 will the number of either divorce commissioners or of  
37 commissioners in chancery or of special commissioners of  
38 one political affiliation exceed by more than one the num-  
39 ber of such commissioners affiliated with the other major  
40 political party of the county. Said court shall make pro-  
41 vision for reference of such divorce and other matters  
42 as may be proper from time to time to said commissioners  
43 in rotation so as to effect, insofar as practicable, an equit-  
44 able distribution of work between and among them. The  
45 judge of said court shall have power to make and promul-  
46 gate such rules for the transaction of the business of the  
47 court as may be necessary: *Provided,* That all such rules  
48 shall be in conformity with the laws of the state of West  
49 Virginia and with any rules promulgated by the supreme  
50 court of appeals of this state, and such rules shall be filed  
51 in the office of the clerk of said supreme court of appeals.

Sec. 11. *Appointment of Probation Staff; Clerical and*  
2 *Secretarial Assistants; Fixing Salary and Manner of Pay-*  
3 *ment.*—Said court, or the judge thereof in vacation, is em-  
4 powered and authorized to appoint one or more probation



5 officers, one of whom may be designated as the chief proba-  
6 tion officer, and necessary clerical and secretarial assist-  
7 ants as shall enable said court to discharge the duties re-  
8 quired of it under the provisions of this act and the general  
9 laws of the state. The salaries and expenses shall be paid  
10 by the county court of Wood county. Such appointments  
11 shall be made by the judge and the appointees shall serve  
12 during the pleasure of the judge.

13 The chief probation officer shall receive as compensation  
14 for his or her services an annual salary of not less than  
15 four thousand dollars nor more than five thousand four  
16 hundred dollars, to be determined by the judge. Assistant  
17 probation officers shall receive as compensation an annual  
18 salary of not less than three thousand four hundred dol-  
19 lars nor more than four thousand eight hundred dollars,  
20 to be determined by the judge. Clerical and secretarial  
21 assistants shall receive as compensation for his or her  
22 services an annual salary of not less than one thousand  
23 eight hundred dollars nor more than three thousand four  
24 hundred dollars, to be determined by the judge. In addi-  
25 tion to the annual salaries herein provided for, the chief  
26 probation officer and each assistant probation officer shall  
27 be reimbursed by the county court by reason of his or her  
28 necessary expenses actually incurred in the performance  
29 of official duties. The appointment of the chief probation  
30 officer, assistant probation officers, clerical and secretarial  
31 assistants, when made by the judge, shall be entered by  
32 order of the court, a copy of which order of appointment  
33 shall be transmitted to the clerk of the county court.  
34 Thereupon, the county court shall make provision for pay-  
35 ment and shall pay the salaries of the chief probation of-  
36 ficer, the assistant probation officers, clerical and secre-  
37 tarial assistants as shown by the order of appointment.  
38 The annual salary provided for in said order of appoint-  
39 ment shall be paid in equal monthly installments. Expense  
40 and mileage accounts of the chief probation officer and as-  
41 sistant probation officers shall be itemized, verified, pre-  
42 sented to and paid by the county court, if such accounts  
43 are approved by the judge. The county court shall provide  
44 such office space, equipment and supplies for the probation  
45 staff, clerical and secretarial assistants as the judge shall

46 deem necessary and adequate: *Provided, however,* That  
47 the appointing judge shall first obtain the approval of the  
48 county court of Wood county of the salaries to be paid,  
49 and the expenses, including automobile mileage expense,  
50 the rate to be fixed by said county court, to be incurred  
51 by said probation officer or officers, and said clerical and  
52 secretarial assistants, which approval shall be discretion-  
53 ary with said county court and shall be required before  
54 any appointment made herein becomes effective or salary  
55 or expense, including automobile mileage expense fixed  
56 by said county court, is incurred in connection therewith.

Sec. 12. *Supplies; Finances; Seal; Court Rooms and Of-*  
2 *fices.*—It shall be the duty of the county court of Wood  
3 county to provide all record and other books and station-  
4 ery that may be necessary for said court. Likewise a seal  
5 for said court shall be provided and full faith and credit  
6 shall be given to the records of the court and certificates  
7 of its judge or clerk in like manner and with the same  
8 effect as if the same were records of the circuit court  
9 similarly authenticated. The county court of Wood county  
10 shall likewise furnish such rooms, furniture and equip-  
11 ment for the proper conduct and administration of said  
12 court and shall, through annual levy and appropriations,  
13 make provision for the payment for all such rooms, sup-  
14 plies and equipment. It shall be the duty of the county  
15 court of Wood county to pay the salary of a full time sec-  
16 retary in the office of the judge of said court, to be ap-  
17 pointed by him, whose compensation shall be not less than  
18 one thousand eight hundred dollars nor more than three  
19 thousand dollars annually, to be determined by the judge.

Sec. 13. *Appeals.*—Appeals from, or writs of error or su-  
2 persedeas to, any judgment, decree or order of said court  
3 shall be governed by and subject to the provisions of ar-  
4 ticle four, chapter fifty-eight of the official code of West  
5 Virginia, and of all enactments and reenactments thereof  
6 pertaining to the subject of "Appeals from Courts of Rec-  
7 ord of Limited Jurisdiction".

Sec. 14. *Separability; Repeal.*—The provisions of this act  
2 shall be construed as separable and severable and should

3 any provision or part hereof be held unconstitutional or  
4 for any reason invalid the remaining provisions or parts  
5 shall not be thereby affected.

6 All acts or parts of acts in conflict herewith are hereby  
7 repealed.



# RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature and the two Houses thereof during the 1959 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. 4

(By Mr. Haught and Mr. Chilton)

[Adopted January 23, 1959.]

Relating to Youth Honor Day.

WHEREAS, It is of utmost importance to the welfare of this Nation that the youth of this State be given recognition for their outstanding achievements and be encouraged to prepare themselves for their future responsibilities and obligations as citizens of this great Nation; and

WHEREAS, The Legislatures of several states have adopted resolutions designating October 31 of each year as Youth Honor Day, which is appropriately observed in honor of the youth of this Nation; and

WHEREAS, The Youth Honor Day program has been of tremendous benefit to the youth of America by providing them with the opportunity to assume the responsibility of governing the conduct of the members of their own group; and

WHEREAS, The adoption of the Youth Honor Day program would prove very beneficial not only to the youth but also to all the people of this State; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That this Legislature authorize and respectfully request the Governor to issue a proclamation designating October 31 of each year as Youth Honor Day; that the people of this State be urged to actively participate in the observance of this day; and that a suitable copy of this resolution be forwarded to the Governor, the Honorable Cecil H. Underwood.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE  
CONCURRENT RESOLUTION NO. 5

(Originating in the Senate Committee on Finance)

[Adopted March 12, 1959.]

Continuing the Commission on Problems of the Aging, as provided in Senate Concurrent Resolution No. 4, created by the Regular Session, one thousand nine hundred fifty-seven, and broadening the duties thereof.

WHEREAS, Senate Concurrent Resolution No. 4, Regular Session, one thousand nine hundred fifty-seven, created a Commission on Problems of the Aging to make an extensive examination of the problems and potentials of our aging population, and provided that the commission should complete its study and make its report to the Governor and Legislature not later than December first, one thousand nine hundred fifty-seven; and

WHEREAS, On August tenth, one thousand nine hundred fifty-seven, in compliance with said resolution, the Governor appointed the members of the commission; and

WHEREAS, Only five meetings of the commission have been held and the said commission has not had sufficient time to complete its work and carry out the purposes for which it was created; and

WHEREAS, The 85th Congress of the United States enacted a law to provide for holding a White House Conference on Aging; and

WHEREAS, The act further provides assistance for the states to hold similar conferences prior to the White House Conference and declares it to be the policy of the Congress that the federal government "shall work jointly with the states and their citizens to develop recommendations and plans for action"; and

WHEREAS, This act authorizes the payment of federal funds "to each state which shall submit an application for funds for the exclusive use in planning and conducting a state conference prior to reporting of findings to, and attendance at said White House Conference"; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the said commission is hereby continued for two years in order to carry out the purposes and the duties set forth in said Senate Concurrent Resolution No. 4, and the amendments herein, and shall make a final report to the Governor and the Legislature not later than December fifteenth, one thousand nine hundred sixty;

That said commission be authorized to comply with the provisions of the aforementioned White House Conference on Aging Act;

That the commission be authorized to make application for funds for the purposes outlined in section two hundred and two of said act;

That the commission be further authorized to request the Governor to designate an officer of the state government to receive the payment of five to fifteen thousand dollars therein provided to defray the expenses as heretofore and in the act outlined, and to assume responsibility for organizing and conducting the state conference;

That the members of the commission shall receive no compensation for their services, except as may be provided in said White House Conference on Aging Act, but shall be paid twenty-five dollars per day and transportation costs in lieu of necessary expenses while attending to their duties not connected with such White House Conference on Aging Act. The commission is authorized to expend funds in an amount not to exceed five thousand dollars for printing, secretarial services and other assistance, as it may deem necessary and not provided for in the aforesaid White House Conference on Aging Act.

Expenses of the commission not provided for in the aforesaid White House Conference on Aging Act shall be paid from appropriation made to the Joint Committee on Government and Finance, or from funds appropriated by the Legislature for the expense of legislative committees.

## HOUSE CONCURRENT RESOLUTION NO. 11

(By Mr. Seibert and Mr. Myles)

[Adopted February 26, 1959.]

Providing for a study of the federal program to assist states in the regulation and control of outdoor advertising on areas adjacent to the interstate system with a view toward proposing state legislation to come within such program.

WHEREAS, The Congress of the United States enacted the Federal Aid Highway Act of 1958 to encourage and assist the States in the regulation and control of outdoor advertising on areas adjacent to the Interstate System; and

WHEREAS, The Secretary of Commerce, pursuant to that act, promulgated national standards for the regulation and control of outdoor advertising on areas adjacent to the Interstate System; and

WHEREAS, The State of West Virginia, acting by its State Road Commissioner, after the enactment of appropriate legislation, may enter into agreements with the Secretary of Commerce to enforce the national standards on areas adjacent to the Interstate System in this State, and thereby receive the one half of one per cent increase in the Federal share of the cost of construction, as provided in the act; and

WHEREAS, It is recognized that legislation authorizing such agreements with the Secretary of Commerce has been enacted in other states but has not yet been interpreted by appellate courts; and

WHEREAS, The national standards, as they currently exist, are complex and difficult of interpretation, and it may be expected that the Secretary of Commerce may further amend and clarify the national standards during the next two years; and

WHEREAS, Under the act this State may enter into such agreements with the Secretary of Commerce at any time prior to July 1, 1961, and any delay to that date will not prejudice the right of the State to receive federal aid for highway construction provided for in the act; therefore, be it



*Resolved by the House of Delegates, the Senate concurring therein:*

That the Joint Committee on Government and Finance be and it is hereby authorized and directed to make a comprehensive study of the Federal Aid Highway Act of 1958, and the national standards, as promulgated pursuant to that act by the Secretary of Commerce, for the regulation and control of outdoor advertising on areas adjacent to the Interstate System, as the same may affect the State of West Virginia. The Committee may consult and confer with such persons and agencies, public and private, as have information and data pertinent to the study. The committee may also hold such meetings and hearings at such time and places, and take such testimony, as may be necessary to complete the study.

The Committee shall make a report of its findings and recommendations to the Legislature at the regular session to be convened in January, one thousand nine hundred sixty-one.

#### HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Chilton and Mr. Zabeau)

[Adopted February 20, 1959.]

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 or 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 shall conduct an exhaustive study of the entire area of aid to the

blind in this State and that such Committee shall make a full report of their investigation and recommendation for legislative or other action to the Legislature on or before January first, one thousand nine hundred sixty.

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 herein provided.

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### HOUSE CONCURRENT RESOLUTION NO. 19

(By Mr. Frazer and Mr. Craig)

[Adopted March 4, 1959.]

Requesting the U. S. Bureau of Public Roads to include U. S. Route No. 19 in the interstate highway system.

WHEREAS, The Regular Session of the West Virginia Legislature in 1958 unanimously adopted H. C. R. No. 19, requesting the U. S. Bureau of Public Roads to allocate additional highway mileage to the State of West Virginia under the Federal Highway Act of 1956, as amended, and to include U. S. Route No. 19 in the interstate system; and

WHEREAS, Said H. C. R. No. 19 set forth the desperate need for North and South transportation facilities in the State of West Virginia; that this highway would start only 15 miles from the Pennsylvania Turnpike on the North and connect with improved highways in the South, portions of which are being improved in several southern states; that such a highway would accommodate traffic and transportation from East, West, North and South; that this route serves many West Virginia institutions and traverses an area rich in scenic and historical values; that West Virginia is a vital state in our National Defense due to its production of metallurgical coals and chemicals; and that with adequate transportation facilities, West Virginia is strategically located as a refuge for citizens from a populous section of the United States in case of attack by foreign enemies; and

WHEREAS, The construction of this route at the present time would be a stimulant to the economy of the State of West

Virginia and provide employment to many unemployed persons in this State as well as other areas; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia hereby reaffirm the action of the 1958 Legislature, and respectfully requests the U. S. Bureau of Roads to give early and favorable consideration to providing for the allocation of additional highway mileage for improvement or reconstruction of U. S. Route 19 through the State of West Virginia; and, be it

*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.

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#### HOUSE CONCURRENT RESOLUTION NO. 23

(By Mr. Dahill)

[Adopted March 6, 1959.]

Creating a Youth Fitness Council.

WHEREAS, The President of the United States, after receipt of reports from various national governmental agencies, has issued a proclamation outlining the need for action on the national, state and local levels to foster programs to make the youth of our nation more fit, physically, spiritually, morally, mentally and socially; and

WHEREAS, The President of the United States has created a National Youth Fitness Council composed of divers members of his cabinet, and a youth fitness committee, composed of one hundred and twenty-five of the leaders of the nation in the fields of education, medicine and industry; and

WHEREAS, Pursuant to request received from the President of the United States and the President's Council on Youth Fitness, the Governor of this State did call a state-wide conference on youth fitness, which conference was attended by two hundred and twenty-five persons interested in this problem throughout the State; and

WHEREAS, The Governor's Conference on Youth Fitness did unanimously recommend the appointment of a Youth Fitness Council for the State of West Virginia, for the purpose of promoting youth fitness programs in the various counties, cities and communities of the State, to disseminate information on the broad subject of youth fitness and to correlate the activities of organizations and communities already engaged in diverse phases of youth fitness programs; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That there is hereby created a youth fitness council to be known as the West Virginia Youth Fitness Council. The council shall consist of no more than twenty-five members, and shall be fairly representative of industry, the press, fraternal and civic organizations engaged in youth activities, and the medical profession, and each member thereof shall be appointed without partisan connection from persons with a demonstrated interest in the problem of youth fitness. The State Superintendent of Schools and the Director of the Conservation Commission, and their successors, shall be two of the members of the Council. The Council shall be appointed by the Governor from the State at large. The Council shall make extensive examination of the problems of the youth of our State, and shall act as the state agency for the dissemination of information and for the encouragement and correlation of youth fitness programs at the county and local community level, and shall do all other things as in its judgment are pertinent and necessary to the formulation and activation of all youth fitness programs. The Council shall consider existing programs and services of the State, and all organizations within the State, with a view to offering concrete suggestions for long-range plans to coordinate and improve state-wide programs, as well as to encourage and assist in the development of local programs. All agencies of the State shall assist the Council in its work. The members of the Council shall receive no compensation for their services, but shall be paid their necessary expenses for such; and the Governor is hereby requested to make available to the Council from the personnel of the Industrial and Publicity Commission and the State Department of Education, such secretarial and other clerical assistance as the Council may require.

The Governor shall designate from among the council members appointed by him a chairman and a vice chairman, and the terms of the council members, including the chairman and the vice chairman shall be indefinite at the will and pleasure of the Governor.

The Governor is hereby authorized to pay the necessary expenses of the West Virginia Youth Fitness Council from the civil contingent fund appropriated to his use but not to exceed the sum of two thousand five hundred dollars.

#### HOUSE CONCURRENT RESOLUTION NO. 24

(By Mr. Frazer)

[Adopted March 11, 1959.]

Memorializing the Congress to appropriate funds to start construction of the proposed Summersville dam on the Gauley River.

WHEREAS, The construction of a dam on the Gauley River at Summersville, West Virginia, has been authorized by the Congress as approved by the U. S. Army engineers, but no appropriation of funds has been made to start construction of said dam; and

WHEREAS, Completion of this dam would be a prime factor in boosting industrial development along West Virginia's Great Kanawha River, where water pollution is a deterrent to further industrial development, since with controlled flows from the big reservoir proposed on the Gauley this pollution could be largely abated; and the proposed dam would provide flood protection and contribute to soil conservation; and

WHEREAS, Construction of this dam could mean much to the State of West Virginia in the way of economic aid and furnish employment in one of the hardest hit areas of the State, embracing the counties of Fayette and Nicholas; and

WHEREAS, More than \$500,000 has been spent on planning this dam and preliminary work has advanced to the stage where actual construction can now begin; and the Army engineers have said \$2,000,000 can be used to advantage on the dam during the year starting next July 1, 1959; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of West Virginia does hereby memorialize the Congress of the United States to appropriate not less than the recommended \$2,000,000 to start the construction of this dam during the next fiscal year; and, be it

*Further Resolved*, That the Clerk of the House of Delegates transmit a copy of this resolution to the Honorable Carl Hayden and the Honorable Clarence Cannon, Chairman of the Senate and House Appropriations Committees, respectively, of the Congress of the United States, and to the West Virginia members of the Congress.

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#### HOUSE CONCURRENT RESOLUTION NO. 26

(By Mr. Myles and Mr. Graziani)

[Adopted March 14, 1959.]

Concerning the study and investigation of all phases and conditions of the West Virginia Board of Embalmers and Funeral Directors and the business of funeral directing and embalming.

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Joint Committee on Government and Finance is requested to investigate, survey and study all phases and conditions relative to the West Virginia Board of Embalmers and Funeral Directors and the business of embalming and funeral directing in this State.

That the said committee is requested to report to the Legislature, prior to the convening of the next regular session thereof, concerning such study; together with any recommendations and proposed legislation as may, in its opinion, best serve the interests of all the people of this State.

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#### HOUSE CONCURRENT RESOLUTION NO. 27

(By Mr. Baker and Mr. Graziani)

[Adopted March 2, 1959.]

Directing the State Road Commissioner to give consideration to the inclusion of that part of State Route No. 4, not presently

included, as a part of the proposed backbone system of highways in the State of West Virginia.

WHEREAS, The whole northeastern section of West Virginia extending into and through the eastern panhandle section of our State has apparently been long neglected in planning direct and first class highway transportation to and from the State Capitol; and

WHEREAS, The importance of serving the citizens of Gassaway, Sutton, Buckhannon, Elkins, Mouth of Seneca, Petersburg, Moorefield and Romney, by a direct connection to the State Capitol cannot be over emphasized; and

WHEREAS, The extension of such a backbone system proposal to include that portion of West Virginia would tend to eliminate much of the feeling of state isolation which may otherwise exist in that section of the State, some four hundred and fifty miles round trip from our capitol city as now traveled; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the State Road Commissioner is hereby directed to consider the inclusion of that part of State Route No. 4, not presently included, as a part of the proposed backbone system of highways in the State of West Virginia.

## HOUSE CONCURRENT RESOLUTION NO. 28

(By Mr. Boiarsky and Mr. Schupbach)

[Adopted March 2, 1959.]

Requesting the Commissioner of Institutions to establish a book repair industry at the penitentiary.

WHEREAS, The problem of idleness at the West Virginia penitentiary is generally recognized as being a critical one; and

WHEREAS, The establishment of a book repair industry would provide employment for one hundred to one hundred fifty men who are now idle; and

WHEREAS, Vocational training is an essential part of any program of rehabilitation; and

WHEREAS, The books in the libraries of the various county school systems have to be repaired and rebound from time to time; and

WHEREAS, Other states which have operated such a facility have achieved substantial savings in the cost of having such books repaired and rebound by such book repair industries; and

WHEREAS, Not only the inmates at the penitentiary but also the State as well would profit from the establishment of such an industry; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Commissioner of Institutions is hereby requested to investigate the feasibility of establishing such an industry at the penitentiary and to establish and operate such an industry if such a program appears feasible.

#### HOUSE CONCURRENT RESOLUTION NO. 29

(By Mr. Sapp)

[Adopted March 2, 1959.]

Requesting Congress through the United States Army Quartermaster General and/or other appropriate agencies to take appropriate action to prevent the closing of the Grafton National Cemetery located in Grafton, Taylor County, West Virginia.

WHEREAS, The United States Army Quartermaster General recently announced the closing of the Grafton National Cemetery, located in Grafton, Taylor County, West Virginia, for burials after the year one thousand nine hundred sixty-one, due to the fact that additional land for the cemetery is not available; and

WHEREAS, A joint American Legion and Veterans of Foreign Wars committee has investigated the possibility of keeping the Grafton National Cemetery open, and reports that by personal contact with owners of property adjoining the cemetery have found that additional acreage can be purchased if desired for the purpose of extending the Grafton National Cemetery's boundaries; 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 be necessary to prevent the closing of the Grafton National Cemetery; 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. 33

(By Mr. Speaker, Mr. Pauley, and Mr. Counts)

[Adopted March 4, 1959.]

Requesting the Director of Conservation to create and develop a state park at Berwind Lake, McDowell County.

WHEREAS, Berwind Lake, in McDowell County, has just been completed as a state conservation program; and

WHEREAS, There are no other large lakes in McDowell County, and there are few areas in the county which provide outdoor recreation opportunities to the people of McDowell County; and

WHEREAS, Berwind Lake and the surrounding area is ideally suited, and offers many opportunities for development of a large outdoor recreation area, with easy access to the people of McDowell County; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Director of Conservation is hereby requested to investigate the feasibility of creating and developing a state park in McDowell County, in the Berwind Lake area, and if the investigation be favorable to such action, that such state park, large enough to accommodate the heavily populated area involved, be created and developed; and, be it

*Further Resolved*, That a copy of this resolution be delivered to the Director of the West Virginia Conservation Commission.

#### HOUSE CONCURRENT RESOLUTION NO. 34

(By Mr. Belknap and Mr. Bachmann)

[Adopted March 14, 1959.]

Requesting the State Election Commission to prepare a recodification of the election laws of West Virginia and to make recommendations for the revision thereof.

WHEREAS, The electoral process is an important and integral part of the process of government; and

WHEREAS, The election laws of West Virginia have not been recodified for many years, thus permitting many ambiguities, inconsistencies, and inapplicable provisions to be contained therein; and

WHEREAS, With each election there are raised many questions as to the interpretation and applicability of certain provisions of the election laws; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the State Election Commission be and is hereby requested to make a thorough study, under the direction and supervision of the Joint Committee on Government and Finance, of all laws of West Virginia pertaining to elections and to prepare a recodification thereof; and, be it

*Further Resolved*, That the State Election Commission, in consultation with county and circuit clerks, ballot commissioners, state and county party leaders, and other interested citizens, prepare recommendations for changes in the election laws which will permit the conduct of the electoral process with the greatest efficiency; and, be it

*Further Resolved*, That the State Election Commission present to the Legislature in regular session in the year one thousand nine hundred sixty-one drafts of all of its findings including the proposed recodification of the election laws and the proposed changes therein.

## HOUSE CONCURRENT RESOLUTION NO. 42

(By Mr. Bias)

[Adopted March 14, 1959.]

Relating to housing facilities at Marshall College.

WHEREAS, The West Virginia Home for Aged and Infirm Colored Men and Women, located near the city of Huntington on approximately one hundred fifty acres of land, the occupancy of said building and the use of said land not now being full and complete; and

WHEREAS, It is possible to transfer said persons to other institutions operated by the Commissioner of Public Institutions thereby securing better and more efficient services to the inmates thereof; and

WHEREAS, Marshall College, located in the City of Huntington and near the property occupied by said West Virginia Home for Aged and Infirm Colored Men and Women, has received notice from the owners of Donald Court, a student family housing project, terminating the lease between said owner and Marshall College for the housing of married students; and

WHEREAS, There is an urgent need recognized by all institutions of higher education for the construction of student family housing projects to supplement other accommodations for students, engineering laboratories for surveying courses, chemical and botanical research in plant life, practice fields for football and baseball, tennis courts and other college uses; and

WHEREAS, Marshall College is estopped in the consideration of the purchase of land and the erection of such type of student housing on or near the downtown campus of the College due to lack of funds and the high value of real estate within the limits of the City and adjacent to the campus of Marshall College; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Commissioner of Public Institutions be hereby requested to make a thorough study of the aforesaid institution under his supervision as to the feasibility of transferring

the persons now residing in the West Virginia Home for Aged and Infirm Colored Men and Women to other comparable institutions and to the feasibility of transferring said land and appurtenances thereon to the West Virginia Board of Education for use by Marshall College for the aforesaid purpose.

### HOUSE CONCURRENT RESOLUTION NO. 43

(By Mr. Speaker, Mr. Pauley)

[Adopted March 14, 1959.]

Urging repeal of excise taxes on communication services and transportation of persons.

WHEREAS, The Federal excise taxes on public utility and transportation services were initially levied or greatly increased during World War II to help defray war costs and to discourage unnecessary use of such services; and

WHEREAS, Congress has acted to remove a substantial portion of this discriminatory tax burden on public utility and transportation services by elimination of excise taxes on the use of electrical energy and the shipment of goods and property; and

WHEREAS, Today, more than thirteen years after cessation of hostilities, the excise taxes on communication services and the for-hire transportation of persons are still in effect and are continuing to discourage the public use of these services which are now the only services, regulated or unregulated, against which any Federal excise taxes are levied; and

WHEREAS, A Committee of the 85th Congress rejected a proposal for the enactment of legislation which would have repealed or reduced the Federal excise taxes on communication services and the transportation of persons even though the repeal of the discriminatory excise taxes would immediately release upwards of six and one-half million dollars annually to the West Virginia economy; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature of the State of West Virginia is of the opinion that the discriminatory excise taxes on communica-

tions and transportation services are not in the public interest, that such taxes should not continue to be levied by the Federal Government; and, be it

*Further Resolved*, That the Congress is hereby petitioned to terminate the discriminatory excise taxes on all communications and transportation services at the earliest possible date; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to Congressman Wilbur Mills, Chairman of the House Ways and Means Committee of the 86th Congress and to the United States Senators and members of the House of Representatives from West Virginia.

#### HOUSE CONCURRENT RESOLUTION NO. 44

(By Mr. Kidd and Mr. Seibert)

[Adopted March 14, 1959.]

Providing for an interim committee to continue a study of the relationship of teaching to nonteaching personnel employed in the public school systems of this State.

WHEREAS, House Resolution No. 21, adopted by the House of Delegates on the eleventh day of February, 1959, called upon the county school superintendents of the fifty-five counties of the State of West Virginia to furnish to the House of Delegates certain information concerning nonteaching personnel employed by the respective county boards of education; and

WHEREAS, A comparison of the data supplied by the respective county superintendents considered in relation to the size and student enrollment of such counties has disclosed a great disparity among the counties as regards the numbers and classification of and expenditures for such nonteaching personnel; and

WHEREAS, A continued study of the organization of the respective county public school systems would furnish invaluable data on which to base proposed legislation relating to the public schools; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Joint Committee on Government and Finance is directed to make a study, survey and investigation of the numbers and classifications of and expenditures for supervisory and nonteaching personnel employed in the public school system of the fifty-five counties of this State and to make a finding, report and recommendation to the Legislature prior to the regular session, one thousand nine hundred sixty.

That the Department of Finance and Administration is hereby requested to provide such assistance and services as the Committee shall deem appropriate.

#### HOUSE CONCURRENT RESOLUTION NO. 45

(By Mr. Kidd and Mr. Myles)

[Adopted March 14, 1959.]

Construction of dormitories at Glenville State College and West Virginia Institute of Technology.

WHEREAS, The State Board of Education has filed with the West Virginia Board of Public Works and the West Virginia Legislature in accordance with Committee Substitute for Senate Bill No. 154, a priority list of building needs for state colleges operating under the jurisdiction of said board; and

WHEREAS, The State Board of Education, the West Virginia Board of Public Works and the Legislature of West Virginia, 1959 Regular Session, has approved the construction out of the Special Capital Improvement Fund during the fiscal year 1959-1960 of a science-classroom building at West Liberty State College, West Liberty, West Virginia, as first priority on said list; and

WHEREAS, The said priority list enumerates therein the approval of the construction of a dormitory on the campuses of Glenville State College and West Virginia Institute of Technology as second and third priorities, the same to be constructed out of funds accumulating in the Special Capital Improvement Fund provided in said act of the Legislature during the 1960-1961 fiscal year; and

WHEREAS, The Housing and Home Finance Agency, Community Facilities Administration of the Federal Government, declares that said agency will advance funds for the preparation of plans, specifications and all preliminary work incident to the construction of said dormitories on the campuses of Glenville State College and West Virginia Institute of Technology prior to accumulation and release of state funds after July 1, 1960; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the State Board of Education be authorized to proceed in negotiating with the Housing and Home Finance Agency, Community Facilities Administration, in the preparation of plans, specifications and preliminary data for the construction of dormitories on the campuses of Glenville State College and West Virginia Institute of Technology, funds for said facilities to receive first and second priority respectively on the expenditure schedule of the Special Capital Improvement Fund beginning with the fiscal year 1960-61.

#### HOUSE JOINT RESOLUTION NO. 8

(By Mr. Parker and Mr. Rairden)

[Adopted March 6, 1959.]

Proposing an amendment to the Constitution of the State of West Virginia, providing for a preamble thereto.

*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 providing for a preamble thereto shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty, which proposed preamble is as follows:

#### P R E A M B L E

Since through Divine Providence we enjoy the blessings of civil, political and religious liberty, we, the people of

West Virginia, in and through the provisions of this Constitution, reaffirm our faith in and constant reliance upon God and seek diligently to promote, preserve and perpetuate good government in the State of West Virginia for the common welfare, freedom and security of ourselves and our posterity.

### HOUSE JOINT RESOLUTION NO. 9

(By Mr. Seibert)

[Adopted March 10, 1959.]

Proposing an amendment to the Constitution of the State, amending article six thereof, by adding thereto a new section, designated fifty-four, providing for continuity of governmental operations in event of enemy attack.

*Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:*

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty, which proposed amendment is as follows:

That article six of the Constitution be amended by adding thereto a new section, designated fifty-four, to read as follows:

Section 54. The Legislature of West Virginia in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty (1) to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such officers, and (2) to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations.



## SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Traubert and Mr. Bowers)

[Adopted March 7, 1959.]

Creating a joint tax study commission for the purpose of considering all phases of the tax structure of the State with recommendations for improvements.

WHEREAS, Various reports and publications and study groups include a general statement that the principal sources of indirect tax revenue in the State of West Virginia were conceived largely as temporary measures in the early nineteen hundred thirties to meet an economic condition then prevailing; and

WHEREAS, The changed conditions both in industry and commerce and in standards of living would seem to warrant a new look at our presently constituted tax structure; and

WHEREAS, Our schools and roads and the health and welfare of our people are supported largely by taxation; and

WHEREAS, Much criticism is directed at the tax structure as representing an unequal and inequitable burden on our people; and

WHEREAS, The taxes as now imposed have been referred to as regressive rather than progressive; and

WHEREAS, Our constitutional tax limitation on real and personal property would seem to present a factor sometimes overlooked in attempts to gear our indirect tax structure or program to the demands of our people; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That there be established a joint tax study commission;

That such commission shall consist of fifteen representative citizens of the State, five to be appointed by the President of the Senate, five to be appointed by the Speaker of the House of Delegates, and five to be appointed by the Governor. Not more than three members appointed by each appointing authority shall be members of the same political party. Representative citizens may include persons with long experience in

tax matters, students of economic conditions in our State, those familiar with industry, commerce, agriculture, labor, and other activities, but persons with sound judgment without any of these qualifications will also be considered representative citizens, and should make valuable contributions to this study.

The commission shall elect or appoint one of its members as chairman, and one as vice chairman and other officers as it deems appropriate.

Vacancies on the commission shall be filled by the original appointive authority.

The commission shall meet in Charleston, or elsewhere within the State as it may determine. It shall convene at least quarterly and at such other times as its duties may require.

The members of the commission 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 or other funds available of the Senate and House of Delegates.

The commission shall be empowered to find through competent channels of research factual data relative to all present existing and potential sources of tax revenue at both state and local levels. Out of such basic information West Virginia can build a balanced and equitable system of taxation adequate for our needs for years to come.

It shall be the duty of the commission:

a. To advise with all officers of the state or local government, or their representatives, having the responsibility of collecting or administering any part of the taxes or other revenues, "under color of office," and any other matters that may be relevant to this study program.

b. To advise with representative citizens and groups outside of state government who have knowledge and experience and contact with business and industry, in the field of education, labor and agriculture, representing a cross-section of the economy of our State, the value of which information can hardly be measured.

The findings of this commission shall be reported at six-month periods to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation and to the members of the Legislature as to the progress of activities, programs and plans of the commission in this development of an equitable and sound tax structure which will be geared to the needs of our State, having in mind its natural resources, its economy, the attraction of manufacturers for our raw materials, gainful employment of our people, etc., and a full report shall be submitted to the Legislature at the one thousand nine hundred sixty-one session.

#### SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Hedrick and Mr. Reed)

[Adopted February 26, 1959.]

Concerning the establishment of a state forest or recreational area in Marion County.

WHEREAS, There is presently no state recreational park or lake within the boundaries of Marion County; and

WHEREAS, An excellent location exists at Valley Falls with beautiful scenery and water supply, located midway between Fairmont and Grafton, adjacent to excellent transportation by rail and highway; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Director of the Conservation Commission be requested to take whatever steps are necessary to establish a state forest or recreational park at Valley Falls in Marion County.

#### SENATE CONCURRENT RESOLUTION NO. 7

(By Mr. Bean, Mr. President)

[Adopted March 9, 1959.]

Requesting and urging the United States Department of Agriculture, the Honorable Ezra Taft Benson, Secretary, to allocate additional tobacco acreage to the state of West Virginia.

WHEREAS, There are a number of persons throughout the State of West Virginia and particularly in the southern portion of West Virginia who are unemployed; and

WHEREAS, Many of these persons are coal miners who have heretofore been engaged in agricultural pursuits; and

WHEREAS, The West Virginia Department of Agriculture is initiating programs to reestablish unemployed coal miners in agricultural pursuits; and

WHEREAS, Tobacco raising is an important part of this program, since many of these unemployed coal miners reside in counties with the necessary resources, facilities and knowledge for the proper production of a tobacco crop; and

WHEREAS, The tobacco acreage allotments in the State of West Virginia have been reduced from 4,256 acres in 1948 to 2,844 acres in 1957; therefore; be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia requests and urges that the United States Department of Agriculture, the Honorable Ezra Taft Benson, Secretary, consider increasing the tobacco acreage allotments in West Virginia by an additional allocation of 240 acres to be divided among those counties where unemployment is most acute, insofar as resources, facilities and knowledge will permit, thereby alleviating and reducing unemployment in certain of those areas in the State of West Virginia where chronic unemployment presently constitutes a critical situation.

#### SENATE CONCURRENT RESOLUTION NO. 11

(By Mr. McCourt)

[Adopted February 26, 1959.]

Creating an interim committee of the Legislature to make a study of the natural resources of the state.

WHEREAS, The soil, air, water, wild life, forests, plant life and the natural, scenic, esthetic, historical and recreational facilities of this State are essential resources upon which the welfare of this State and its people depend; and

WHEREAS, The management, control, supervision and conservation of such natural resources are of great importance to the health, safety and happiness of the people of this State and to future generations; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That an interim committee be created to make a study of conservation, management and improvement of the natural resources of the state.

That prior to the convening of the next regular session of the Legislature, the committee make and issue a report to the Governor and to the Legislature concerning its study, together with such recommendations and any proposed legislation as may in its opinion best serve the best interests of the state and its people.

That the membership of the committee be composed of five members of the Senate, to be appointed by the President thereof, one of whom shall be designated as cochairman, and five members of the House of Delegates to be appointed by the Speaker thereof, one of whom shall be designated as cochairman. Not more than three members from each House shall be members of the same political party.

The members of the committee shall receive twenty-five dollars per diem, and ten cents per mile for transportation, as expenses actually incurred in the discharge of their duties. All such expenses shall be paid in as nearly equal amounts as practicable from the contingent funds of the Senate and House of Delegates.

#### SENATE CONCURRENT RESOLUTION NO. 18

(By Mr. Bean, Mr. President)

[Adopted March 12, 1959.]

Providing for the filling of vacancies in the membership of the West Virginia Commission on Constitutional Revision.

WHEREAS, Senate Concurrent Resolution No. 5, Acts of the Legislature, regular session, one thousand nine hundred fifty-

seven, establishing the West Virginia Commission on Constitutional Revision provides that unless sooner dissolved by concurrent resolution, the commission shall be continued until the completion of its studies, reports and recommendations; and

WHEREAS, It appears from the first report of the commission to the Governor and the Legislature that its work has not yet been completed; and

WHEREAS, The commission in its report has brought to the attention of the Legislature the fact that certain members originally appointed from the membership of the Senate and of the House, respectively, were no longer members thereof and, in one instance, a member appointed from the House is now a member of the Senate; and

WHEREAS, Under the terms of the original resolution there is doubt concerning the status of such members; and

WHEREAS, The commission has requested that the Legislature make known its wishes and intent with respect to this question; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That there shall be deemed to be a vacancy in the membership of the commission whenever any member who was appointed to represent either the Senate or the House shall cease to be a member of the Legislature, and that such vacancy shall be filled by the President of the Senate or the Speaker of the House, as the case may be, in the manner prescribed for the original appointment in the resolution creating the commission.

# LEGISLATURE OF WEST VIRGINIA

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## ACTS OF 1958

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### FIRST EXTRAORDINARY SESSION (June 23, 1958)

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#### CHAPTER 1

(Senate Bill No. 1—By Mr. Martin and Mr. Carrigan)

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AN ACT authorizing and directing the West Virginia Department of Employment Security, acting by and through its director, to enter into an agreement in behalf of the State of West Virginia with the Secretary of Labor of the United States, which will permit said director to make, as agent of the United States, payments of temporary unemployment compensation in accordance with the terms and conditions of an act of Congress known as the "Temporary Unemployment Compensation Act of 1958" (Public Law 441, 85th Congress).

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[Passed June 23, 1958; in effect from passage. Approved by the Governor.]

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#### Section

1. Authorization for agreement to extend unemployment compensation.
  2. Exhaustion date for purposes of determining individuals' entitlement or right to benefits.
- 

WHEREAS, The 85th Congress of the United States has enacted certain legislation known as the "Temporary Unemployment

Compensation Act of 1958" (Public Law 441), providing for payment of temporary unemployment compensation benefits to unemployed workers who have exhausted their rights to benefits under present state unemployment compensation laws; and

WHEREAS, It is necessary for the Legislature of the State of West Virginia to authorize and direct the Department of Employment Security, acting by and through its director, to enter into an agreement with the Secretary of Labor of the United States if such benefits are to be made available to the State of West Virginia; now, therefore,

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

Section 1. *Authorization for Agreement to Extend Unemployment Compensation.*—The West Virginia Department of Employment Security, acting by and through its director, is hereby authorized and directed to enter into an agreement on behalf of the State of West Virginia with the Secretary of Labor of the United States, which agreement will permit said director to make, as agent of the United States, payments of temporary unemployment compensation in the maximum aggregate amount made available and as provided by, and in accordance with, the terms and conditions set forth in an act of Congress entitled the "Temporary Unemployment Compensation Act of 1958" (Public Law 441, 85th Congress), so as to enable individuals who have exhausted their rights under the present unemployment compensation laws of this state to receive the additional compensation made available by the aforesaid "Temporary Unemployment Compensation Act of 1958", in the maximum aggregate amount as provided for and in accordance with said act.

Sec. 2. *Exhaustion Date for Purposes of Determining Individuals' Entitlement or Right to Benefits.*—Payment of temporary unemployment compensation under this act shall be made to individuals, who have after June 30, 1957, exhausted (within the meaning prescribed by the Secretary of Labor) all rights as prescribed in section 101 of the "Temporary Unemployment Compensation Act of 1958".



## CHAPTER 2

(Senate Bill No. 2—By Mr. Martin and Mr. Carrigan)

AN ACT to amend and reenact section ten-a, article five, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter seventy-six, acts of the Legislature, regular session, one thousand nine hundred forty-three, and as last amended and reenacted by chapter one hundred thirty-five, acts of the Legislature, regular session, one thousand nine hundred forty-nine, relating to the conditions on which the experience rate contribution formula for employers shall be modified or suspended under the unemployment compensation law.

[Passed June 23, 1958; in effect from passage. Approved by the Governor.]

### Article 5. Employer Coverage and Responsibility.

#### Section

#### 10-a. Modification or suspension of decreased rates.

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

That section ten-a, article five, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter seventy-six, acts of the Legislature, regular session, one thousand nine hundred forty-three, and as last amended and reenacted by chapter one hundred thirty-five, acts of the Legislature, regular session, one thousand nine hundred forty-nine, be amended and reenacted to read as follows:

#### Section 10-a. *Modification or Suspension of Decreased*

- 2 *Rates.*—(1) As used in this section, unless the context
- 3 clearly requires otherwise:
- 4 “Due date” means the last day of the month next fol-
- 5 lowing a calendar quarter. In determining the amount in
- 6 the fund on any due date, contributions received, but not

7 benefits paid, for such month next following the end of  
8 a calendar quarter shall be included.

9 (2) The director shall as of the due date for the pay-  
10 ment of contributions for each calendar quarter determine  
11 the amount in the unemployment compensation fund,  
12 including the trust fund, the clearing account, and the  
13 benefit account; and if, at any such time or times the fund  
14 is below the sum of sixty million dollars, the director  
15 shall, effective at the commencement of the next calendar  
16 quarter, increase each employer's rate one step, and if, at  
17 any such time or times the fund is below the sum of fifty-  
18 five million dollars, the director shall further increase  
19 each employer's rate one additional step; and if, at any  
20 such time or times the fund is below the sum of fifty  
21 million dollars, the director shall further increase each  
22 employer's rate one additional step; and if, at any such  
23 time or times the fund is below the sum of forty-five  
24 million dollars, the director shall further increase each  
25 employer's rate one additional step; and if, at any such  
26 time or times the fund is below the sum of forty million  
27 dollars, the director shall further increase each employer's  
28 rate one additional step.

29 Where the employer rates have been increased by  
30 virtue of the provisions of this section, they shall be  
31 correspondingly decreased in the same manner when the  
32 balance in the fund returns to the successive levels here-  
33 inabove set forth.

34 For the purposes of this subsection the term "one step"  
35 or "one additional step" shall mean two tenths of one  
36 per cent, except that for an employer whose rate is zero  
37 the term "one step" shall mean three tenths of one per  
38 cent: *Provided, however,* That under no circumstances  
39 shall any employer's rate be increased above the maxi-  
40 mum rate of two and seven-tenths per cent.

41 (3) If, as of the due date for the payment of contribu-  
42 tions for any calendar quarter, the unemployment com-  
43 pensation fund, including the trust fund, clearing account  
44 and benefit account, is below the sum of forty million  
45 dollars, the director shall, effective at the commencement  
46 of the next calendar quarter, suspend the decreased rates

47 as provided in this chapter, and all contributions of em-  
48 ployers due thereafter shall be paid at the rate of two  
49 and seven-tenths per cent: *Provided, however, That*  
50 for the period through and including the second calendar  
51 quarter of one thousand nine hundred fifty-nine such  
52 suspending of decreased rates shall not be made until the  
53 fund is below the sum of thirty-five million dollars.

54 (4) As of January first of the year next following the  
55 date on which the unemployment compensation fund, in-  
56 cluding the trust fund, clearing account and benefit ac-  
57 count, reaches and remains above the sum of forty-five  
58 million dollars, the director shall supersede the suspension  
59 of the decreased rates as provided for in subsection three:  
60 *Provided, however, That* in the event such suspending of  
61 the decreased rates was made when the fund was below  
62 thirty-five million dollars as also provided in subsection  
63 three, then such superseding of the suspension of the de-  
64 creased rates shall occur when the fund reaches and re-  
65 mains above the sum of forty million dollars.



# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1960

### REGULAR SESSION

#### CHAPTER 1

(Senate Bill No. 23—By Mr. Carrigan)

AN ACT to amend article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine-b, providing for an increase in the price of alcoholic liquors sold at state stores for the purpose of providing funds for a state temporary economic program.

[Passed February 1, 1960; in effect from passage. Became a law without the approval of the Governor.]

#### **Article 3. Sales by Commission.**

##### **Section**

9-b. Price increase for state temporary economic program.

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

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

Section 9-b. *Price Increase for State Temporary Economic Program.*—For the purpose of providing revenue for the state temporary economic program the commissioner in the exercise of his authority under section nine of this article is hereby directed to increase the price of alco-

6 holic liquors in addition to the price increases provided in  
7 sections nine and nine-a hereof on or before the last day of  
8 March, one thousand nine hundred sixty, in an amount  
9 sufficient to produce an additional annual revenue of one  
10 million seven hundred fifty thousand dollars on an annual  
11 volume of business equal to the average for the last three  
12 years.

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## CHAPTER 2

(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.

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[Passed February 11, 1960; in effect from passage.]

### Title

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

### Title 1. General Provisions.

#### Section

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

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

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

Sec. 2. *Definitions.*—For the purpose of this act:  
"Board" shall mean the board of public works;

3 "Spending Unit" shall mean the department, agency or  
4 institution to which an appropriation is made;

5 The "fiscal year one thousand nine hundred sixty-one"  
6 shall mean the period from July first, one thousand nine  
7 hundred sixty through June thirtieth, one thousand nine  
8 hundred sixty-one.

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 unit.

8 "Current expenses" shall be expended only for operating  
9 cost other than personal services or capital outlay;

10 "Repairs and alterations" shall include all expenditures  
11 for materials, supplies and labor used in repairing and  
12 altering buildings, grounds and equipment;

13 "Equipment" shall be expended only for things which  
14 have an appreciable and calculable period of usefulness in  
15 excess of one year;

16 "Buildings" shall include construction and alteration of  
17 structures and the improvements of lands, sewer and water  
18 improvements; and shall include shelter, support, storage,  
19 protection, or the improvement of a natural condition;

20 "Lands" shall be expended only for the purchase of lands  
21 or interest in lands.

22 Appropriations otherwise classified shall be expended  
23 only where the distribution of expenditures for different

24 purposes cannot well be determined in advance or it is  
 25 necessary or desirable to permit the spending unit freedom  
 26 to spend an appropriation for more than one of the above  
 27 purposes.

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

## Title 2. Appropriations.

### Section

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4. Appropriations from surplus revenues.
- 4-a. Appropriations for state economic recovery program.
5. Reappropriations.
6. Special revenue appropriations.
7. Specific funds and collection accounts.
8. Appropriations for refunding erroneous payments.
9. Sinking fund deficiencies.
10. Appropriations from taxes and license fees.
11. Appropriations to pay costs of publication of delinquent corporations.
12. Appropriations for local governments.
13. Total appropriations.
14. General school fund.

Section 1. *Appropriations from General Revenue.*—From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred sixty-one.

## LEGISLATIVE

## 1—Senate

Acct. No. 101

*Fiscal Year*  
1960-61

1 Salaries of Members .....	\$ 48,000.00
2 Compensation and per diem of officers and	
3 attaches .....	85,000.00
4 Mileage of Members .....	2,000.00
5 Current Expenses and Contingent Fund .....	95,000.00
6 To pay Clerk of the Senate for compiling	
7 and publishing the West Virginia Blue	
8 Book, the distribution of which shall be	
9 made by the Office of the Clerk of the	
10 Senate and shall include seventy-five	
11 copies for each member of the Legisla-	
12 ture and two copies to each classified and	
13 approved High and Junior High School	
14 and one to each Elementary School within	
15 the state .....	10,000.00
16 To pay cost of printing the 1960 edition of	
17 Blue Book .....	46,000.00
18 Drafting Service .....	5,000.00
19 The appropriations for the Senate for the	
20 fiscal year 1959-1960 are to remain in full	
21 force and effect, and are hereby reappro-	
22 priated to June 30, 1961.	
23 Any balances so reappropriated may be	
24 transferred and credited to the 1960-61	
25 accounts.	

26 Upon the written request of the Clerk of the  
 27 Senate, the State Auditor shall transfer  
 28 amounts between items of the total appro-  
 29 priation in order to protect or increase the  
 30 efficiency of the service.

31 The Clerk of the Senate is authorized to  
 32 draw his requisitions upon the Auditor,  
 33 payable out of the contingent fund of the  
 34 Senate, for any bills for supplies and  
 35 services that may have been incurred by  
 36 the Senate and not included in the appro-  
 37 priation bill, and for bills for supplies and  
 38 services incurred after adjournment, and  
 39 for the necessary operation of the Senate  
 40 offices, the requisition for same to be ac-  
 41 companied by the bills to be filed with  
 42 the Auditor.

## 2—House of Delegates

### Acct. No. 102

1 Salaries of Members .....	\$ 150,000.00
2 Compensation and per diem of officers and	
3 attaches .....	145,000.00
4 Mileage of Members .....	5,000.00
5 Current Expenses and Contingent Fund.....	95,000.00
6 Drafting Service .....	5,000.00
7 An amount, not to exceed \$3,600.00 per year,	
8 is hereby authorized to be expended from	
9 the contingent fund of the House of Dele-	
10 gates for janitor services, etc.	
11 The appropriations for the House of Dele-	
12 gates for the fiscal year 1959-60 are to re-	
13 main in full force and effect, and are	
14 hereby reappropriated to June 30, 1961.	
15 Any balances so reappropriated may be	
16 transferred and credited to the 1960-61	
17 accounts.	

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

23 The Clerk of the House of Delegates, with  
 24 approval of the Speaker, is authorized to  
 25 draw his requisitions upon the Auditor,  
 26 payable out of the contingent fund of the  
 27 House of Delegates, for any bills for sup-  
 28 plies and services that may have been in-  
 29 curred by the House of Delegates, and not  
 30 included in the appropriation bill, for bills  
 31 for services and supplies incurred in  
 32 preparation for the opening of the session  
 33 and after adjournment, and for the neces-  
 34 sary operation of the House of Delegates  
 35 offices, the requisition for same to be ac-  
 36 companied by bills to be filed with the  
 37 Auditor.

38 For duties imposed by law and by the House  
 39 of Delegates, including the salary allowed  
 40 by law as keeper of the rolls, the Clerk  
 41 of the House of Delegates shall be paid a  
 42 salary of \$900.00 per month, payable from  
 43 the contingent fund of the House of Dele-  
 44 gates, and the Clerk may employ a secre-  
 45 tary and a clerk at a salary not to exceed  
 46 \$375.00 per month each, payable monthly  
 47 from the same fund.

### 3—Joint Expenses

#### Acct. No. 103

1 To pay the cost of legislative printing and	
2 stationery .....	\$ 125,000.00
3 Commission on Interstate Cooperation .....	15,000.00
5 Other Authorized Legislative Committees ...	25,000.00
4 Joint Committee on Government and Finance	225,000.00

- 6 The appropriations for Joint Expenses for  
7 the fiscal year 1959-60 are to remain in full  
8 force and effect, and are hereby reappro-  
9 priated to June 30, 1961.
- 10 Any balances so reappropriated may be  
11 transferred and credited to the 1960-61  
12 accounts.
- 13 Upon the written request of the Clerk of  
14 the Senate and Clerk of the House of Dele-  
15 gates, the State Auditor shall transfer  
16 amounts between items of the total appro-  
17 priation in order to protect or increase the  
18 efficiency of the service.

## JUDICIAL

4—*Supreme Court of Appeals*

## Acct. No. 110

1	Salaries of Judges.....	\$	87,500.00
2	Other Personal Services .....		108,200.00
3	Current Expenses .....		34,000.00
4	Equipment .....		2,000.00
5	Total .....	\$	231,700.00

5—*Judicial—Auditor's Office*

## Acct. No. 111

1	Salaries of Judges .....	\$	336,600.00
2	Other Personal Services .....		78,300.00
3	Current Expenses .....		29,700.00
4	Judges' Retirement System .....		25,000.00
5	Criminal Charges .....		300,000.00
6	Total .....	\$	769,600.00
7	This appropriation shall be administered by		
8	the State Auditor who shall draw his re-		
9	quisition for warrants in payment of sal-		

- 10 aries in the form of payrolls, making de-  
 11 ductions therefrom as required by law, for  
 12 taxes and other items. The appropriation for  
 13 Judges' Retirement System is to be trans-  
 14 ferred to the Judges' Retirement Fund, in  
 15 accordance with the law relating thereto,  
 16 upon requisition of the State Auditor.

#### 6—State Law Library

##### Acct. No. 114

1	Personal Services .....	\$	15,580.00
2	Current Expenses .....		2,000.00
3	Equipment .....		14,500.00
4	Total .....	\$	32,080.00

#### 7—Judicial Council

##### Acct. No. 118

1	To pay expenses of Members of the Council	\$	500.00
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#### EXECUTIVE

#### 8—Governor's Office

##### Acct. No. 120

1	Salary of Governor .....	\$	17,500.00
2	Other Personal Services .....		40,147.00
3	Current Expenses .....		15,000.00
4	Equipment .....		1,500.00
5	Civil Contingent Fund .....		150,000.00
6	Of this appropriation there may be expended		
7	an amount not to exceed \$10,000.00 to pro-		
8	vide instruction, care and maintenance for		
9	educable persons who have multiple hand-		
10	icaps and for whom the state provides no		
11	facilities.		
12	Of this appropriation there may be ex-		
13	pended, at the discretion of the Governor,		



14	an amount not to exceed \$1,000.00 as West	
15	Virginia's contribution to the Interstate	
16	Oil Compact Commission.	
17	Custodial Fund .....	45,000.00
18	To be used for current general expenses,	
19	including compensation of servants and	
20	employees, household maintenance, cost	
21	of official functions, and any additional	
22	household expenses occasioned by such	
23	official functions.	
24	Total .....	\$ 269,147.00

9—Board of Probation and Parole

Acct. No. 123

1	Personal Services .....	\$ 158,560.00
2	Current Expenses .....	60,000.00
3	Equipment .....	2,000.00
4	Total .....	\$ 220,560.00

FISCAL

10—Auditor's Office—General Administration

Acct. No. 150

1	Salary of State Auditor .....	\$ 11,000.00
2	Other Personal Services .....	240,420.00
3	Current Expenses .....	30,990.00
4	Equipment .....	17,000.00
5	To match contributions of state employees	
6	for social security .....	650,000.00
7	Total .....	\$ 949,410.00
8	The above appropriation for social security is	
9	intended to cover the state's share of social	
10	security costs for those spending units op-	
11	erating from General Revenue Fund and	
12	General School Fund appropriations. The	

13 State Road Commission, Department of  
 14 Motor Vehicles, Workmen's Compensation  
 15 Commission, Public Service Commission,  
 16 and other departments operating from  
 17 Special Revenue Funds and/or Federal  
 18 Funds shall pay their proportionate share  
 19 of the social security cost for their re-  
 20 spective divisions.

21 Any unexpended balance remaining in the  
 22 appropriation "To match contributions of  
 23 state employees for social security" at the  
 24 close of the fiscal year 1959-60 is hereby re-  
 25 appropriated for expenditure during the  
 26 fiscal year 1960-61.

### 11—*Treasurer's Office*

#### Acct. No. 160

1	Salary of State Treasurer .....	\$	11,000.00
2	Other Personal Services .....		86,000.00
3	Current Expenses .....		14,500.00
4	Equipment .....		10,000.00
<hr/>			
5	Total .....	\$	121,500.00

### 12—*Sinking Fund Commission*

#### Acct. No. 170

1	Personal Services .....	\$	18,300.00
2	Current Expenses .....		2,000.00
<hr/>			
3	Total .....	\$	20,300.00

### 13—*State Tax Commissioner*

#### Acct. No. 180

1	Personal Services .....	\$	638,760.00
2	Current Expenses .....		179,470.00

3	Equipment .....	21,700.00
4	Property Evaluation.....	140,000.00
5	Total.....	\$ 979,930.00

*14—State Tax Commissioner**Acct. No. 185*

- 1 Any unexpended balance remaining in the  
2 account "For Property Appraisal, Tax  
3 Maps, etc., in accordance with the provi-  
4 sions of Senate Bill No. 34 (1958 Legisla-  
5 ture)" at the close of the fiscal year 1959-60  
6 is hereby reappropriated for expenditure  
7 during the fiscal year 1960-61.
- 8 Any unexpended balance remaining in the  
9 account "Reserve for Property Appraisal,  
10 Tax Maps, etc." at the close of the fiscal  
11 year 1959-60 is hereby reappropriated for  
12 expenditure during the fiscal year 1960-61.

*15—State Commissioner of Public Institutions**Acct. No. 190*

1	Salary of Commissioner .....	\$ 10,000.00
2	Other Personal Services .....	37,860.00
3	Current Expenses .....	8,275.00
4	Total .....	\$ 56,135.00

*16—Department of Finance and Administration**Acct. No. 210*

1	Personal Services .....	\$ 439,590.00
2	Current Expenses .....	158,620.00
3	Repairs and Alterations .....	40,000.00
4	Equipment .....	14,200.00
5	Postage .....	90,000.00
6	Total .....	\$ 742,410.00

7 The Workmen's Compensation Commission,  
 8 Department of Public Assistance, Public  
 9 Service Commission, Conservation Com-  
 10 mission, Department of Motor Vehicles,  
 11 State Road Commission and State Health  
 12 Department shall reimburse the postage  
 13 appropriation of the Department of Fi-  
 14 nance and Administration monthly for all  
 15 meter service. Any spending unit receiv-  
 16 ing reimbursement for postage costs from  
 17 the Federal Government shall refund to  
 18 the postage account of the Department of  
 19 Finance and Administration such amounts.  
 20 Should this appropriation for postage be  
 21 insufficient to meet the mailing require-  
 22 ments of the State spending units as set  
 23 out above, any excess postage meter  
 24 service requirements shall be a proper  
 25 charge against the units, and each spend-  
 26 ing unit shall refund to the postage  
 27 appropriation of the Department of Fi-  
 28 nance and Administration any amounts  
 29 required for that department for postage  
 30 in excess of this appropriation.  
 31 Any unexpended balance remaining in the  
 32 postage account at the close of the fiscal  
 33 year 1959-60 is hereby reappropriated for  
 34 expenditure during the fiscal year 1960-61.

17—*The Board of Public Works*

Acct. No. 220

1	Contingent Fund .....	\$	25,000.00
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18—*State Board of Insurance*

Acct. No. 225

1	Personal Services .....	\$	5,000.00
2	Current Expenses .....		2,200.00
3	Total .....	\$	7,200.00

## LEGAL

## 19—Attorney General

## Acct. No. 240

1	Salary of Attorney General.....	\$	12,000.00
2	Other Personal Services.....		120,220.00
3	Current Expenses.....		18,000.00
4	Equipment .....		7,500.00
5	To protect the resources or tax structure of		
6	the State in controversies or legal proceed-		
7	ings affecting same.....		4,000.00
8	Total.....	\$	161,720.00

## 20—Commission on Uniform State Laws

## Acct. No. 245

1	Total .....	\$	3,150.00
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## INCORPORATING AND RECORDING

## 21—Secretary of State

## Acct. No. 250

1	Salary of Secretary of State.....	\$	11,000.00
2	Other Personal Services .....		51,900.00
3	Current Expenses .....		10,680.00
4	Equipment .....		3,300.00
5	Total.....	\$	76,880.00

## 、 EDUCATIONAL

## 22—Department of Education—State Aid to Schools

## Acct. No. 295

1	State aid to supplement the General School		
2	Fund .....	\$	53,468,180.00
3	To be transferred to the general school fund		
4	upon the requisition of the Governor. To		

- 5 be distributed according to law except an  
 6 amount not to exceed \$225,000.00, which  
 7 sum shall be available to the Department  
 8 of Education to aid counties in provid-  
 9 ing instruction for exceptional children:  
 10 *Provided, however,* That from the amount  
 11 appropriated herein to the Department of  
 12 Education to aid counties in providing in-  
 13 struction for exceptional children, an  
 14 amount not to exceed \$16,500.00 may be  
 15 used to pay the salary of a director and  
 16 other administrative expenses for the ex-  
 17 ceptional children's program.
- 18 In making distribution of state aid to coun-  
 19 ties as provided by law, the State Board of  
 20 School Finance shall allocate to each  
 21 county, state aid of not less than fifty dol-  
 22 lars for each weighted pupil in the county.

23—*Department of Education—Textbook Aid*

Acct. No. 297

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

24—*Teachers Retirement Board*

Acct. No. 298

1	Benefit Fund — Payments to Retired		
2	Teachers .....	\$	2,367,800.00
3	Employers' Accumulation Fund—To match		
4	contributions of members .....		3,344,000.00
5	Expense Fund .....		17,048.00
6	Total .....	\$	5,728,848.00

25—*West Virginia University*

Acct. No. 300

1	Personal Services .....	\$	6,589,662.00
2	Current Expenses .....		985,000.00

3	Repairs and Alterations .....	350,000.00
4	Equipment .....	330,000.00
5	Oak Wilt Control Research .....	10,000.00
6	State aid to students of Veterinary Medicine .....	48,000.00
7	State aid to Medical Students .....	45,000.00
8	Total .....	\$ 8,357,662.00
9	Out of the above appropriation for Personal	
10	Services the sum of \$7,500.00 shall be	
11	used only for the employment of a Spray	
12	Specialist who shall be stationed only	
13	at West Virginia University Farm at	
14	Kearneysville.	
15	Out of the above appropriation there may	
16	be expended a sum not to exceed \$15,000.00	
17	for research and study relative to the	
18	uses of sorghum.	

## 26—Potomac State College of West Virginia University

## Acct. No. 315

1	Personal Services .....	\$ 339,290.00
2	Current Expenses .....	51,950.00
3	Repairs and Alterations .....	36,300.00
4	Equipment .....	14,700.00
5	Total .....	\$ 442,240.00

## 27—Marshall College

## Acct. No. 320

1	Personal Services .....	\$ 2,004,970.00
2	Current Expenses .....	186,640.00
3	Repairs and Alterations .....	67,800.00
4	Equipment .....	57,500.00
5	Flood Wall Assessment .....	3,200.00
6	Dormitory and Dining Hall Equipment .....	98,000.00
7	Purchase of Land .....	32,000.00
8	Total .....	\$ 2,450,110.00

28—*Fairmont State College*

## Acct. No. 321

1	Personal Services .....	\$	656,490.00
2	Current Expenses .....		68,420.00
3	Repairs and Alterations .....		33,600.00
4	Equipment .....		25,350.00
5	Total .....	\$	783,860.00

29—*Glenville State College*

## Acct. No. 322

1	Personal Services .....	\$	417,880.00
2	Current Expenses .....		56,820.00
3	Repairs and Alterations .....		43,180.00
4	Equipment .....		18,200.00
5	Total .....	\$	536,080.00

30—*West Liberty State College*

## Acct. No. 323

1	Personal Services .....	\$	463,640.00
2	Current Expenses .....		53,340.00
3	Repairs and Alterations .....		25,800.00
4	Equipment .....		18,200.00
5	Total .....	\$	560,980.00

31—*Shepherd College*

## Acct. No. 324

1	Personal Services .....	\$	424,190.00
2	Current Expenses .....		56,780.00
3	Repairs and Alterations .....		29,800.00
4	Equipment .....		21,000.00
5	Total .....	\$	531,770.00



6 Any unexpended balance remaining in the  
 7 appropriation for "Dormitory Equip-  
 8 ment" at the close of the fiscal year 1959-  
 9 60 is hereby reappropriated for expendi-  
 10 ture during the fiscal year 1960-61.

### 32—Concord College

#### Acct. No. 325

1	Personal Services .....	\$	715,110.00
2	Current Expenses .....		64,270.00
3	Repairs and Alterations .....		37,170.00
4	Equipment .....		22,850.00
5	Total .....	\$	839,400.00
6	Any unexpended balance remaining in the		
7	appropriation for "Dormitory Equip-		
8	ment" at the close of the fiscal year 1959-		
9	60 is hereby reappropriated for expendi-		
10	ture during the fiscal year 1960-61.		

### 33—West Virginia Institute of Technology

#### Acct. No. 327

1	Personal Services .....	\$	572,620.00
2	Current Expenses .....		68,290.00
3	Repairs and Alterations .....		44,470.00
4	Equipment .....		45,400.00
5	Total .....	\$	730,780.00

### 34—West Virginia State College

#### Acct. No. 328

1	Personal Services .....	\$	975,530.00
2	Current Expenses .....		139,000.00
3	Repairs and Alterations .....		83,440.00
4	Equipment .....		33,000.00
5	Total .....	\$	1,230,970.00

35—*Bluefield State College*

## Acct. No. 329

1	Personal Services .....	\$	357,180.00
2	Current Expenses .....		58,345.00
3	Repairs and Alterations .....		23,900.00
4	Equipment .....		15,200.00
5	Total .....	\$	454,625.00

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

## Acct. No. 330

1	Personal Services .....	\$	12,960.00
2	Current Expenses .....		5,000.00
3	Repairs and Alterations .....		3,500.00
4	Equipment .....		2,300.00
5	Total .....	\$	23,760.00

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

## Acct. No. 333

1	Personal Services .....	\$	405,786.00
2	Current Expenses .....		160,330.00
3	Repairs and Alterations .....		40,700.00
4	Equipment .....		19,850.00
5	Total .....	\$	626,666.00

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

## Acct. No. 336

1	Personal Services .....	\$	13,620.00
2	Current Expenses .....		6,000.00
3	Repairs and Alterations .....		5,600.00
4	Equipment .....		5,900.00
5	Total .....	\$	31,120.00

39—*Department of Archives and History*

## Acct. No. 340

1	Personal Services .....	\$	30,000.00
2	Current Expenses .....		6,690.00
3	Equipment .....		7,800.00
4	Total .....	\$	44,490.00

40—*West Virginia Library Commission*

## Acct. No. 350

1	Personal Services .....	\$	77,526.00
2	Current Expenses .....		5,000.00
3	Equipment .....		1,000.00
4	Books and Periodicals .....		15,474.00
5	Total .....	\$	99,000.00
6	Out of the above appropriation there may		
7	be expended a sum not to exceed \$5,000.00		
8	to provide library services, such as braille,		
9	moon and talking books for the blind.		

## CHARITIES AND CORRECTION

41—*West Virginia Industrial School for Boys*

## Acct. No. 370

1	Personal Services .....	\$	196,040.00
2	Current Expenses .....		99,250.00
3	Repairs and Alterations .....		28,500.00
4	Equipment .....		18,250.00
5	Total .....	\$	342,040.00

42—*Forestry Camp for Boys*

## Acct. No. 371

1	Personal Services .....	\$	47,836.00
2	Current Expenses .....		57,854.00

3	Repairs and Alterations .....	2,500.00
4	Equipment .....	5,600.00
5	Total .....	\$ 113,790.00

43—*West Virginia Industrial Home for Girls*

Acct. No. 372

1	Personal Services .....	\$ 103,159.00
2	Current Expenses .....	61,900.00
3	Repairs and Alterations .....	10,500.00
4	Equipment .....	9,950.00
5	Vocational Training and Supplies .....	5,000.00
6	Total .....	\$ 190,509.00

44—*West Virginia State Prison for Women*

Acct. No. 374

1	Personal Services .....	\$ 37,420.00
2	Current Expenses .....	31,600.00
3	Repairs and Alterations .....	12,600.00
4	Equipment .....	1,400.00
5	Total .....	\$ 83,020.00

45—*West Virginia Penitentiary*

Acct. No. 375

1	Personal Services .....	\$ 571,280.00
2	Current Expenses .....	477,700.00
3	Repairs, Alterations and Smoke Control .....	34,000.00
4	Equipment .....	17,700.00
5	Total .....	\$ 1,100,680.00

46—*Medium Security Prison*

Acct. No. 376

1	Personal Services .....	\$ 215,544.00
2	Current Expenses .....	150,804.00

3	Repairs and Alterations.....	20,000.00
4	Equipment .....	11,300.00
5	Total .....	\$ 397,648.00

47—*West Virginia Children's Home*

## Acct. No. 380

1	Personal Services .....	\$ 42,195.00
2	Current Expenses .....	30,425.00
3	Repairs and Alterations .....	11,000.00
4	Equipment .....	5,850.00
5	Total .....	\$ 89,470.00

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

## Acct. No. 382

1	Personal Services .....	\$ 35,000.00
2	Current Expenses .....	44,325.00
3	Repairs and Alterations .....	10,200.00
4	Equipment .....	4,000.00
5	Total .....	\$ 93,525.00

49—*Andrew S. Rowan Memorial Home*

## Acct. No. 384

1	Personal Services .....	\$ 175,920.00
2	Current Expenses .....	153,511.00
3	Repairs and Alterations .....	12,550.00
4	Equipment .....	8,300.00
5	Total .....	\$ 350,281.00

## HEALTH AND WELFARE

50—*State Health Department*

## Acct. No. 400

1	Personal Services .....	\$ 592,100.00
2	Current Expenses .....	50,060.00

3	Equipment .....	4,500.00
4	Cancer Control and Treatment .....	93,000.00
5	Tuberculosis Field Clinic and Nursing	
6	Service .....	8,480.00
7	Out-Patient Pneumothorax Treatment .....	20,000.00
8	Total .....	\$ 768,140.00

51—*State Water Resources Commission*

## Acct. No. 401

1	Personal Services .....	\$ 45,160.00
2	Current Expenses .....	22,500.00
3	Equipment .....	975.00
4	For cooperation with the U. S. Geological	
5	Survey for a program of stream gauging....	17,500.00
6	Total .....	\$ 86,135.00

52—*Department of Veterans Affairs*

## Acct. No. 404

1	Personal Services .....	\$ 155,000.00
2	Current Expenses .....	43,000.00
3	Equipment .....	1,500.00
4	To provide Educational Opportunities for	
5	Children of War Veterans as provided by	
6	chapter thirty-nine, Acts of the Legisla-	
7	ture, 1943 .....	12,500.00
8	Total .....	\$ 212,000.00

9 Any unexpended balance remaining in the  
 10 appropriation "To Provide Educational  
 11 Opportunities for Children of War Veter-  
 12 ans" at the close of the fiscal year 1959-60  
 13 is hereby reappropriated for expenditure  
 14 during the fiscal year 1960-61.

## 53—Department of Public Assistance

## Acct. No. 405

1	Personal Services .....	\$ 1,437,880.00
2	Current Expenses .....	224,000.00
3	Equipment .....	8,000.00
4	Public Assistance Grants (Classified Aid) .....	7,068,000.00
5	Aid to Crippled Children .....	300,000.00
6	Medical Services .....	785,000.00
7	Conservation of Vision and Prevention of	
8	Blindness .....	40,000.00
9	Child Welfare Services .....	113,000.00
10	General Relief .....	125,000.00
11	Boarding Care .....	340,000.00
12	Social Security Matching Fund .....	25,600.00
13	Total .....	\$ 10,466,480.00
14	Out of the above appropriation for Child	
15	Welfare Services there shall be made	
16	available the sum of \$25,000.00 by the De-	
17	partment of Public Assistance to meet	
18	actual per capita costs for residential aid	
19	to emotionally disturbed children at Hill-	
20	crest, Inc.	

54—Department of Public Assistance—  
Commodity Distribution

## Acct. No. 406

1	Personal Services .....	\$ 185,640.00
2	Current Expenses .....	97,420.00
3	Equipment .....	10,040.00
4	Total .....	\$ 293,100.00

## 55—Department of Mental Health

## Acct. No. 410

1	Personal Services .....	\$ 133,305.00
2	Current Expenses .....	25,000.00

3	Equipment .....	2,400.00
4	Research and Training .....	25,000.00
5	Merit System Costs .....	28,335.00
6	Total.....	\$ 214,040.00

## 56—West Virginia Training School

## Acct. No. 419

1	Personal Services .....	\$ 399,802.00
2	Current Expenses .....	149,650.00
3	Repairs and Alterations .....	35,500.00
4	Equipment .....	16,500.00
5	Total.....	\$ 601,452.00

## 57—Weston State Hospital

## Acct. No. 420

1	Personal Services .....	\$ 1,334,583.00
2	Current Expenses .....	746,330.00
3	Repairs and Alterations .....	54,600.00
4	Equipment .....	30,580.00
5	Total.....	\$ 2,166,093.00

## 58—Spencer State Hospital

## Acct. No. 421

1	Personal Services .....	\$ 626,199.00
2	Current Expenses .....	376,755.00
3	Repairs and Alterations .....	49,600.00
4	Equipment .....	37,550.00
5	Total.....	\$ 1,090,104.00
6	All revenue collected by the above spending	
7	unit in excess of the amount required to	
8	pay the principal and interest on outstand-	
9	ing Clinic Bonds shall be deposited to the	
10	State Fund-General Revenue.	



59—*Huntington State Hospital*

## Acct. No. 422

1	Personal Services .....	\$	848,160.00
2	Current Expenses .....		513,665.00
3	Repairs and Alterations .....		34,000.00
4	Equipment .....		34,300.00
5	Total .....	\$	1,430,125.00

60—*Lakin State Hospital*

## Acct. No. 423

1	Personal Services .....	\$	330,453.00
2	Current Expenses .....		178,120.00
3	Repairs and Alterations .....		36,975.00
4	Equipment .....		37,950.00
5	Total .....	\$	583,498.00

61—*Barboursville State Hospital*

## Acct. No. 424

1	Personal Services .....	\$	237,808.00
2	Current Expenses .....		131,045.00
3	Repairs and Alterations .....		22,900.00
4	Equipment .....		6,150.00
5	Total .....	\$	397,903.00

62—*Fairmont Emergency Hospital*

## Acct. No. 425

1	Personal Services .....	\$	106,880.00
2	Current Expenses .....		65,380.00
3	Repairs and Alterations .....		6,800.00
4	Equipment .....		5,500.00
5	Total .....	\$	184,560.00

63—*Welch Emergency Hospital*

## Acct. No. 426

1	Personal Services .....	\$	120,320.00
2	Current Expenses .....		126,600.00
3	Repairs and Alterations .....		22,000.00
4	Equipment .....		17,000.00
5	Total .....	\$	285,920.00

64—*Hopemont Sanitarium*

## Acct. No. 430

1	Personal Services .....	\$	389,940.00
2	Current Expenses .....		291,050.00
3	Repairs and Alterations .....		15,000.00
4	Equipment .....		10,900.00
5	Total .....	\$	706,890.00

65—*Pinecrest Sanitarium*

## Acct. No. 431

1	Personal Services .....	\$	545,440.00
2	Current Expenses .....		462,940.00
3	Repairs and Alterations .....		26,500.00
4	Equipment .....		11,500.00
5	Total .....	\$	1,046,380.00

66—*Denmar State Hospital*

## Acct. No. 432

1	Personal Services .....	\$	204,260.00
2	Current Expenses .....		132,325.00
3	Repairs and Alterations .....		10,000.00
4	Equipment .....		6,400.00
5	Total .....	\$	352,985.00

67—*Berkeley Springs Sanitarium*

## Acct. No. 436

1 Personal Services .....	\$ 27,800.00
2 Current Expenses .....	6,800.00
3 Repairs and Alterations .....	6,000.00
4 Equipment .....	1,600.00
5 Total .....	\$ 42,200.00

68—*State Board of Education—Rehabilitation Division*

## Acct. No. 440

1 Personal Services .....	\$ 182,530.00
2 Current Expenses .....	34,432.00
3 Rehabilitation Center .....	103,929.00
4 Case Services .....	240,000.00
5 Supervisory Service for Vending Stand Pro-	
6 gram for the Blind .....	16,658.00
7 Training and Special Projects .....	20,000.00
8 Total .....	\$ 597,549.00

## BUSINESS AND INDUSTRIAL RELATIONS

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

## Acct. No. 450

1 Personal Services .....	\$ 194,910.00
2 Current Expenses .....	59,090.00
3 Equipment .....	21,700.00
4 Total .....	\$ 275,700.00

70—*Department of Mines*

## Acct. No. 460

1 Personal Services .....	\$ 661,980.00
2 Current Expenses .....	146,500.00

3	Equipment .....	31,000.00
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4	Total .....	\$ 839,480.00
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*71—Commission on Interstate Cooperation*

*Acct. No. 472*

1	Total .....	\$ 10,000.00
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2	Out of the above appropriation the sum of	
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3	\$7,500.00 may be made available for West	
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4	Virginia's membership in The Council of	
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5	State Governments.	
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*72—Interstate Commission on Potomac River Basin*

*Acct. No. 473*

1	West Virginia's contribution to Potomac	
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2	River Basin Interstate Commission .....	\$ 3,600.00
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*73—Ohio River Valley Water Sanitation Commission*

*Acct. No. 474*

1	West Virginia's contribution to the Ohio River	
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2	Valley Water Sanitation Commission .....	\$ 15,860.00
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*74—Southern Regional Education Board*

*Acct. No. 475*

1	West Virginia's contribution to Southern	
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2	Regional Education Board .....	\$ 28,000.00
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3	To be expended upon requisition of the Gov-	
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4	ernor.	
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*75—Department of Banking*

*Acct. No. 480*

1	Personal Services .....	\$ 71,600.00
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2	Current Expenses .....	27,980.00
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3	Equipment .....	1,000.00
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4	Total .....	\$ 100,580.00
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*76—West Virginia State Aeronautics Commission*

## Acct. No. 485

1	Personal Services .....	\$	13,300.00
2	Current Expenses .....		5,710.00
3	Aerial Markers .....		1,000.00
4	Civil Air Patrol Expenses .....		7,500.00
5	Total .....	\$	27,510.00

*77—West Virginia Industrial and Publicity Commission*

## Acct. No. 486

1	Personal Services .....	\$	71,600.00
2	Current Expenses .....		63,350.00
3	Equipment .....		1,000.00
4	Total .....	\$	135,950.00

*78—West Virginia Centennial Commission*

## Acct. No. 487

1	Expenses for planning 1963 Centennial cele-		
2	bration .....	\$	12,550.00
3	To be transferred to "West Virginia Centen-		
4	nial Fund" provided by House Bill No. 57		
5	(1959 Legislature) .....		100,000.00
6	Total .....	\$	112,550.00

*79—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

80—*West Virginia Racing Commission*

## Acct. No. 495

1	Personal Services .....	\$	60,300.00
2	Current Expenses .....		12,750.00
3	Total .....	\$	73,050.00

## AGRICULTURE

81—*Department of Agriculture*

## Acct. No. 510

1	Salary of Commissioner .....	\$	11,000.00
2	Other Personal Services .....		153,300.00
3	Current Expenses .....		66,070.00
4	Equipment .....		8,000.00
5	Eradication and Control of White Pine Blister .....		15,000.00
6	Eradication and Prevention of Livestock		
7	Diseases .....		161,335.00
8	Eradication and Control of Japanese beetle		
9	and other plant pests .....		15,000.00
10	Aid to Dairy Development Program .....		57,720.00
11	Eradication and Control of Oak Wilt .....		66,800.00
12	Total .....	\$	554,225.00

82—*Department of Agriculture—Soil Conservation Committee*

## Acct. No. 512

1	Personal Services .....	\$	56,610.00
2	Current Expenses .....		27,390.00
3	Total .....	\$	84,000.00

83—*Department of Agriculture—Marketing and Research*

## Acct. No. 513

1	For cooperation with the Federal Government		
2	in a program of marketing and research .....	\$	91,000.00

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

7 Any unexpended balance remaining in the  
8 Farm Market Facilities Account at the  
9 close of the fiscal year 1959-60 is hereby  
10 reappropriated for expenditure during the  
11 fiscal year 1960-61.

*84—Department of Agriculture—Agricultural Awards*

Acct. No. 515

1 Agricultural Awards .....	\$	40,000.00
2 Mountain State Forest Festival .....		12,500.00
3 West Virginia State Fair .....		25,000.00
4 Total .....	\$	77,500.00

5 To be expended at the discretion of the Com-  
6 missioner of Agriculture in accordance  
7 with law.

CONSERVATION AND DEVELOPMENT

*85—Geological and Economic Survey Commission*

Acct. No. 520

1 Personal Services .....	\$	107,170.00
2 Current Expenses .....		30,080.00
3 Equipment .....		7,650.00
4 Cooperative Mapping Program .....		60,000.00
5 Total .....	\$	204,900.00

6 Of the above appropriation for Current Ex-  
7 penses, the sum of \$15,000.00 may be used  
8 to cooperate with the United States Geo-  
9 logical Survey in Ground Waters Re-  
10 sources Study.

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

86—*Conservation Commission*

Acct. No. 521

- |  |    |            |
|--|----|------------|
| 1 For construction of forest tree nursery facilities                                   |    |            |
| 2 ties .....   | \$ | 100,000.00 |
| 3 Any unexpended balance remaining in the  |    |            |
| 4 1959-60 appropriation "For construction  |    |            |
| 5 of forest tree nursery facilities at McClintic Wildlife Station" at the close of the |    |            |
| 6 fiscal year 1959-60 is hereby reappropriated for expenditure during the fiscal year  |    |            |
| 7 1960-61, and may be expended only in accordance with the following provisions:       |    |            |
| 8 None of the funds herein appropriated or   |    |            |
| 9 reappropriated shall be used for purchase  |    |            |
| 10 of land. Expenditures shall be limited to   |    |            |
| 11 construction of nursery facilities on presently-owned state land which may be       |    |            |
| 12 available for the purpose and only upon   |    |            |
| 13 approval of the Board of Public Works   |    |            |
| 14 as to the site and availability of such site.                                       |    |            |

87—*Conservation Commission—Division of State Parks*

Acct. No. 522

- |                                   |    |            |
|-----------------------------------|----|------------|
| 1 Personal Services .....         | \$ | 231,935.00 |
| 2 Current Expenses .....          |    | 149,125.00 |
| 3 Repairs and Alterations .....   |    | 81,950.00  |
| 4 Equipment .....                 |    | 26,000.00  |
| 5 Forestry Expense .....          |    | 26,930.00  |
| 6 Advertising and Publicity ..... |    | 10,000.00  |
| 7 Total .....                     | \$ | 525,940.00 |



88—*Conservation Commission—Clarke-McNary*

## Acct. No. 523

1	For cooperation with the United States De-	
2	partment of Agriculture in Fire Preven-	
3	tion and Control .....	\$ 75,000.00
4	Any unexpended balance remaining in this	
5	account at the close of the fiscal year 1959-	
6	60 is hereby reappropriated for expendi-	
7	ture during the fiscal year 1960-61.	

89—*Conservation Commission—Historical Monuments  
and Parks*

## Acct. No. 561

1	Care and maintenance of:	
2	Point Pleasant Battle Monument and Park \$	4,500.00
3	Rumsey Monument and Park .....	900.00
4	Morgan Morgan Memorial .....	200.00
5	Fairfax Stone .....	300.00
6	Booker T. Washington Park .....	300.00
7	Cathedral Park .....	2,100.00
8	Pinnacle Rock Park .....	1,600.00
9	Total .....	\$ 9,900.00

90—*Economic Development Agency*

## Acct. No. 563

1	For administration and economic planning	
2	expenses in accordance with the provi-	
3	sions of Senate Bill No. 340	
4	(1959 Legislature) .....	\$ 200,000.00

91—*Department of Veterans Affairs*

## Acct. No. 564

1	In aid of Veterans Day Patriotic Exercises....\$	2,000.00
2	To be expended subject to the approval of	
3	the Department of Veterans Affairs upon	

- 4 presentation of satisfactory plans by the  
 5 Grafton G.A.R. Post, American Legion,  
 6 Veterans of Foreign Wars and Sons of  
 7 Veterans.

## PROTECTION

92—*Department of Public Safety*

## Acct. No. 570

1	Personal Services .....	\$	1,279,100.00
2	Current Expenses .....		647,155.00
3	Repairs and Alterations .....		21,960.00
4	Equipment .....		112,500.00
5	Total .....	\$	2,060,715.00

93—*Adjutant General—State Militia*

## Acct. No. 580

1	Personal Services .....	\$	47,768.00
2	Current Expenses .....		140,871.00
3	Repairs and Alterations .....		7,200.00
4	Equipment .....		6,300.00
5	Compensation of Commanding Officers, Cler-		
6	ical Allowances and Uniform Allowances		71,960.00
7	Property Maintenance .....		36,250.00
8	State Armory Board .....		239,630.00
9	Total .....	\$	549,979.00

94—*Department of Civil and Defense Mobilization*

## Acct. No. 581

1	Personal Services .....	\$	31,300.00
2	Current Expenses .....		12,810.00
3	Equipment .....		2,300.00
4	Total .....	\$	46,410.00

95—*Department of Mental Health—Insurance*

## Acct. No. 583

1	Fire Insurance Premiums .....	\$	120.00
2	To pay fire insurance covering Department		
3	of Mental Health and six mental hospitals.		

96—*State Board of Education—Insurance*

## Acct. No. 584

1	To insure contents of buildings .....	\$	6,821.00
2	To insure contents of non-revenue producing		
3	buildings.		
4	Fourth annual installment due on a policy		
5	covering a five-year period ending July 1,		
6	1962.		

97—*State Board of Accountancy*

## Acct. No. 586

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

98—*West Virginia Board of Examiners  
for Practical Nurses*

## Acct. No. 587

1	To pay the per diem of members and other		
2	general expenses .....	\$	13,500.00
3	From Collections .....		13,500.00

99—*State Board of Examiners for Registered Nurses*

## Acct. No. 588

1	To pay the per diem of members and other		
2	general expenses .....	\$	32,000.00
3	From Collections .....		32,000.00

100—*State Board of Dental Examiners*

## Acct. No. 589

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

101—*State Board of Pharmacy*

## Acct. No. 590

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

102—*State Board of Osteopathy*

## Acct. No. 591

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

103—*State Board of Optometry*

## Acct. No. 592

1 To pay the per diem of members and other		
2   general expenses .....	\$	2,400.00
3 <i>From Collections</i> .....		2,400.00

104—*State Board of Embalmers and Funeral Directors*

## Acct. No. 593

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

105—*State Board of Registration for Professional  
Engineers*

## Acct. No. 594

1 To pay the per diem of members and other		
2   general expenses .....	\$	18,180.00
3 <i>From Collections</i> .....		18,180.00

106—*State Board of Architects*

## Acct. No. 595

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

107—*State Veterinary Board*

## Acct. No. 596

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

108—*State Board of Law Examiners*

## Act. No. 597

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

109—*West Virginia Board of Sanitarians*

## Acct. No. 599

1 To pay the per diem of members and other		
2 general expenses .....	\$	600.00
3 <i>From Collections</i> .....		600.00

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

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

## Acct. No. 670

## TO BE PAID FROM STATE ROAD FUND

1 Personal Services .....	\$	425,000.00
2 Current Expenses .....		90,000.00

3	Equipment .....	8,000.00
4	Total .....	\$ 523,000.00
5	In addition to the foregoing appropriations	
6	and claims as authorized by this act or by	
7	law to be paid from the state road fund, the	
8	balance or residue of the annual receipts of	
9	the state road fund is hereby appropriated	
10	first for the payment of interest on and	
11	principal of outstanding road bonds, and	
12	thereafter for maintenance, construction	
13	and reconstruction of state roads in accord-	
14	ance with the provisions of chapter seven-	
15	teen, code of West Virginia, 1931, as	
16	amended.	

111—*Department of Motor Vehicles*

Acct. No. 671

## TO BE PAID FROM STATE ROAD FUND

1	Personal Services .....	\$ 550,000.00
2	Current Expenses .....	211,110.00
3	Equipment .....	9,000.00
4	Purchase of License Plates .....	207,000.00
5	Social Security Matching Fund .....	16,500.00
6	Total .....	\$ 993,610.00

112—*State Tax Commissioner—Gasoline Tax  
Division*

Acct. No. 672

## TO BE PAID FROM STATE ROAD FUND

1	Personal Services .....	\$ 103,670.00
2	Current Expenses .....	24,900.00
3	Equipment .....	5,000.00
4	Social Security Matching Fund .....	2,660.00
5	Total .....	\$ 136,230.00

113—*State Board of Education*

## Acct. No. 700

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	27,360.00
2	Current Expenses .....		10,850.00
3	Equipment .....		1,855.00
4	Total .....	\$	40,065.00

114—*State Board of Education—Vocational Division*

## Acct. No. 701

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	26,510.00
2	Current Expenses .....		7,000.00
3	Equipment .....		2,900.00
4	Vocational Aid .....		350,000.00
5	Total .....	\$	386,410.00

115—*Department of Education—Veterans Education*

## Acct. No. 702

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	41,940.00
2	Current Expenses .....		14,466.00
3	Total .....	\$	56,406.00

- 4 Expenditures from this appropriation shall  
 5 not exceed the amount to be reimbursed  
 6 by the Federal Government.  
 7 Federal funds in excess of the amounts here-  
 8 by appropriated may be made available by  
 9 budget amendment upon request of the  
 10 State Superintendent of Schools and ap-  
 11 proval of the Board of Public Works for  
 12 any emergency which might arise in the  
 13 operation of this division during the fiscal  
 14 year.

116—*Department of Education*

Acct. No. 703

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Salary of State Superintendent .....	\$	12,000.00
2	Other Personal Services .....		229,240.00
3	Current Expenses .....		81,312.00
4	Equipment .....		4,500.00
5	National Defense Education Act .....		100,000.00
6	Total .....	\$	427,052.00

117—*State Board of School Finance*

Acct. No. 704

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	15,960.00
2	Current Expenses .....		3,310.00
3	Total .....	\$	19,270.00

118—*Department of Education—School Lunch Program*

Acct. No. 705

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Personal Services .....	\$	47,520.00
2	Current Expenses .....		13,250.00
3	Aid to Counties—Includes hot lunches and		
4	canning for hot lunches .....		125,000.00
5	Total .....	\$	185,770.00

119—*Department of Education*

Acct. No. 706

## TO BE PAID FROM GENERAL SCHOOL FUND

1	Salaries of County Superintendents .....	\$	62,300.00
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## 120—Department of Education

Acct. No. 707

**TO BE PAID FROM GENERAL SCHOOL FUND**

1 State Aid to Children's Homes .....	\$ 25,000.00
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121—State Tax Commissioner—  
Store and General Licenses Division

Acct. No. 712

**TO BE PAID FROM GENERAL SCHOOL FUND**

**1 Personal Services** .....\$ 36,800.00

<b>2 Current Expenses</b>	<b>2,000.00</b>
---------------------------	-----------------

<b>3 Equipment</b>	<b>1,000.00</b>
--------------------	-----------------

4 Total.....\$ 39,800.00

## 122—Department of Education

Acct. No. 715

**TO BE PAID FROM GENERAL SCHOOL FUND**

1 Scholarships for Teacher Training .....	\$ 200,000.00
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## 123—Real Estate Commission

Acct. No. 801

**TO BE PAID FROM SPECIAL REVENUE FUND**

1 Personal Services .....	\$ 16,000.00
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2 Current Expenses .....	10,000.00
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<b>3 Equipment</b>	<b>1,000.00</b>
--------------------	-----------------

<b>4 Social Security Matching Fund</b>	<b>480.00</b>
--	---------------

5 Total \_\_\_\_\_ \$ 27,480.00

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

124—*Public Land Corporation*

Acct. No. 802

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	9,750.00
2	Current Expenses .....		4,000.00
3	Total .....	\$	13,750.00

4 The total amount of this appropriation shall  
 5 be paid from Special Revenue Fund out of  
 6 income received by the corporation as pro-  
 7 vided by law.

125—*West Virginia Racing Commission*

Acct. No. 808

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Medical Expenses .....	\$	5,000.00
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2 The total amount of this appropriation shall  
 3 be paid from Special Revenue Fund out  
 4 of collections of license fees and fines as  
 5 provided by law.

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

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

Acct. No. 812

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	30,020.00
2	Current Expenses .....		12,500.00
3	Total .....	\$	42,520.00

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.

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

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	73,860.00
2	Current Expenses .....		15,330.00
3	Equipment .....		3,000.00
4	Social Security Matching Fund .....		2,215.00

5	Total .....	\$	94,405.00
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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,  
14 the necessary amount for the purchase of  
15 supplies for resale.

128—*Department of Agriculture*

Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	135,600.00
2	Current Expenses .....		40,700.00
3	Equipment .....		8,000.00
4	Social Security Matching Fund .....		3,500.00

5	Total .....	\$	187,800.00
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6 The total amount of this appropriation shall  
7 be paid from Special Revenue Fund out of  
8 collections made by the Department of Ag-  
9 riculture as provided by law. It is the  
10 intention that special funds in excess of the  
11 amounts hereby appropriated shall be

- 12 made available by budget amendments  
 13 upon request of the Commissioner of Agri-  
 14 culture.

129—*State Committee of Barbers and Beauticians*

Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$ 27,480.00
2 Current Expenses .....	15,200.00
3 Social Security Matching Fund .....	775.00
4 Total .....	\$ 43,455.00

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

130—*Insurance Commissioner*

Acct. No. 826

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$ 98,240.00
2 Current Expenses .....	12,930.00
3 Equipment .....	1,000.00
4 Social Security Matching Fund .....	2,950.00
5 Total .....	\$ 115,120.00

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

131—*Insurance Commissioner—Fire Marshal*

Acct. No. 827

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$ 79,700.00
2 Current Expenses .....	22,940.00

3	Equipment .....	5,800.00
4	Building Repair and Maintenance .....	2,600.00
5	Social Security Matching Fund .....	2,400.00
6	Building and Equipment .....	15,000.00
7	Total.....\$	128,440.00
8	The total amount of this appropriation shall	
9	be paid from Special Revenue Fund out of	
10	collections of the special tax of one-half of	
11	one per cent of premium receipts of fire in-	
12	surance companies as provided by law.	
13	Out of the above appropriation the sum of	
14	\$15,000.00 appropriated for "Buildings and	
15	Equipment" shall be available for ex-	
16	penditure from the date of passage of this	
17	act.	

132—*Public Service Commission*

Acct. No. 828

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Salaries of Commissioners .....	\$ 24,000.00
2	Other Personal Services .....	366,475.00
3	Current Expenses .....	45,000.00
4	Equipment .....	6,650.00
5	Social Security Matching Fund .....	7,875.00
6	Total .....	\$ 450,000.00
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	
12	\$5,000.00 may be transferred to the State	
13	Water Resources Commission for use in	
14	cooperation with the U. S. Geological Sur-	
15	vey in a program of stream gauging.	

133—*Public Service Commission—Motor Carrier  
Division*

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	151,400.00
2	Current Expenses .....		40,300.00
3	Equipment .....		4,600.00
4	Social Security Matching Fund .....		4,000.00
5	Total .....	\$	200,300.00
6	The total amount of this appropriation shall		
7	be paid from Special Revenue Fund out of		
8	receipts collected for or by the Public		
9	Service Commission pursuant to and in the		
10	exercise of regulatory authority over		
11	motor carriers as authorized by law.		

134—*Conservation Commission*

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$	1,318,840.00
2	Current Expenses .....		526,430.00
3	Repairs and Alterations .....		108,000.00
4	Equipment .....		145,500.00
5	Land Purchase .....		75,000.00
6	National Forests .....		89,820.00
7	White Pine Blister Rust Control .....		5,000.00
8	Oak Wilt Control .....		8,000.00
9	For construction of ponds and small lakes ....		75,000.00
10	Social Security Matching Fund .....		37,000.00
11	Total .....	\$	2,388,590.00
12	The total amount of this appropriation shall		
13	be paid from Special Revenue Fund out of		
14	fees collected by the Conservation Com-		
15	mission. Expenditures shall be limited to		
16	the amounts appropriated except for		

17 Federal Funds received and Special Funds  
18 collected at state parks. Special Funds in  
19 excess of the amounts hereby appropriated  
20 may be made available by budget amend-  
21 ment upon request of the Conservation  
22 Commission and approval of the Board of  
23 Public Works for any emergency which  
24 might arise in the operation of this di-  
25 vision during the fiscal year.

135—*Department of Public Safety—Inspection Fees*

Acct. No. 835

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$ 90,600.00
2 Current Expenses .....	66,470.00
3 Repairs and Alterations .....	7,100.00
4 Equipment .....	18,000.00
5 Social Security Matching Fund .....	430.00
6 Total .....	\$ 182,600.00

7 The total amount of this appropriation shall  
8 be paid from Special Revenue Fund out  
9 of fees collected for inspection stickers as  
10 provided by law. Special Funds in excess  
11 of the amounts hereby appropriated may  
12 be made available by budget amendment  
13 upon request of the Department of Public  
14 Safety and approval of the Board of Pub-  
15 lic Works for the purpose of repairs to,  
16 or construction of police barracks, not to  
17 exceed one hundred thousand dollars in  
18 any one fiscal year.

136—*West Virginia Liquor Control Commissioner*

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salary of Commissioner .....	\$ 10,000.00
2 Other Personal Services .....	2,566,280.00

3	Current Expenses .....	730,650.00
4	Repairs and Alterations .....	17,200.00
5	Equipment .....	27,500.00
6	Social Security Matching Fund .....	77,000.00
7	Total .....	\$ 3,428,630.00
8	The total amount of this appropriation shall	
9	be paid from Special Revenue Fund out of	
10	liquor revenues.	
11	The above appropriation includes the sal-	
12	aries of store personnel, store inspectors,	
13	store operating expenses and equipment;	
14	and salaries, expenses and equipment of	
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 pur-	
19	chase of liquor, as provided by law.	

137—*West Virginia Merit System Council*

Acct. No. 840

## TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services .....	\$ 58,050.00
2	Current Expenses .....	15,655.00
3	Social Security Matching Fund .....	1,750.00
4	Total .....	\$ 75,455.00
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.	

138—*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.

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

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1	Offices and Warehouse, Evansdale Campus \$	165,000.00
2	Library, Potomac State College .....	200,000.00
3	Addition to Elizabeth Moore Hall .....	90,000.00
4	Bunkhouses and Laboratory Space, Camp	
5	Wood .....	15,000.00
6	Communication Arts Center .....	325,000.00
7	First section of proposed multi-purpose	
8	building, Main Campus .....	305,000.00
9	Total .....	\$ 1,100,000.00
10	The total amount of this appropriation shall	
11	be paid from the non-revolving Capital	
12	Improvement Fund created by the 1959	
13	Legislature.	
14	Expenditures from this appropriation may	
15	be made from date of passage of this act.	

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

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1	Women's Dormitory—West Virginia Insti-	
2	tute of Technology (Includes furnishings	
3	and equipment \$30,000.00) .....	\$ 330,000.00
4	Women's Dormitory—Glenville State Col-	
5	lege (Includes furnishings and equipment	
6	\$50,000.00) .....	\$ 450,000.00
7	Total .....	\$ 780,000.00

8 The total amount of this appropriation shall  
 9 be paid from the non-revolving Capital  
 10 Improvement Fund created by the 1959  
 11 Legislature.

141—*Workmen's Compensation Commission*

Acct. No. 900

TO BE PAID FROM WORKMEN'S COMPENSATION FUND

1 Personal Services .....	\$ 590,000.00
2 Current Expenses .....	243,326.00
3 Equipment .....	5,400.00
4 Social Security Matching Fund .....	17,700.00
5 Total .....	\$ 856,426.00

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 protection  
 11 of the Workmen's Compensation 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 sixty to supplement the 1959-60  
 6 appropriations, and to be available for expenditure upon  
 7 date of passage:

142—*Auditor's Office*

Acct. No. 150

1 Equipment .....	\$ 18,000.00
2 To match contributions of state employees 3 for Social Security .....	90,317.00
4 Total .....	\$ 108,317.00

143—*Secretary of State*

## Acct. No. 250

1	Other Personal Services .....	\$	3,000.00
2	Current Expenses .....		5,000.00
3	Equipment .....		2,000.00
4	Total .....	\$	10,000.00

144—*Teachers Retirement Board*

## Acct. No. 298

1	Benefit Fund .....	\$	396,429.00
2	Employers Accumulation Fund .....		112,084.00
3	Total .....	\$	508,513.00

145—*West Virginia Racing Commission*

## Acct. No. 495

1	Personal Services .....	\$	10,470.00
2	Current Expenses .....		2,000.00
3	Total .....	\$	12,470.00

146—*Department of Agriculture*

## Acct. No. 510

1	Eradication and Control of Oak Wilt .....	\$	10,000.00
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147—*Department of Agriculture—  
Soil Conservation Committee*

## Acct. No. 512

1	Personal Services .....	\$	2,800.00
2	Current Expenses .....		4,000.00
3	Total .....	\$	6,800.00

148—*Department of Civil and Defense Mobilization*

Acct. No. 581

1 Personal Services .....	\$	9,900.00
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149—*Department of Motor Vehicles*

Acct. No. 671

## TO BE PAID FROM STATE ROAD FUND

1 Purchase of License Plates .....	\$	50,000.00
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150—*Real Estate Commission*

Acct. No. 801

## TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$	3,250.00
2 Current Expenses .....		2,000.00
3 Equipment .....		2,300.00
4 Social Security Matching Fund .....		64.00
5 Total .....	\$	7,614.00

151—*Public Land Corporation*

Acct. No. 802

## TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$	3,360.00
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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, 1960, or at the time release or encumbrance of any such items is made, subject to the conditions and limitations hereinafter expressed.

(b) Expenditures authorized, which are for construction purposes, shall be for a complete and usable unit or project including necessary equipment.

12 (c) Any of the items appropriated under this section may  
13 be released or encumbrances made therefor at any time  
14 after the first day of July, 1960, as the Board of Public  
15 Works may deem proper, subject to the limitations herein  
16 expressed.

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

19 Item 1: West Virginia Training School,  
20 for construction of a Crib Ward Dormitory  
21 building .....\$ 450,000.00

22 Item 2: Department of Agriculture, to  
23 complete Moorefield Pathological Labora-  
24 tory .....\$ 30,000.00

25 The Board of Public Works shall review the revenues of  
26 the state from the first day of July, 1960, to the date that  
27 appropriations hereunder are expected to be made avail-  
28 able for expenditure, and determine whether, in its opinion,  
29 revenues then in prospect or on hand will be sufficient to  
30 meet all appropriations under this and other sections of  
31 this budget bill, and make a finding with respect thereof.  
32 In the event that such finding shall show sufficient revenues  
33 on hand or in prospect to meet all other appropriations  
34 made by this act (Budget Bill), the Board of Public Works  
35 may, from any excess over and above the amount required  
36 to meet all appropriations contained in the act, release the  
37 following item, if available funds will permit:

38 Item 3: West Virginia Schools for the Deaf and Blind,  
39 for construction of a class room building \$548,250.00.

Sec. 4-a. *Appropriations for State Economic Recovery*  
2 *Program.*—In addition to all other appropriations contained  
3 in this bill, the following items are hereby appropriated  
4 from the General Revenue Fund, subject to the following  
5 terms and conditions:

6 (a) The following items are hereby appropriated and  
7 are to be available for expenditure out of the surplus in  
8 the General Revenue Fund and/or additional revenues  
9 provided therein, as indicated by the budget and amend-  
10 ments thereto.

11 (b) It is the purpose of these appropriations to provide  
12 for relief of unemployment in the state and, to this end,  
13 employment of labor, other than skilled, technical and  
14 supervisory personnel, on projects covered by these appro-  
15 priations shall be given to unemployed individuals who are  
16 not receiving unemployment benefits and who receive no  
17 aid from the Department of Public Assistance, or other  
18 agency.

19 (c) Any of the items appropriated under this section, or  
20 a portion thereof, may be released or encumbrances made  
21 therefor, at any time after the date of passage of this act  
22 that the Board of Public Works may deem proper, within  
23 revenues available at that time.

24 (d) On and after July 1, 1960, it is the intent that these  
25 appropriations shall be available for expenditure without  
26 limitation by the Board of Public Works other than such  
27 limitations as may apply to all appropriations contained in  
28 this bill.

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

31 Item 1: Conservation Commission, for  
32 construction of new facilities; for repairs  
33 and improvements at State Parks and State  
34 Forests; and for construction of lakes and  
35 recreation areas; including materials, water  
36 supplies, roadways, building repairs, picnic  
37 areas, timber stand improvements, swim-  
38 ming facilities, and camping facilities ..... \$ 3,500,000.00

39 Item 2: State Board of Education—Voca-  
40 tional Division, for the establishment and  
41 operation of area vocational educational  
42 programs as provided by House Bill No. 7...\$ 400,000.00

43 Item 3: Department of Agriculture—Soil  
44 Conservation Committee, for cooperation  
45 with the Federal Government for watershed  
46 improvement program .....\$ 50,000.00

47 Item 4: Department of Agriculture, for co-  
48 operation with the Federal Government in a

49 program of marketing and research, for Oak  
50 Wilt Control, to provide material and labor  
51 for additional farm market facilities, and for  
52 cooperation with local committees in "Gar-  
53 den For Better Living" projects .....\$ 300,000.00

54 Item 5: Department of Public Assistance,  
55 for administrative costs in connection with  
56 enforcement of Senate Bill No. 40.....\$ 100,000.00

.Sec. 5. *Reappropriations.*—The date for expiring the un-  
2 expended balances, if any, in items 1, First, Fourth, Fifth,  
3 Seventh, Eighth, Ninth, Tenth, Eleventh, Thirteenth, Four-  
4 teenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth.  
5 Twentieth, Twenty-first, Twenty-second, Twenty-third,  
6 in the appropriations made by and under authority of sec-  
7 tion 4 of the 1958 Budget Act and reappropriated under Sec-  
8 tion 4 of the 1959 Budget Act is extended to June 30, 1961,  
9 and is hereby reappropriated to June 30, 1961.

10 Item Ninth — Conservation Commission — Division of  
11 State Parks, as herein reappropriated, may be used to con-  
12 struct toilet facilities at Point Pleasant Battle Monument  
13 State Park.

14 Item Sixteenth, Andrew S. Rowan Memorial Home, as  
15 herein reappropriated, may be used to re-roof, re-model,  
16 and re-furnish the Central Building.

17 Item Twenty-first, as herein reappropriated, may be  
18 used for purchase of land and/or for construction of a fish-  
19 ing lake.

20 The date for expiring the unexpended balances, if any, in  
21 items 4, 13, 14, 16, 18, 22, 23, and appropriations, in sub-  
22 sequent paragraph, made to Marshall College by and under  
23 authority of section 5 of the 1957 Budget Act and reappro-  
24 priated under section 5 of the 1958 Budget Act and reap-  
25 propriated again under section 4 of the 1959 Budget Act is  
26 extended to June 30, 1961 and is hereby reappropriated to  
27 June 30, 1961.

28 Item 13: West Virginia Industrial Home for Girls, as  
29 herein reappropriated, may be used to complete and equip  
30 new dormitory.

Sec. 6. *Special Revenue Appropriations.*—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred sixty-one 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, 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



3 to meet a deficiency that may arise in the funds of the state  
4 sinking fund commission because of the failure of any state  
5 agency for either general obligation or revenue bonds or  
6 any local taxing district for general obligation bonds to  
7 remit funds necessary for the payment of interest and sink-  
8 ing fund requirements. The board of public works is  
9 authorized to transfer from time to time such amounts to  
10 the state sinking fund commission as may be necessary for  
11 this purpose.

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

Sec. 10. *Appropriations from Taxes and License Fees.*—

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

Sec. 11. *Appropriations to Pay Costs of Publication of*

2 *Delinquent Corporations.*—There is hereby appropriated  
3 out of the state fund, general revenue, out of funds not  
4 otherwise appropriated to be paid upon requisition of the  
5 auditor and/or the governor, as the case may be, a sum  
6 sufficient to pay the cost of publication of delinquent 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. 12. *Appropriations for Local Governments.*—There

2 is hereby appropriated for payment to counties, districts,  
3 and municipal corporations such amounts as will be neces-

4 sary to pay taxes due county, district, and municipal 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.
2. Constitutionality.

Section 1. *Appropriations Conditional.*—The expenditure  
2 of the appropriations made by this act, except those appro-  
3 priations made to the legislative and judicial branches of  
4 the state government, are conditioned upon the compliance  
5 by 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 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 3

(Senate Bill No. 8—By Mr. Carrigan)

AN ACT to amend and reenact section seven, article six, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of the state armory board to issue revenue bonds.

[Passed February 9, 1960; in effect from passage. Approved by the Governor.]

### Article 6. State Armory Board.

#### Section

7. Authority of board to issue armory board revenue bonds; grants and gifts.

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

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

Section 7. *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 five per cent per annum, payable semiannually, and shall mature in not more than thirty years from their date or dates, and may

19 be made redeemable at the option of the state, to be exer-  
20 cised by the board, at such price and under such terms  
21 and conditions as the board may fix prior to the issuance  
22 of such bonds. The board shall fix the denominations of  
23 said bonds, the principal and interest of which shall be  
24 payable at the office of the treasurer of the state of West  
25 Virginia, at the capitol of said state, or, at the option of  
26 the holder, at some bank or trust company in the city of  
27 New York, to be named in the bond, in such medium, as  
28 may be determined by the board. Proceeds of such bonds  
29 shall be used solely for the payment of the cost of the  
30 project and shall be deposited and checked out as pro-  
31 vided by section nine of this article, and under such  
32 further restrictions, if any, as the board may provide.  
33 The board shall determine the form of such bonds, in-  
34 cluding coupons to be attached thereto, which bonds  
35 shall bear the facsimile signature of the governor as  
36 chairman of the board and shall be signed by the secre-  
37 tary of state as secretary of the board, under the great  
38 seal of the state, attested by the secretary of state, and  
39 the coupons attached thereto shall bear the facsimile  
40 signature of the governor as chairman of the board. In  
41 case any of the officers whose signatures appear on the  
42 bonds or coupons shall cease to be such officers before the  
43 delivery of such bonds, such signatures shall nevertheless  
44 be valid and sufficient for all purposes the same as if  
45 they had remained in office until such delivery. The  
46 board may provide for the registration of such bonds in  
47 the name of the owner as to the principal loan, and as to  
48 both principal and interest under such terms and condi-  
49 tions as the board may determine, and shall sell such  
50 bonds in such manner as it may be determined to be for  
51 the best interests of the state, taking into consideration the  
52 financial responsibility of the purchaser, and the terms  
53 and conditions of the purchaser and especially the avail-  
54 ability of the proceeds of the bonds when required for  
55 payment of the costs of the project, such sales to be made  
56 at a price not lower than a price which, computed upon  
57 standard tables of bond values, will show a net return of  
58 five and one-half per cent per annum to the purchaser  
59 upon the amount paid therefor. If the proceeds of such

60 bonds by error of calculation or otherwise, shall be less  
61 than the cost of the project, additional bonds may in like  
62 manner be issued to provide the amount of the deficiency,  
63 and unless otherwise provided for in the trust agreement  
64 hereinafter mentioned, shall be deemed to be of the same  
65 issue, and shall be entitled to payment from the same  
66 fund, without preference or priority as to the bonds before  
67 issue. If the proceeds of the bonds issued for the project  
68 shall exceed the costs thereof, surplus shall be paid into  
69 the fund provided by section ten of this article for pay-  
70 ment of the principal and interest of such bonds. Such  
71 fund may be used for the purchase of any of the out-  
72 standing bonds payable from such fund at the market  
73 price, but at not exceeding the price, if any, of which  
74 bonds in the same year may be redeemable, and all bonds  
75 redeemed or purchased shall not again be issued.

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## CHAPTER 4

(House Bill No. 28—By Mr. Parker and Mr. Rairden)

AN ACT to provide for the submission to the voters of an amendment to the constitution of the state, providing for a preamble thereto.

[Passed February 2, 1960; in effect ninety days from passage. Approved by the Governor.]

### Preamble for the Constitution Amendment.

#### Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "preamble for the constitution 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.*—The question of ratification or rejection of an

3 amendment to the constitution of West Virginia, proposed  
4 in accordance with the provisions of section two, article  
5 fourteen of said constitution, shall be submitted to the  
6 voters of the state at the next general election, to be held  
7 in the year one thousand nine hundred sixty, which pro-  
8 posed amendment is to provide for a preamble to the con-  
9 stitution to read as follows:

10

## P R E A M B L E

11 "Since through Divine Providence we enjoy the bless-  
12 ings of civil, political and religious liberty, we, the people  
13 of West Virginia, in and through the provisions of this  
14 Constitution, reaffirm our faith in and constant reliance  
15 upon God and seek diligently to promote, preserve and  
16 perpetuate good government in the state of West Virginia  
17 for the common welfare, freedom and security of our-  
18 selves and our posterity."

Sec. 2. *Amendment to Be Known as the "Preamble for  
2 the Constitution Amendment."*—For convenience in re-  
3 ferring to said proposed amendment, and in the prepara-  
4 tion of the form of the ballot hereinafter provided for,  
5 said proposed amendment is hereby designated as the  
6 "Preamble for the Constitution Amendment."

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

9

*Amendment No. 1*

10 Ballot on "Preamble for the Constitution Amendment".

11 ☐ For ratification.

12 ☐ Against ratification.

13 The said election on the proposed amendment at each  
14 place of voting shall be superintended, conducted and  
15 returned, and the result thereof ascertained by the same  
16 officers and in the same manner as the election of officers  
17 to be voted for at said election, and all provisions of the

18 law relating to general elections, including all duties to  
19 be performed by any officer or board, as far as practicable,  
20 and not inconsistent with anything herein contained, shall  
21 apply to the election held under the provisions of this act,  
22 except when it is herein otherwise provided. The ballots  
23 cast on the question of said proposed amendment shall be  
24 counted as other ballots cast at said election.

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

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

16 “For ratification of Preamble for the Constitution  
17 Amendment \_\_\_\_\_ votes.

18 “Against ratification of Preamble for the Constitution  
19 Amendment \_\_\_\_\_ votes.

20 “Given under our hand this \_\_\_\_\_ day of November,  
21 one thousand nine hundred sixty.”

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

32 The said certificates, together with the ballots cast on  
33 the question of said proposed amendment, shall be laid

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

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

50 "For ratification of Preamble for the Constitution  
51 Amendment \_\_\_\_\_ votes.

52 "Against ratification of Preamble for the Constitution  
53 Amendment \_\_\_\_\_ votes.

54 "Given under our hands this \_\_\_\_\_ day of November,  
55 one thousand nine hundred sixty."

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

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

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



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

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## CHAPTER 5

(House Bill No. 48—By Mr. Armistead and Mr. Kessel)

AN ACT to provide for the submission to the voters of an amendment to the constitution of the state, amending section two, article fourteen thereof, relating to amendments to the constitution.

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[Passed February 8, 1960; in effect ninety days from passage. Approved by the Governor.]

### Procedure for Amending the Constitution Amendment.

#### Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "procedure for amending the constitution 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.*—The question of ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article

5 fourteen of said constitution, shall be submitted to the  
6 voters of the state at the next general election, to be held  
7 in the year one thousand nine hundred sixty, which pro-  
8 posed amendment is to amend section two, article four-  
9 teen of the constitution to read as follows:

10 "Section 2. *How Amendments Are Made.*—Any amend-  
11 ment to the Constitution of the State may be proposed in  
12 either house of the Legislature; and if the same, being  
13 read on three several days in each house, be agreed to on  
14 its third reading, by two thirds of the members elected  
15 thereto, the proposed amendment, with the yeas and nays  
16 thereon, shall be entered on the journals, and it shall be  
17 the duty of the Legislature to provide by law, for sub-  
18 mitting the same to the voters of the State for ratification  
19 or rejection at the next general election thereafter, and  
20 cause the same to be published, at least three months be-  
21 fore such election in some newspaper in every county in  
22 which a newspaper is printed. And if a majority of the  
23 qualified voters, voting on the question at the polls held  
24 pursuant to such law, ratify the proposed amendment, it  
25 shall be in force from the time of such ratification, as part  
26 of the Constitution of the State. If two or more amend-  
27 ments be submitted at the same time, the vote on the  
28 ratification or rejection shall be taken on each separately,  
29 but an amendment may relate to a single subject or to  
30 related subject matters and may amend or modify as many  
31 articles and as many sections of the Constitution as may  
32 be necessary and appropriate in order to accomplish the  
33 objectives of the amendment."

2 Sec. 2. *Amendment to Be Known as the "Procedure for*  
3 *Amending the Constitution Amendment.*"—For conven-  
4 ience in referring to said proposed amendment, and in the  
5 preparation of the form of the ballot hereinafter provided  
6 for, said proposed amendment is hereby designated as the  
"Procedure for Amending the Constitution Amendment."

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

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

9 *Amendment No. 2*

10 Ballot on "Procedure for Amending the Constitution  
11 Amendment".

12 ☐ For ratification.

13 ☐ Against ratification.

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

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

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

16 "For ratification of Procedure for Amending the Con-  
17 stitution Amendment \_\_\_\_\_ votes.

18 "Against ratification of Procedure for Amending the  
19 Constitution Amendment \_\_\_\_\_ votes.

20 "Given under our hands this ..... day of November,  
21 one thousand nine hundred sixty."

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 canvassers, or any one of them, as the case may be), shall,  
26 within four days, excluding Sunday, after that on which  
27 said election was held, deliver one of said certificates to  
28 the clerk of the county court of his county, together with  
29 the ballots, and the other to the clerk of the circuit court  
30 of the county.  
31

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

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

50 "For ratification of Procedure for Amending the Con-  
51 stitution Amendment ..... votes.

52 "Against ratification of Procedure for Amending the  
53 Constitution Amendment ..... votes.

54 "Given under our hands this ..... day of November,  
55 one thousand nine hundred sixty."

56 One of the certificates shall be filed in the office of the  
57 clerk of the county court, and the other forwarded by mail  
58 to the secretary of state, who shall file and preserve the  
59 same until the day on which the results of said election in  
60 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 be  
4 laid before the governor, whose duty it shall be to ascer-  
5 tain therefrom the result of said election in the state, and  
6 declare the same by proclamation published in one or  
7 more newspapers printed at the seat of government. If a  
8 majority of the votes cast at said election upon said ques-  
9 tion be for ratification of said amendment, the proposed  
10 amendment so ratified shall be in force and effect from  
11 and after the time of such ratification, as part of the con-  
12 stitution of the state.

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

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



## CHAPTER 6

(House Bill No. 49—By Mr. Poindexter and Mr. Seibert)

AN ACT to amend article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen, relating to the authority of county courts to join nonstock area development corporations; to participate in the management and direction of area development corporations; and to contribute funds and transfer property to such area development corporations.

[Passed February 9, 1960; in effect ninety days from passage. Approved by the Governor.]

**Article 5. Fiscal Affairs.****Section**

18. Membership and participation in area development corporations.

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

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

Section 18. *Membership and Participation in Area Development Corporations.*—A county court is hereby authorized and empowered to become associated with and to participate as a member of any area development corporation organized as a nonstock, nonprofit corporation under the provisions of chapter thirty-one of the code for the purposes of promoting, developing and advancing the business prosperity and economic welfare of the area embraced, its citizens and its industrial complex; encouraging and assisting through loans, investments or other business transactions in locating new business and industry within such area and rehabilitating and assisting existing businesses and industries therein, stimulating and promoting the expansion of all kinds of business and industrial activity which will tend to advance, develop, maintain the economic stability and provide maximum opportunities for employment in such area; cooperating and acting in conjunction with other organizations, federal, state or local, in the promotion and advancement of industrial, commercial, agricultural and recreational developments within such area; and furnishing money and credit, land and industrial sites, technical assistance and such other aid as may be deemed requisite for the promotion, development and conduct of all types of business, agricultural and recreational activities within such area.

A county court shall likewise be authorized and empowered to contribute to the cost of the operations and projects of such area development corporation by appropriating for such purposes money from its general funds not otherwise appropriated. A county court is likewise authorized and empowered, notwithstanding any other

32 provision of this chapter, to transfer and convey to such  
33 area development corporation property of any kind here-  
34 tofore acquired by the said county court for or adaptable  
35 to use in industrial and economic development, such trans-  
36 fers or conveyances to be without consideration or for  
37 such price and upon such terms and conditions as such  
38 county court shall deem proper.

39 A county court shall require as a condition of any such  
40 contribution, appropriation, transfer or conveyance that  
41 the area development corporation receiving the same  
42 shall, within thirty days after the close of the quarter,  
43 make to such county court a report containing an itemized  
44 statement of its receipts and disbursements during the  
45 preceding quarter, and make available to audit and ex-  
46 amination by the office of the state tax commissioner of  
47 West Virginia and any other proper public official or body  
48 its books, records and accounts.

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## CHAPTER 7

(House Bill No. 6—By Mr. Smith, of Putnam, and Mr. Casey)

AN ACT to amend and reenact sections one, one-e, one-f, one-l and one-bb, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article two by adding thereto a new section, designated section one-cc, all relating to establishment of judicial circuits and terms of court therein.

[Passed February 9, 1960; in effect from passage. Approved by the Governor.]

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

#### Section

1. Judicial circuits; judges; terms of court.
  - 1-e. Fifth circuit.
  - 1-f. Sixth circuit.
  - 1-l. Twelfth circuit.
- 1-bb. Twenty-eighth circuit.
- 1-cc. Twenty-ninth circuit.

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

That section one, one-e, one-f, one-l and one-bb, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted, and that said article two be further amended by adding thereto a new section, designated section one-cc, all to read as follows:

Section 1. *Judicial Circuits; Judges; Terms of Court.*—

2 The state shall be divided into judicial circuits as  
3 follows: The counties of Brooke, Hancock and Ohio  
4 shall constitute the first circuit; the counties of Mar-  
5 shall, Tyler and Wetzel shall constitute the second  
6 circuit; the counties of Doddridge, Pleasants and Ritchie  
7 shall constitute the third circuit; the counties of Wood  
8 and Wirt shall constitute the fourth circuit; the counties  
9 of Calhoun, Jackson and Roane shall constitute the fifth  
10 circuit; the county of Cabell shall constitute the sixth  
11 circuit; the county of Logan shall constitute the seventh  
12 circuit; the county of McDowell shall constitute the  
13 eighth circuit; the county of Mercer shall constitute  
14 the ninth circuit; the county of Raleigh shall con-  
15 stitute the tenth circuit; the counties of Greenbrier,  
16 Monroe, Pocahontas and Summers shall constitute the  
17 eleventh circuit; the county of Fayette shall constitute  
18 the twelfth circuit; the county of Kanawha shall con-  
19 stitute the thirteenth circuit; the counties of Brax-  
20 ton, Clay, Gilmer and Webster shall constitute the  
21 fourteenth circuit; the county of Harrison shall constitute  
22 the fifteenth circuit; the county of Marion shall constitute  
23 the sixteenth circuit; the county of Monongalia shall  
24 constitute the seventeenth circuit; the county of Preston  
25 shall constitute the eighteenth circuit; the counties of  
26 Barbour and Taylor shall constitute the nineteenth circuit;  
27 the county of Randolph shall constitute the twentieth  
28 circuit; the counties of Grant, Mineral and Tucker shall  
29 constitute the twenty-first circuit; the counties of Hamp-  
30 shire, Hardy and Pendleton shall constitute the twenty-  
31 second circuit; the counties of Berkeley, Jefferson and  
32 Morgan shall constitute the twenty-third circuit; the  
33 counties of Mingo and Wayne shall constitute the twenty-  
34 fourth circuit; the counties of Lincoln and Boone shall con-



35 stitute the twenty-fifth circuit; the counties of Lewis and  
36 Upshur shall constitute the twenty-sixth circuit; the  
37 county of Wyoming shall constitute the twenty-seventh  
38 circuit; the county of Nicholas shall constitute the twenty-  
39 eighth circuit; and the counties of Mason and Putnam  
40 shall constitute the twenty-ninth circuit.

41 There shall be elected on the Tuesday next after the  
42 first Monday in November, one thousand nine hundred  
43 sixty, and every eighth year thereafter, one judge in each  
44 of the circuits herein constituted, except for the first  
45 circuit there shall be two judges elected.

46 The terms of the several circuit judges of the counties  
47 aforesaid shall commence and be held each year as here-  
48 inafter provided.

Sec. 1-e. *Fifth Circuit.*—For the county of Calhoun, on  
2 the third Monday in February, June and October. For  
3 the county of Jackson, on the first Monday in January,  
4 May and September. For the county of Roane, on the  
5 fourth Monday in January, May and September.

Sec. 1-f. *Sixth Circuit.*—For the county of Cabell, on  
2 the first Monday in January and May, and on the second  
3 Monday in September.

Sec. 1-l. *Twelfth Circuit.*—For the county of Fayette on  
2 the first Tuesday in January, April and July, and the third  
3 Tuesday in September.

Sec. 1-bb. *Twenty-eighth Circuit.*—For the county of  
2 Nicholas, on the third Tuesday in February, May, August  
3 and November.

Sec. 1-cc. *Twenty-ninth Circuit.*—For the county of  
2 Mason, on the first Monday in January, May and Septem-  
3 ber. For the county of Putnam, on the first Monday in  
4 March, and on the second Monday in July and November.

5 This act, insofar as it relates to the rearrangement of  
6 judicial circuits and terms of court therein, shall become  
7 effective on January one, one thousand nine hundred  
8 sixty-one, but the provisions of this act relating to the  
9 election of judges of the judicial circuits, as rearranged  
10 herein, shall become effective as of the date of passage of  
11 this act: *Provided*, That persons desiring to file for

- 12 nomination as judge of either the twelfth, twenty-eighth  
13 or twenty-ninth judicial circuits at the primary election  
14 to be held on the second Tuesday in May, one thousand  
15 nine hundred sixty, shall have ten days from and after the  
16 date of passage of this act within which to file for such  
17 nomination.

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## CHAPTER 8

(House Bill No. 7—By Mr. Speaker, Mr. Pauley, and Mr. Seibert)

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-b, relating to the establishment and operation of area vocational educational programs by the West Virginia board of vocational education.

[Passed February 5, 1960; in effect from passage. Approved by the Governor.]

### Article 2-b. Area Vocational Educational Program.

#### Section

1. Aims and purposes; areas.
2. State board of education authorized to establish programs; authority generally; director of vocational education.
3. Vocational educational program fund established.
4. Expenditure of fund.
5. Title to property; transfer between areas.
6. Qualifications of applicants to participate as students; rules and regulations governing eligibility of applicants; fee students.
7. Transportation of students.
8. Consulting committees.

*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 two-b, to read as follows:

- Section 1. *Aims and Purposes; Areas.*—The aims and  
2 purposes of the area vocational educational program shall

3 be to provide vocational training or retraining on an  
4 organized basis designed to prepare individuals for useful  
5 employment in recognized occupations. The program  
6 shall be made available to residents of West Virginia in  
7 an area or areas designated and approved by the West  
8 Virginia board of vocational education.

Sec. 2. *State Board of Education Authorized to Establish  
2 Programs; Authority Generally; Director of Vocational  
3 Education.*—For the purpose of this article, the state board  
4 of education is designated as the state board of vocational  
5 education and is hereby authorized and empowered to  
6 establish, operate and maintain area vocational educa-  
7 tional programs including the acquisition by purchase,  
8 lease, gift or otherwise of necessary lands and the con-  
9 struction, expansion, remodeling, alteration and equip-  
10 ping of necessary buildings for the purpose of operating  
11 and conducting educational training centers. It shall  
12 establish the area or areas in which the programs are to  
13 be conducted and shall have authority to promulgate rules  
14 and regulations necessary to carry out the provisions of  
15 this article. The administration and supervision of the  
16 area vocational educational programs shall be adminis-  
17 tered by the director of vocational education.

Sec. 3. *Vocational Educational Program Fund Estab-  
2 lished.*—There is hereby established a fund to be known  
3 as "the area vocational educational program fund." All  
4 monies appropriated for such purpose by the Legislature  
5 as well as any gifts or grants made to the fund by any  
6 governmental subdivision of the state or by the United  
7 States government or by any individual, firm or corpora-  
8 tion, to carry out the provisions of this article shall be  
9 expended by the director of vocational education under  
10 the general supervision of the state board of vocational  
11 education.

Sec. 4. *Expenditure of Fund.*—The director of voca-  
2 tional education is authorized and empowered to expend  
3 the area vocational educational program fund for salaries,  
4 teachers' retirement contributions, and necessary travel-  
5 ling expenses of teachers, and other necessary employees,  
6 including, but not limited to, vocational guidance coun-

7 selors; to purchase, rental, maintenance and repair of in-  
8 structional equipment, buildings and supplies, and for  
9 the necessary costs of transportation of certified students.

Sec. 5. *Title to Property; Transfer Between Areas.*—

2 Title to any property, equipment, tools, furniture or in-  
3 structional materials purchased out of the fund provided  
4 herein, or as provided otherwise in section two of this  
5 article, shall be vested in the West Virginia board of voca-  
6 tional education. Such equipment, or other property, may  
7 be transferred to any area vocational educational program  
8 or center upon the recommendation of the state director  
9 of vocational education.

Sec. 6. *Qualifications of Applicants to Participate as  
2 Students; Rules and Regulations Governing Eligibility of  
3 Applicants; Fee Students.*—Applicants desirous of par-  
4 ticipating as students in the area vocational educational  
5 programs shall be at least eighteen years of age, residents  
6 of the state of West Virginia and shall be certified by the  
7 West Virginia department of employment security that  
8 they are not gainfully employed. The director of voca-  
9 tional education shall establish rules and regulations to  
10 determine the eligibility of applicants to participate in  
11 the program, in addition to the above requirements, based  
12 upon the fitness of the applicant to benefit from the in-  
13 structions given: *Provided, however,* That persons other  
14 than those certified as unemployed may enroll in classes  
15 in said instructional centers upon the payment of a fee to  
16 be established by the director of vocational education.

Sec. 7. *Transportation of Students.*—The state board of  
2 vocational education is hereby authorized and empowered  
3 to pay the transportation of any certified unemployed per-  
4 son participating in an area vocational educational pro-  
5 gram during the period of time that he is engaged in said  
6 training program at any of the instructional centers.

Sec. 8. *Consulting Committees.*—The director of voca-  
2 tional education may appoint a consulting committee for  
3 each area designated, composed of members representing  
4 business, labor, management, school administrators and  
5 lay groups. The consulting committee shall advise the

6 head of the local area or training center on such matters  
7 pertaining to shop equipment, curriculum, labor-man-  
8 agement coordination or selection of personnel. A state-  
9 wide consulting committee may be appointed by the  
10 director of vocational education to serve in the same  
11 capacity and for the same purposes.

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## CHAPTER 9

(Senate Bill No. 29—By Mr. Martin)

AN ACT to repeal section fifteen, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section three of said article thereof, all relating to the computation of local share; the state-wide appraisal and assessment of property and the collection of taxes thereon for the support of schools.

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[Passed February 10, 1960; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Article 9-a. Allocation of State Aid for Schools.

#### Section

3. Computation of local share; appraisal and assessment of property.

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

That section fifteen, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section three of said article thereof be amended and reenacted to read as follows:

Section 3. *Computation of Local Share; Appraisal and Assessment of Property.*—On the basis of the most recent  
3 survey of property valuations in the state, completed as  
4 to all classes of property in all counties determined by  
5 the tax commissioner under present or former provisions  
6 of this article, the state board shall for each county com-

7   pute by application of the levies for general current  
8   expense purposes, as defined in the preceding section, the  
9   amount of revenue which such levies would produce if  
10   levied upon one hundred per cent of the true and actual  
11   value of each of the several classes of property contained  
12   in the report or revised report of such value, made to it  
13   by the tax commissioner as follows: (1) The state board  
14   shall first take ninety-seven and one-half per cent of the  
15   amount ascertained by applying these rates to the total  
16   assessed public utility valuation in each classification of  
17   property in the county. (2) The state board shall then  
18   apply these rates to the appraised value of other property  
19   in each classification in the county, as determined by the  
20   tax commissioner, and shall deduct therefrom five per  
21   cent as an allowance for the usual losses in collections  
22   due to discounts, exonerations, delinquencies and the like.  
23   Fifty per cent of the amount so determined shall be added  
24   to the ninety-seven and one-half per cent of public utility  
25   taxes computed as provided above and this total shall be  
26   the local share of the particular county. It shall be under-  
27   stood that in the repeal of section fifteen of this article,  
28   the removal of state aid penalties shall be made to apply  
29   to the school year one thousand nine hundred fifty-nine—  
30   sixty.

31   The tax commissioner shall make or cause to be made  
32   an appraisal in the several counties of the state of all non-  
33   utility real property and certain nonutility personal  
34   property as hereinafter provided. In determining the  
35   value of personal property—other than all machinery,  
36   equipment, furniture and fixtures of any industrial plant,  
37   mine, quarry or installation and of any commercial and  
38   professional establishment—the tax commissioner may  
39   use any other accepted method of determining values.  
40   Such appraisal shall be based on the true and actual  
41   value of said property. In making or causing to be made  
42   such appraisal, the tax commissioner after consultation  
43   with the county court shall employ a competent property  
44   appraisal firm or firms to appraise industrial and com-  
45   mercial properties, which appraisal shall be under his  
46   supervision and direction. In making or causing to be

47 made such appraisal, the tax commissioner may use such  
48 methods of checking property values and determining the  
49 amount of property in the several classes of property pro-  
50 vided by law, and may use such accepted procedures as  
51 are customarily employed for appraisal purposes. He may  
52 employ such assistants as available appropriations will  
53 permit. Such appraisal of all said property in the several  
54 counties shall be completed prior to the first day of  
55 January, one thousand nine hundred sixty-four. Each  
56 year thereafter the tax commissioner shall maintain the  
57 appraisal by making or causing to be made such surveys,  
58 examinations, audits, maps and investigations of the value  
59 of the several classes of property in each county which  
60 should be listed and taxed under the several classifica-  
61 tions, and shall determine the appraised value thereof  
62 based upon the true and actual values thereof. On the  
63 basis of information so ascertained, the tax commissioner  
64 shall annually revise his reports to the Legislature and  
65 to the state board concerning such appraisals, such re-  
66 ports to be made not later than the first day of January  
67 of each year.

68 As the appraisal of property in a county is completed  
69 under this section, the county court, sitting as a board of  
70 equalization and review, and the county assessor shall  
71 use such appraised valuations as the basis for determin-  
72 ing the assessed valuation of the several classes of  
73 property. The total assessed valuation in each of the four  
74 classes of property shall be not less than fifty per cent of  
75 the new appraised valuation of each said class of property,  
76 and the assessed values so set shall be interpreted as  
77 meeting the requirements of chapter eleven of this code.  
78 If the assessor or the county court fails to comply with  
79 the provisions of this section within the year in which the  
80 tax commissioner notifies the county of the completion  
81 of the property appraisal for said county, such failure  
82 shall constitute neglect of duty and, within the meaning  
83 and provisions of chapter six, articles six and seven of  
84 this code, shall be cause for removal from office. Upon  
85 receipt of reasonable evidence of failure or refusal to  
86 comply with the provisions of this section, the tax com-

87   missioner shall enter the county and fix the assessments  
88   at the required ratio.

89   The determination of appraised values in those counties  
90   where the full appraisal has not been completed shall be  
91   continued by the tax commissioner on the annual spot  
92   survey basis. Beginning with the fiscal year one thousand  
93   nine hundred sixty and for each year thereafter until the  
94   full survey is completed in a county, the assessed value  
95   in each of the four classes of property in such counties  
96   shall be not less than fifty per cent of the appraised values  
97   of each said class of property as determined by the last  
98   previous state-wide report of the tax commissioner.  
99   Whenever for any year a county fails to raise the assessed  
100   valuations of its nonpublic utility property up to the  
101   assessment level required by the provisions of this and  
102   preceding paragraphs and, by such failure, causes the  
103   total tax yield from the four classes of property, based  
104   upon the allowable school rates defined in section two of  
105   this article, to fall below that required to meet the county  
106   share, there shall be a temporary reallocation to the  
107   county board of education from the tax rates allowed the  
108   county court. This reallocation of rates, when applied to  
109   the assessed values of property in the county, shall be  
110   to such an extent as to raise a sum of money equal to and  
111   which shall replace the said local school revenue de-  
112   termined to be less than required to meet the county  
113   share.

114   In conjunction with and as a result of the appraisal  
115   herein set forth the tax commissioner shall have the  
116   power, and it shall be his duty, to establish a permanent  
117   records system for each county in the state, consisting of:

118   (1) Tax maps of the entire county drawn to scale or  
119   aerial maps, which maps shall indicate all property and  
120   lot lines, set forth dimensions or areas, indicate whether  
121   the land is improved, and identify the respective parcels  
122   or lots by a system of numbers, or symbols and numbers,  
123   whereby the ownership of such parcels and lots can be  
124   ascertained by reference to the property record cards and  
125   property owners' index;

126   (2) Property record cards arranged geographically ac-



127 cording to the location of property on the tax maps, which  
128 cards shall set forth the location and description thereof,  
129 the acreage or dimensions, description of improvements,  
130 if any, the owner's name, address and date of acquisition,  
131 the purchase price, if any, set forth in the deed of  
132 acquisition, the amount of tax stamps, if any, on the deed,  
133 the assessed valuation, and the identifying number, or  
134 symbol and number, shown on the tax map;

135 (3) Property owners' index consisting of an alphabeti-  
136 cal listing of all property owners, setting forth brief  
137 descriptions of each parcel or lot owned, and cross-  
138 indexed with the property record cards and the tax map.

139 The tax commissioner is hereby authorized and em-  
140 powered to enter into such contracts as may be necessary,  
141 and for which funds may be available, to establish the  
142 permanent records system herein provided for, or may  
143 through his staff and employees, prepare and complete  
144 such system.

145 The cost of conducting the appraisal herein provided  
146 for shall be borne jointly by the state and the several  
147 counties in the following manner and terms: There shall  
148 be appropriated from the general revenue fund not less  
149 than one million five hundred thousand dollars for each  
150 fiscal year until sufficient funds have been appropriated  
151 to complete the appraisal in all counties of the state.

152 Each county shall furnish, through its county court,  
153 not more than ten per cent of the cost of such appraisal  
154 or reappraisal and permanent records system for such  
155 county. Such county costs may be paid over a period of  
156 three years with the approval of the tax commissioner.  
157 If a county has employed a professional appraisal firm to  
158 conduct an appraisal or reappraisal of all or a part of  
159 nonutility property within the past five years, and such  
160 appraisal, or any other appraisal or reappraisal has been  
161 or shall have been accepted by the tax commissioner,  
162 credit shall be allowed to such county for its portion of  
163 the state-wide appraisal costs and any contract with ap-  
164 praisal firm or firms shall not be made for appraisal or  
165 reappraisal of such property except and unless requested  
166 by such county, or shown to be necessary by the tax

167 commissioner: *Provided*, That until the completion of  
168 the appraisal herein provided for in all of the fifty-five  
169 counties of the state, the local share for each county  
170 shall be determined on the basis of the annual survey of  
171 property valuations by the tax commissioner in this state,  
172 as heretofore provided, but in no way shall this be inter-  
173 preted as affecting the assessment provisions set forth  
174 above; however, upon completion of the appraisal in any  
175 county, the local share shall be that then in effect and shall  
176 remain the same until the appraisal has been completed  
177 in all counties: *Provided further*, That the sample pieces  
178 of property employed in making the annual spot survey  
179 shall be used by the tax commissioner for this purpose  
180 only and shall be open to none other than the Legislature  
181 by its request through a resolution approved by both the  
182 Senate and the House.

183 A detailed report of appraisal for each year similar to  
184 reports now being made showing the results of the survey  
185 for the previous year shall be made by the tax commis-  
186 sioner as of January first for the Legislature and the  
187 board of school finance.

188 Except as otherwise provided in this bill, the coordi-  
189 nated effort provided by House concurrent resolution  
190 number eight adopted by the Legislature, regular session,  
191 one thousand nine hundred fifty-seven, shall not be dis-  
192 turbed.

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## CHAPTER 10

(Com. Sub. for House Bill No. 2—Originating in the House  
Committee on the Judiciary)

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AN ACT to amend and reenact section eleven, article one, chap-  
ter fifty-nine of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, prescribing a uni-  
form system of fees to be charged by clerks of circuit courts,  
providing rates and manner of collection of such fees, and  
relating generally to fees, costs and accounts of other  
officers and parties to actions and suits.

[Passed February 11, 1960; in effect July 1, 1960. Approved by the Governor.]

## Article 1. Fees and Allowances.

### Section

11. Fees to be charged by clerk of circuit court.

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

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

#### Section 11. *Fees to Be Charged by Clerk of Circuit*

2 Court.—The clerk of a circuit court shall charge and col-  
3 lect for services rendered as such clerk the following fees,  
4 and such fees shall be paid in advance by the parties for  
5 whom such services are to be rendered:

6 For instituting any civil action under the rules of civil  
7 procedure, any statutory summary proceeding, any extra-  
8 ordinary remedy, the docketing of civil appeals, or any  
9 other action, cause, suit or proceeding, ten dollars.

10 In addition to the foregoing fees, the following fees shall  
11 likewise be charged and collected:

12 For any transcript, copy or paper made by the clerk  
13 for use in any other court or otherwise to go out of the  
14 office, for each page, twenty-five cents;

15 For action on suggestion, five dollars;

16 For issuing an execution, two dollars;

17 For issuing or renewing a suggestee execution, includ-  
18 ing copies, postage, registered or certified mail fees and  
19 the fee provided by section four, article five-a, chapter  
20 thirty-eight of this code, three dollars;

21 For vacation or modification of a suggestee execution,  
22 one dollar;

23 For docketing and issuing an execution on a transcript  
24 of judgment from a justice's court, three dollars;

25 For arranging the papers in a certified question, writ of  
26 error, appeal or removal to any other court, five dollars;

27 For postage and express and for sending or receiving  
28 decrees, orders or records, by mail or express, three times  
29 the amount of the postage or express charges;

30 For each witness summons over and above five, on the  
31 part of either plaintiff or defendant, to be paid by the  
32 party requesting the same, twenty-five cents;

33 For additional services (plaintiff or appellant) where  
34 any case remains on the docket longer than three years,  
35 for each additional year or part year, five dollars.

36 The clerk shall tax the following fees for services in any  
37 criminal case against any defendant convicted in such  
38 court:

39 In the case of any misdemeanor, ten dollars;

40 In the case of any felony, twenty dollars.

41 No such clerk shall be required to handle or accept for  
42 disbursement any fees, costs or accounts, of any other  
43 officer or party not payable into the county treasury, ex-  
44 cept it be on order of the court or in compliance with the  
45 provisions of law governing such fees, costs or accounts.

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## CHAPTER 11

(House Bill No. 3—By Mr. Brotherton and Mr. Seibert)

AN ACT to amend and reenact section fourteen, article two,  
chapter fifty-nine of the code of West Virginia, one thou-  
sand nine hundred thirty-one, relating to taxation of  
statute fees in civil actions.

[Passed February 2, 1960; in effect July 1, 1960. Approved by the Governor.]

### Article 2. Costs Generally.

#### Section

#### 14. Taxation of statute fees.

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

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

Section 14. *Taxation of Statute Fees.*—He shall include  
2 in the costs to the prevailing party:

3 (a) In any civil action, ten dollars;

4 (b) To the party prevailing in the supreme court of  
5 appeals, thirty dollars;

6 (c) In civil actions in any court of limited jurisdiction,  
7 the same fees as are allowed in a circuit court for like  
8 actions.

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## CHAPTER 12

(House Bill No. 11—By Mr. Seibert and Mr. Speaker, Mr. Pauley)

AN ACT to amend and reenact section thirteen, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licensing, management, restrictions on persons employed and imposing penalties; control of employees of race tracks.

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[Passed February 9, 1960; in effect July 1, 1960. Approved by the Governor.]

### Article 23. Horse Racing.

#### Section

13. Licenses for jockeys, etc.; relief fund for; restrictions on persons employed; penalties.

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

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

Section 13. *Licenses for Jockeys, etc.; Relief Fund for; Restrictions on Persons Employed; Penalties.*—The commission may license jockeys, apprentice jockeys, exercise  
2 boys, owners, trainers, grooms, platers, stable foremen,  
3 valets, veterinarians, authorized agents, jockeys' agents,  
4 mutual employees, and such other categories employed  
5 on a race track as the commission may deem proper;  
6  
7

8 and may charge a fee therefor. The commission may  
9 also register colors and assumed names, and may charge  
10 a fee therefor. All monies collected from fees, as well  
11 as monies collected from fines imposed by the stewards,  
12 starter, or other racing officials, shall be paid into a relief  
13 fund and paid out on the order of the commission for  
14 expenses of hospitalization, medical care, and/or funeral  
15 expenses resulting from injuries received by licensees  
16 of the commission while in the discharge of their duties  
17 under the jurisdiction of the commission. No such money  
18 shall be paid by the commission for such hospitalization,  
19 medical care, and/or funeral expenses to any licensee who  
20 is covered under the workmen's compensation fund of this  
21 state, or who is covered by any insurance policy. Balances  
22 in said fund in excess of five thousand dollars, less any  
23 relief obligations outstanding, shall be transferred to the  
24 general revenue fund of this state.

25 At least eighty per cent of the persons employed by a  
26 persons licensed to operate a race track or racing meeting  
27 shall be citizens and residents of the state and shall have  
28 been such citizens and residents for at least one year  
29 immediately prior to such employment. For the purpose  
30 of this paragraph citizens and residents of the state shall  
31 be construed to mean persons who maintain a permanent  
32 place of residence in the state of West Virginia, and have  
33 been bona fide residents and citizens of West Virginia  
34 for a period of one year immediately prior to the filing  
35 of their applications for employment. The provisions of  
36 this paragraph shall not apply to the construction of a  
37 racing plant or the equipping of same, nor the racing  
38 officials as designated by the racing commission or the  
39 executive officers of the racing association.

40 Any person violating any provisions of the previous  
41 paragraph shall be guilty of a misdemeanor, and, upon  
42 conviction, shall be confined in jail not less than one  
43 month nor more than two months or be fined not less  
44 than one hundred nor more than five hundred dollars, or,  
45 in the discretion of the court, may be punished by both  
46 such fine and imprisonment. Venue of such offense shall  
47 be in the county, or any one of the counties, wherein  
48 the person violating this section carries out any duties of,

49 or performs any work for, the commission, which consti-  
50 tutes the basis of the charge or complaint against him.

## CHAPTER 13

(House Bill No. 14—By Mr. Seibert and Mr. Singleton)

AN ACT to amend and reenact section fourteen-a, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional premium tax on insurance.

[Passed February 6, 1960; in effect July 1, 1960. Became a law without the approval of the Governor.]

### Article 3. Licensing, Fees and Taxation of Insurers.

#### Section

#### 14-a. Additional premium tax.

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

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

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, in addition to the taxes imposed by section fourteen of this article, an additional premium tax equal to one per cent 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 received

17 by the commissioner and shall be paid by him into the  
18 state treasury for the benefit of the state fund.

19 The provisions of this section shall expire June thirty,  
20 one thousand nine hundred sixty-one.

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## CHAPTER 14

(Com. Sub. for Senate Bill No. 19—Originating in the Senate  
Committee on the Judiciary)

AN ACT to amend and reenact section twenty-c, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the application of other laws to loans and investments eligible for federal housing insurance under the national housing act by extending the provisions thereof to any other loan or investment made by any mortgagee approved by the federal housing commissioner and to any loan or investment made by any other lending and investing institution for the purpose of financing alterations, repairs and improvements upon real property or for the purpose of financing the construction or purchase of residential or commercial property or the refinancing of mortgages.

[Passed February 10, 1960; in effect from passage. Approved by the Governor.]

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

#### **Section**

20-c. Application of other laws to such loans or investments.

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

That section twenty-c, article eight, 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 20-c. *Application of Other Laws to Such Loans or Investments.*—No law of this state requiring security upon which loans or investments may be made or pre-



4 scribing the nature, amount, or form of such security, or  
5 prescribing or limiting the period for which loans or in-  
6 vestments may be made shall be deemed to apply to loans  
7 or investments made pursuant to sections twenty-a and  
8 twenty-b of this article, or to similar loans or investments  
9 made by federal savings and loan associations, mortgagees  
10 approved by the federal housing commissioner, or by  
11 other lending and investing institutions, provided that  
12 such loans or investments made by other lending and in-  
13 vesting institutions are insured or committed for insur-  
14 ance by the federal housing commissioner under the pro-  
15 visions of the national housing act; and no law limiting  
16 interest rates upon loans or investments, except as here-  
17 inafter provided, shall be deemed to apply to any such  
18 loans or investments or to any other loan or investment  
19 made by any mortgagee approved by the federal housing  
20 commissioner or made by any other lending and investing  
21 institution for the purpose of financing alterations, repairs  
22 and improvements upon real property or for the purpose  
23 of financing the construction or purchase of residential or  
24 commercial properties or the refinancing of mortgages,  
25 and all loans and investments for any of such purposes,  
26 and whether or not insured by the federal housing com-  
27 missioner, may bear such rate of interest and such  
28 charges, or be discounted at such rate, as is permitted  
29 under the national housing act and the regulations pro-  
30 mulgated from time to time by the federal housing com-  
31 missioner: *Provided, however,* That the laws limiting  
32 interest rates shall be deemed to apply to any such rate of  
33 interest, charge or discount in excess of what is permitted  
34 under the national housing act and the regulations pro-  
35 mulgated from time to time by the federal housing com-  
36 missioner.

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## CHAPTER 15

(House Bill No. 50—By Mr. Poindexter and Mr. Seibert)

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

amended, by adding thereto a new section, designated section four, relating to the authority of municipalities to join nonstock area development corporations; to participate in the management and direction of area development corporations; and to contribute funds and transfer property to such area development corporations.

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[Passed February 9, 1960; in effect ninety days from passage. Approved by the Governor.]

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### **Article 1. Application of Chapter to Municipal Corporations.**

#### **Section**

#### **4. Membership and participation in area development corporations.**

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

That article one, 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 four, to read as follows:

Section 4. *Membership and Participation in Area Development Corporations.*—Every municipality is hereby authorized and empowered to become associated with and to participate as a member of any area development corporation organized as a nonstock, nonprofit corporation under the provisions of chapter thirty-one of the code for the purposes of promoting, developing and advancing the business prosperity and economic welfare of the area embraced, its citizens and its industrial complex; encouraging and assisting through loans, investments or other business transactions in locating new business and industry within such area and rehabilitating and assisting existing businesses and industries therein; stimulating and promoting the expansion of all kinds of business and industrial activity which will tend to advance, develop, maintain the economic stability and provide maximum opportunities for employment in such area; cooperating and acting in conjunction with other organizations, federal, state or local, in the promotion and advancement of industrial, commercial, agricultural and recreational developments within such area; and furnishing money

22 and credit, land and industrial sites, technical assistance  
23 and such other aid as may be deemed requisite for the  
24 promotion, development and conduct of all types of busi-  
25 ness, agricultural and recreational activities within each  
26 area.

27 Every municipality shall likewise be authorized and  
28 empowered to contribute to the cost of the operations  
29 and projects of such area development corporation by  
30 appropriating for such purposes money from its general  
31 funds not otherwise appropriated. Every municipality is  
32 likewise authorized and empowered, notwithstanding any  
33 other provision of this chapter, to transfer and convey to  
34 such area development corporation property of any kind  
35 heretofore acquired by the said municipality for or adapt-  
36 able to use in industrial and economic development, such  
37 transfers or conveyances to be without consideration or  
38 for such price and upon such terms and conditions as such  
39 municipality shall deem proper.

40 Every municipality shall require as a condition of any  
41 such contribution, appropriation, transfer or conveyance  
42 that the area development corporation receiving the same  
43 shall, within thirty days after the close of the quarter,  
44 make to such municipality a report containing an itemized  
45 statement of its receipts and disbursements during the  
46 preceding quarter, and make available to audit and ex-  
47 amination by the office of the state tax commissioner of  
48 West Virginia and any other proper public official or body  
49 its books, records and accounts.

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## CHAPTER 16

(Senate Bill No. 11—By Mr. Handlan)

AN ACT to amend and reenact section five, article three, chap-  
ter eight-a of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, relating to plan four, the  
"Manager Plan" of home rule charters, and particularly  
to the composition and election of the municipal council  
under such plan.

**Article 3. Home Rule Charters; Ordinances.****Section****5. Plan IV: "manager plan."**

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

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

- Section 5. *Plan IV: "Manager Plan."*—A home rule charter may provide for a form of government as follows:
- (1) A council of not less than five nor more than eleven members, elected either at large or from such geographical districts as may be established by the charter, or partly at large and partly from such geographical districts, and the charter may empower the council to change, from time to time, such districts without amending the charter: *Provided, however,* That the change of such districts shall not take effect during the terms of office of the members of such council making such change;
  - (2) A mayor elected by the council from among its membership, who shall serve as the presiding officer of the council;
  - (3) A city manager who shall be appointed by the council;
  - (4) The council shall be the governing body;
  - (5) The manager shall be the administrative authority. He shall manage the affairs of the city under the supervision of the council and he shall be responsible to them. He shall appoint or employ in accordance with this chapter all subordinates and employees for whose duties or work he is responsible to the council.

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## CHAPTER 17

(House Bill No. 51—By Mr. Poindexter and Mr. Scibert)

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

tion thirty-three, relating to the authority of a city to join nonstock area development corporations; to participate in the management and direction of area development corporations; and to contribute funds and transfer property to such area development corporations.

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[Passed February 9, 1960; in effect ninety days from passage. Approved by the Governor.]

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#### **Article 4. Powers of Home Rule Cities.**

##### **Section**

33. Membership and participation in area development corporations.

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

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

Section 33. *Membership and Participation in Area Development Corporations.*—A city is hereby authorized and empowered to become associated with and to participate as a member of any area development corporation organized as a nonstock, nonprofit corporation under the provisions of chapter thirty-one of the code for the purposes of promoting, developing and advancing the business prosperity and economic welfare of the area embraced, its citizens and its industrial complex; encouraging and assisting through loans, investments or other business transactions in locating new business and industry within such area and rehabilitating and assisting existing businesses and industries therein; stimulating and promoting the expansion of all kinds of business and industrial activity which will tend to advance, develop, maintain the economic stability and provide maximum opportunities for employment in such area; cooperating and acting in conjunction with other organizations, federal, state or local, in the promotion and advancement of industrial, commercial, agricultural and recreational developments within such area; and furnishing money and

22 credit, land and industrial sites, technical assistance and  
23 such other aid as may be deemed requisite for the pro-  
24 motion, development and conduct of all types of business,  
25 agricultural and recreational activities within such area.

26 A city shall likewise be authorized and empowered to  
27 contribute to the cost of the operations and projects of  
28 such area development corporation by appropriating for  
29 such purposes money from its general funds not other-  
30 wise appropriated. A city is likewise authorized and em-  
31 powered, notwithstanding any other provision of this  
32 chapter, to transfer and convey to such area development  
33 corporation property of any kind heretofore acquired by  
34 the said city for or adaptable to use in industrial and  
35 economic development, such transfers or conveyances to  
36 be without consideration or for such price and upon such  
37 terms and conditions as such city shall deem proper.

38 A city shall require as a condition of any such contri-  
39 bution, appropriation, transfer or conveyance that the  
40 area development corporation receiving the same shall,  
41 within thirty days after the close of the quarter, make to  
42 such city a report containing an itemized statement of its  
43 receipts and disbursements during the preceding quarter,  
44 and make available to audit and examination by the office  
45 of the state tax commissioner of West Virginia and any  
46 other proper public official or body its books, records and  
47 accounts.

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## CHAPTER 18

(House Bill No. 42—By Mr. Speaker, Mr. Pauley, and Mr. Seibert)

AN ACT to amend and reenact section one, article eighteen,  
chapter thirty of the code of West Virginia, one thousand  
nine hundred thirty-one, as enacted by chapter one hun-  
dred thirty, acts of the Legislature, regular session, one  
thousand nine hundred fifty-nine, relating to licensing of  
private detectives and investigators.

**Article 18. Private Detectives and Investigators.****Section**

1. Licenses required; exceptions.

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

That section one, article eighteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred thirty, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, be amended and reenacted to read as follows:

Section 1. *Licenses Required; Exceptions.*—No person,  
2 firm, company, partnership or corporation shall engage in  
3 the business of private detective or investigator or the  
4 business of watch, guard or patrol agency for the purpose  
5 of furnishing guards, patrolmen, or other persons to pro-  
6 tect persons or property or to prevent the theft or the un-  
7 lawful taking of goods, wares, merchandise, money, bonds,  
8 stocks, documents and other articles of value, or in the  
9 business of furnishing or supplying information as to the  
10 personal character or activities of any person, firm, com-  
11 pany, or corporation, society or association, or any person  
12 or group of persons, or as to the character or kind of the  
13 business and occupation of any person, firm, company or  
14 corporation, or own or conduct or maintain a bureau or  
15 agency for the above-mentioned purpose, except as here-  
16 inafter provided in section six, for fee, hire, or reward, or  
17 advertise his or their business to be that of detective or of  
18 a detective agency or investigator, or watch, guard or  
19 patrol agency, notwithstanding the name or title used in  
20 describing such agency or notwithstanding the fact that  
21 other functions and services may also be performed for  
22 fee, hire or reward, without having first obtained from  
23 the office of the secretary of state a license so to do, as  
24 hereinafter provided: *Provided, however,* That this sec-  
25 tion shall not apply to any person who is a duly qualified  
26 and acting police officer under the laws of the state of  
27 West Virginia, either while acting in his official capacity  
28 or while working for a private employer in his off-duty  
29 hours; nor to any person, corporation or agency whose  
30 business is the furnishing of information to an employer

- 31 concerning the business activities of his employees while  
32 on the premises of such employer.

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## CHAPTER 19

(House Bill No. 25—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact sections twenty-two and twenty-three, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the validation of prior acts and proceedings by county courts and public service boards for creation of public service districts; inclusion of additional territory and appointment of members of district boards.

[Passed January 29, 1960; in effect from passage. Approved by the Governor.]

### Article 13-a. Public Service Districts for Water and Sewerage Services.

#### Section

22. Validation of prior proceedings by county courts for creation of districts, inclusion of additional territory and appointment of members of district boards.
23. Validation of acts and proceedings of public service boards.

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

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

- 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 section takes effect, for the purpose of creating public service districts or for the purpose of



9 subsequent inclusion of additional territory to existing  
10 public service districts, after notice published by any  
11 such county court having territorial jurisdiction thereof  
12 of its intention to include such additional territory after  
13 hearing thereon, are hereby validated, ratified, approved  
14 and confirmed notwithstanding any other lack of power  
15 (other than constitutional) of any such county court to  
16 create such public service districts or to include addi-  
17 tional territory to existing public service districts or irreg-  
18 ularities (other than constitutional) in such proceedings,  
19 relating to the appointment and qualification of more  
20 than three members to the board of any such public  
21 service district or the subsequent appointment of suc-  
22 cessors of any or all of such members, notwithstanding  
23 that no city, incorporated town or other municipal cor-  
24 poration having a population in excess of three thousand  
25 is included within the district, and the appointment and  
26 qualification of such members, and further including any  
27 irregularities in the petition for the creation of any public  
28 service district, irregularities in the description of the  
29 area embraced by such district, and irregularities in the  
30 notice and publication of notice for the hearing creating  
31 such district, prior to the date this section takes effect,  
32 is hereby validated, ratified, approved and confirmed;  
33 and, further, in such cases where more than three mem-  
34 bers of the board of such districts have been so appointed  
35 prior to the date this section takes effect then such county  
36 court shall appoint, and they are hereby authorized and  
37 empowered to appoint, successors to such members in the  
38 manner as otherwise provided by this article.

2 *Sec. 23. Validation of Acts and Proceedings of Public*  
3 *Service Boards.*—All acts and proceedings taken by any  
4 public service board the members of which were ap-  
5 pointed, prior to the date this section takes effect, by any  
6 county court of this state having territorial jurisdiction  
7 thereof, are hereby validated, ratified, approved and con-  
8 firmed, as to defects and irregularities which may other-  
9 wise exist on account of their appointment and qualifica-  
tion.

## CHAPTER 20

(House Bill No. 18—By Mr. Speaker, Mr. Pauley, and Mr. Seibert)

AN ACT authorizing the issuance and sale of not exceeding five million dollars of road bonds of the state of West Virginia to raise money for road construction and maintenance purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenues sufficient to pay semiannually the interest on such bonds and the principal thereof within twenty-five years.

[Passed February 1, 1960; in effect ninety days from passage. Approved by the Governor.]

### Road Bonds.

#### Section

1. Road bonds; amount; when may issue.
2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

Be it enacted by the Legislature of West Virginia:

#### Section 1. *Road Bonds; Amount; When May Issue.*—

- 2 Bonds of the state of West Virginia of the par value of
- 3 five million dollars are hereby authorized to be issued
- 4 and sold for the purpose of raising funds for assisting
- 5 in building, constructing and maintaining the system of
- 6 roads and highways provided for by the constitution.

7 Such bonds may be issued by the governor in such  
8 amounts, in coupon or registered form, in such denomi-  
9 nations, at such times and bearing such date or dates  
10 as the governor may determine, and shall become due  
11 and payable serially in equal amounts beginning one  
12 year and ending twenty-five years from the date thereof:  
13 *Provided, however,* That no bonds may be issued under  
14 the provisions of this act until bonds authorized and  
15 issued under the provisions of the "Good Roads Amend-  
16 ment" to the constitution of the state, ratified at the  
17 general election held in November, one thousand nine  
18 hundred twenty, have been retired and canceled out of  
19 the state road sinking fund created by section six, chap-  
20 ter one hundred thirteen, acts of the Legislature of West  
21 Virginia, one thousand nine hundred twenty-one, in an  
22 amount equal to or greater than the amount to be issued  
23 hereunder at any one time.

Sec. 2. *Transfer Fee; Registration Fee; Where Payable;*  
2 *Interest Rate; Tax Exempt.*—The auditor and the treas-  
3 urer are hereby authorized to arrange for the transfer  
4 of registered bonds, and for each such transfer a fee of  
5 fifty cents shall be charged by and paid to the state of  
6 West Virginia, to the credit of the state road sinking  
7 fund. Bonds taken in exchange shall be canceled by the  
8 auditor and treasurer and be carefully preserved by the  
9 treasurer. The treasurer shall make provisions for reg-  
10 istering "payable to bearer" bonds, and for each bond  
11 registered a fee of fifty cents shall likewise be charged  
12 by and paid to the state of West Virginia, to the credit  
13 of the state road sinking fund. All such bonds shall be  
14 payable at the office of the treasurer of the state of West  
15 Virginia, or, at the option of the holder, at some bank  
16 in the city of New York to be designated by the governor.  
17 The bonds shall bear interest at a rate not exceeding  
18 four and one-half per cent per annum, payable semi-  
19 annually, on the first day of \_\_\_\_\_,  
20 and the first day of \_\_\_\_\_, of each year,  
21 to bearer, at the office of the treasurer of the state of  
22 West Virginia, at the capitol of the state, or at the bank  
23 designated by the governor, upon presentation and sur-  
24 render of interest coupons, then due, in the case of coupon

25 bonds. In the case of registered bonds the treasurer of  
26 the state of West Virginia shall issue his check for the  
27 interest then due on the first day of \_\_\_\_\_,  
28 and \_\_\_\_\_ of each year, and mail it  
29 to the registered owner at the address as shown by the  
30 record of registration. Both the principal and interest  
31 of the bonds shall be payable in lawful money of the  
32 United States of America and the bonds shall be exempt  
33 from taxation by the state of West Virginia, or by any  
34 county, district, or municipality thereof, which facts shall  
35 appear on the face of the bonds as part of the contract  
36 with the holder thereof.

Sec. 3. *Form of Bond.*—The bonds and coupons shall be  
2 engraved and the bonds shall be signed on behalf of the  
3 state of West Virginia, by the treasurer thereof, under  
4 the great seal of the state, and countersigned by the  
5 auditor of the state, and shall be in the following form  
6 or to the following effect, as nearly as may be, namely:

7                                   COUPON ROAD BOND

8                   (Or registered road bond, as the case may be)

9                                   OF THE

10                               STATE OF WEST VIRGINIA

11 \$ \_\_\_\_\_ No. \_\_\_\_\_

12       The state of West Virginia, under and by virtue of  
13 authority of an act of the Legislature passed at the regu-  
14 lar session of one thousand nine hundred sixty, on the  
15 \_\_\_\_ day of \_\_\_\_\_, one thousand nine  
16 hundred sixty, and approved by the governor on the  
17 day of \_\_\_\_\_, one thousand nine hun-  
18 dred sixty, which is hereby made a part hereof as fully  
19 as if set forth at length herein, acknowledges itself to be  
20 indebted to and hereby promises to pay to the bearer  
21 hereof (in the case of a coupon bond) or to \_\_\_\_\_  
22 \_\_\_\_\_ or assigns (the owner of record, in case  
23 of registered bonds) on the \_\_\_\_\_ day of \_\_\_\_\_,  
24 19\_\_\_\_, in lawful money of the United States of America  
25 at the office of the treasurer of the state of West Virginia  
26 at the capitol of said state, or at the option of the holder  
27 at \_\_\_\_\_ bank in the city of  
28 New York, the sum of \_\_\_\_\_ dollars,  
29 with interest thereon at \_\_\_\_\_ per centum

30 per annum from date, payable semiannually in like  
31 lawful money of the United States of America at the  
32 treasurer's office or bank aforesaid, on the first day of  
33 ..... and the first day of .....  
34 of each year, (and in the case of coupon bonds) accord-  
35 ing to the tenor of the annexed coupons bearing the en-  
36 graved facsimile signature of the treasurer of the state  
37 of West Virginia, upon surrender of such coupons. This  
38 bond (in case of a coupon bond) may be exchanged for  
39 a registered bond of like tenor upon application to the  
40 treasurer of the state of West Virginia.

41 To secure the payment of this bond, principal sum and  
42 interest, when other funds and revenues sufficient are not  
43 available for that purpose, it is agreed that within the  
44 limits prescribed by the constitution, the board of public  
45 works of the state of West Virginia shall annually cause  
46 to be levied and collected an annual state tax on all  
47 property in the state, until this bond is fully paid, suffi-  
48 cient to pay the annual interest on this bond and the  
49 principal sum thereof within the time this bond becomes  
50 due and payable.

51 This bond is hereby made exempt from any taxation  
52 by the state of West Virginia, or by any county, district,  
53 or municipal corporation thereof.

54 In testimony whereof, witness the signature of the  
55 treasurer of the state of West Virginia, and the counter-  
56 signature of the auditor of the state, hereto affixed accord-  
57 ing to law, dated the ..... day of .....,  
58 one thousand nine hundred ....., and  
59 the seal of the state of West Virginia.

60 (SEAL)

61

62 .....  
62 Treasurer of the State of West Virginia

63 Countersigned:

64

65 .....  
65 Auditor of the State of West Virginia

Sec. 4. *Form of Coupon.*--The form of coupon shall  
2 be substantially as follows, to wit:

3

STATE OF WEST VIRGINIA

4

Bond No. .... Coupon No. ....

5 On the first day of \_\_\_\_\_, 19\_\_\_\_, the  
6 state of West Virginia will pay to the bearer, in lawful  
7 money of the United States of America, at the office of  
8 the treasurer of the state, or at the option of the holder  
9 at \_\_\_\_\_ bank in the city of New  
10 York, the sum of \_\_\_\_\_ dollars,  
11 the same being semiannual interest on Road Bond No.  
12 \_\_\_\_\_

13  
14 Treasurer of the State of West Virginia

15 The signature of the treasurer to such coupon shall  
16 be by his engraved facsimile signature and the coupons  
17 shall be numbered in the order of their maturity, from  
18 number one consecutively. The bonds and coupons may  
19 be signed by the present treasurer and auditor, or by any  
20 of their respective successors in office, and the bonds  
21 signed by the persons now in office may be sold by the  
22 governor or his successor in office without being signed  
23 by the successor in office of the present treasurer or  
24 auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered  
2 bonds issued under this act shall be separately listed by  
3 the auditor of the state in books provided for the pur-  
4 pose, in each case giving the date, number, character and  
5 amount of obligations issued, and in case of registered  
6 bonds, the name and post office address of the person.  
7 firm or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund Sources Used to Pay*  
2 *Bonds and Interest; Investment of Remainder.*—Into the  
3 state road sinking fund there shall be paid all moneys  
4 received from the annual state tax levy on the taxable  
5 property in the state levied under the provisions of this  
6 act, from any and all appropriations made by the state  
7 from other sources for the purpose of paying the interest  
8 on such bonds or paying off and retiring the bonds, from  
9 fines, forfeitures and penalties, if any, made applicable  
10 by law for the payment of such bonds or the interest  
11 thereon, from transfer fees as herein provided, and from  
12 any source whatsoever, which is made liable by law for  
13 the payment of the principal of such bonds or the interest  
14 thereon.

15 All such funds shall be kept by the treasurer in a  
16 separate account, under the designation aforesaid, and  
17 all money belonging to the fund shall be deposited in the  
18 state treasury to the credit thereof.

19 Such fund shall be applied by the treasurer of the  
20 state first to the payment of the semiannual interest  
21 on such bonds as it shall become due as herein provided.  
22 The remainder of the fund shall be turned over by the  
23 state treasurer to the state sinking fund commission,  
24 whose duty it shall be to invest the same in bonds of the  
25 government of the United States, bonds of the state of  
26 West Virginia, or any political subdivision thereof: *Pro-*  
27 *vided, however,* That bonds so purchased by the state  
28 sinking fund commission shall mature so as to provide  
29 sufficient money to pay off all bonds herein provided  
30 to be issued as they become due; and the money so paid  
31 into the state road sinking fund under the provisions of  
32 this act shall be expended for the purpose of paying the  
33 interest and principal of the bonds hereby provided for  
34 as they severally become due and payable and for no  
35 other purpose except that the fund may be invested until  
36 needed, as herein provided.

Sec. 7. *Tax Levy to Pay, Unless Other Funds Available.*

2 —In order to provide the revenue necessary for the pay-  
3 ment of the principal and interest of such bonds, as here-  
4 inbefore provided, the board of public works, within the  
5 limits prescribed by the constitution, is authorized, em-  
6 powered and directed to lay annually a tax upon all real  
7 and personal property subject to taxation within this  
8 state, sufficient to pay interest on the bonds accruing  
9 during the current year and one twenty-fifth of the total  
10 issue (at par value) of such bonds, for such number of  
11 years, not exceeding twenty-five, as may be necessary  
12 to pay the interest thereon and to pay off the principal  
13 sum of the bonds; and such taxes, when so collected,  
14 shall not be liable for or applicable to any other pur-  
15 pose: *Provided, however,* That if there be other funds in  
16 the state treasury, or in the state road funds, in any  
17 fiscal year, not otherwise appropriated, or if other sources  
18 of revenue be hereafter provided by law for the purpose,

19 the board of public works is authorized, empowered and  
20 directed to set apart, in any year there be such funds.  
21 or other sources of revenue provided for such purpose, a  
22 sum sufficient to pay the interest on bonds accruing dur-  
23 ing the current year, and to pay off, and retire the prin-  
24 cipal of such bonds, or any part thereof, at maturity.

25 The authority hereby vested in the board of public  
26 works shall be in addition to the authority now vested  
27 in it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-  
2 ernor shall sell the bonds herein mentioned at such time  
3 or times as he may determine necessary to provide funds  
4 for road construction and maintenance purposes, as herein  
5 provided, upon recommendation of the state road com-  
6 missioner. All sales shall be at not less than par and  
7 accrued interest. All interest coupons becoming payable  
8 prior to the sale date shall be canceled by the treasurer  
9 and rendered ineffective, before the delivery of the bonds  
10 so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.*—The pro-  
2 ceeds of all sales of bonds herein authorized shall be paid  
3 into the state road fund created by section one, article  
4 three, chapter seventeen of the code of West Virginia.  
5 one thousand nine hundred thirty-one, as last amended.

Sec. 10. *Plates Property of State.*—The plates from  
2 which the bonds authorized by this act are engraved shall  
3 be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—  
2 The state auditor shall be the custodian of all unsold  
3 bonds issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-  
2 thorize the issuance of interim certificates to be issued  
3 to the purchasers of such bonds to be held by them in  
4 lieu of engraved bonds. When interim certificates are so  
5 issued, they shall become full and legal obligations of  
6 the state of West Virginia under all of the provisions of  
7 this act just as fully and completely as the engraved and  
8 permanent bonds.



- Sec. 13. *Payment of Expenses.*—All necessary expenses  
2 incurred in the execution of this act shall be paid out of  
3 the state road fund on warrants of the auditor of the  
4 state drawn on the state treasurer.

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## CHAPTER 21

(Senate Com. Sub. for House Bill No. 60—Originating in the Senate  
Committee on the Judiciary)

AN ACT to amend article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections twenty-two, twenty-three and twenty-nine of said article, and by adding thereto a new section designated section twenty-three-b, all relating to toll bridges and the powers and duties of the state road commissioner of West Virginia.

[Passed February 11, 1960; in effect from passage. Approved by the Governor.]

### Article 17. Toll Bridges.

#### Section

22. Tolls to be charged; intrastate and interstate bridges; purchase of existing bridges; disposition of tolls.  
23. When tolls to cease.  
23-b. Imposition or reimposition of tolls upon existing bridges; use of proceeds.  
29. Certain powers, duties, etc., of the bridge commission transferred to the state road commission.

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

That article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections twenty-two, twenty-three, and twenty-nine of said article, and by adding thereto a new section designated section twenty-three-b, all to read as follows:

Section 22. *Tolls to Be Charged; Intrastate and Interstate Bridges; Purchase of Existing Bridges; Disposition of Tolls.*—Tolls shall be fixed, charged and collected for transit over such bridges and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing and operating such bridge or bridges, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Two or more bridges may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in the same issue: *Provided*, That no existing bridge or bridges shall be acquired by purchase, eminent domain, or otherwise, unless the state road commissioner shall have determined that the income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the interest and sinking fund requirements of the bonds to be issued to pay the purchase price thereof. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing and operating during any period in which such cost is not otherwise provided for (during which period the tolls may be reduced accordingly), shall be transmitted each month to the state sinking fund commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the sinking fund commission within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied

41 to the redemption of bonds by lot at the redemption price  
42 then applicable: *Provided, however,* That tolls for the  
43 use of the existing Parkersburg-Belpre bridge crossing  
44 the Ohio river from Parkersburg, West Virginia, to Bel-  
45 pre, Ohio, as a part of the United States route fifty may  
46 be charged upon the construction and opening to traffic  
47 of the new bridge also crossing the Ohio river from Par-  
48 kersburg, West Virginia, to Belpre, Ohio, near the site  
49 of said existing bridge, said new bridge also to be a part  
50 of United States route fifty, the tolls on both said bridges  
51 to commence on the day said new bridge is opened to  
52 traffic, said tolls on both said bridges to be so fixed and  
53 adjusted, in respect to the aggregate of tolls from both  
54 said bridges, as to provide a fund sufficient to pay the  
55 principal and interest of the issue of bonds for said new  
56 bridge and to provide an additional fund to pay the cost  
57 of maintaining, repairing and operating said new bridge  
58 and of maintaining, repairing and operating said existing  
59 bridge. The tolls from both said bridges, except such part  
60 thereof as may be necessary to pay such cost of main-  
61 taining, repairing and operating said bridges, shall be  
62 transmitted each month to the state sinking fund com-  
63 mission and by it placed in a special fund which is hereby  
64 pledged to and charged with the payment of the principal  
65 of the bonds to be issued for said new bridge and the  
66 interest thereon, and to the redemption or repurchase of  
67 such bonds, in the same manner as hereinbefore in this  
68 section provided for the redemption of bonds for other  
69 toll bridges: *Provided further,* That tolls for the use of the  
70 old Parkersburg-Belpre bridge crossing the Ohio river  
71 from Parkersburg, West Virginia, to Belpre, Ohio, as a  
72 part of United States route fifty, may, in the discretion  
73 of the state road commissioner, be charged for the main-  
74 tenance, repair, reconstruction and modernization of said  
75 bridge and its approaches and for the construction, main-  
76 tenance, repair and modernization of any new bridge and  
77 the approaches thereto to be hereafter constructed by  
78 the state road commissioner in the immediate traffic area,  
79 said tolls to be so fixed and adjusted as to provide a fund  
80 sufficient to pay the cost of maintaining, repairing, re-

81 constructing and modernizing said old bridge and its ap-  
82 proaches, and for the financing of said work: *And pro-*  
83 *vided further*, That for the foregoing purposes the state  
84 road commissioner is hereby authorized to issue bridge  
85 revenue bonds pursuant to the provisions of section nine-  
86 teen of this article, which bonds and the interest thereon  
87 shall be satisfied and paid from the proceeds of the tolls  
88 herein authorized: *And provided further*, That tolls for the  
89 use of the existing Huntington-Chesapeake bridge cross-  
90 ing the Ohio river from Huntington, West Virginia, to  
91 Chesapeake, Ohio, as a part of United States route fifty-  
92 two, may be charged on the construction and opening  
93 to traffic of a new bridge or bridges also crossing the Ohio  
94 river from or near Huntington, West Virginia, in Cabell  
95 county and/or Wayne county, West Virginia, the tolls  
96 on both or all of said bridges to commence on the day  
97 said new bridge or bridges are opened to traffic, said tolls  
98 on both or all of said bridges to be so fixed and adjusted  
99 in respect to the aggregate of tolls from said bridges as  
100 to provide a fund sufficient to pay the principal and inter-  
101 est of the issue of bonds for said new bridge or bridges  
102 and to provide an additional fund to pay the cost of main-  
103 taining, repairing and operating said new bridge or  
104 bridges, and of maintaining, repairing and operating said  
105 existing bridge. The tolls from both or all of said bridges  
106 except such part thereof as may be necessary to pay such  
107 cost of maintaining, repairing and operating said bridges,  
108 shall be transmitted each month to the state sinking fund  
109 commission and by it placed in a special fund which is  
110 hereby pledged to and charged with the payment of the  
111 principal of the bonds to be issued for said new bridge  
112 or bridges and the interest thereon, and to the redemp-  
113 tion or repurchase of such bonds in the same manner  
114 hereinbefore in this section provided for the redemption  
115 of bonds or other toll bridges.

116 Any bridge or bridges constructed under the provisions  
117 hereof and forming a connecting link between two or  
118 more state highways, or providing a river crossing for a  
119 state highway, are hereby adopted as a part of the state  
120 road system, but no such bridge or bridges shall be con-

121 structed without the approval in writing of the state road  
122 commissioner and the governor. If there be in the funds  
123 of the state sinking fund commission an amount insuffi-  
124 cient to pay the interest and sinking fund on any bonds  
125 issued for the purpose of constructing such bridge or  
126 bridges, the state road commissioner is authorized and  
127 directed to allocate to said commission, from the state  
128 road fund, an amount sufficient to pay the interest on said  
129 bonds and/or the principal thereof, as either may become  
130 due and payable: *Provided*, That this section as well as  
131 the provisions in section twenty-three following, in refer-  
132 ence thereto, is expressly limited to the Parkersburg-  
133 Belpre bridges and any bridge or bridges crossing the  
134 Ohio river from or near Huntington, in Cabell county,  
135 and/or Wayne county, West Virginia, and shall have no  
136 application to any other bridge or bridges.

Sec. 23. *When Tolls to Cease.*—When the particular  
2 bonds issued for any bridge or bridges and the interest  
3 thereon shall have been paid, or a sufficient amount shall  
4 have been provided for their payment and shall continue  
5 to be held for that purpose, and there are no operating  
6 or maintenance expenses outstanding, and any advances  
7 made from the state road fund toward the construction,  
8 operation and maintenance of such bridge or bridges shall  
9 have been repaid, the authority operating such bridge or  
10 bridges shall cease the collection of tolls for the use there-  
11 of: *Provided, however*, That the commissioner may, in his  
12 discretion, continue thereafter tolls for a period sufficient  
13 to accumulate sufficient funds to pay for major mainten-  
14 ance and repairs foreseeable as being needed on such  
15 bridge or bridges in the immediate future: *And provided*  
16 *further*, That should the state of West Virginia hereafter  
17 construct a new toll bridge across the Ohio River between  
18 Parkersburg, West Virginia, and Belpre, Ohio, then tolls  
19 may be charged for the use of the existing Parkersburg-  
20 Belpre bridge in the manner provided in section twenty-  
21 two of this article, said tolls to commence on the day a  
22 new Parkersburg-Belpre bridge, constructed by the state  
23 of West Virginia, is opened to traffic; and should the state  
24 of West Virginia hereafter construct a new toll bridge or

25 bridges across the Ohio river from or near Huntington,  
26 West Virginia, in Cabell county and/or Wayne county,  
27 West Virginia, then tolls may be charged for the use of  
28 the existing Huntington-Chesapeake bridge in the manner  
29 provided in section twenty-two of this article, said tolls  
30 to commence on the day a new Huntington area bridge,  
31 constructed by the state of West Virginia, is opened to  
32 traffic. Thereafter, and as long as the cost of maintaining,  
33 repairing and operating such bridge or bridges is being  
34 provided for through means other than tolls, no tolls shall  
35 be charged for transit thereover and such bridge or  
36 bridges shall be free: *Provided, however,* That notwith-  
37 standing any other provision of law, if any portion of the  
38 cost of construction of a toll bridge is financed, with the  
39 aid of federal funds under federal-aid road legislation  
40 and the share of the cost of such bridge borne by the  
41 state or its subdivisions shall have been repaid from tolls,  
42 or a fund sufficient for such repayment shall have been  
43 provided or set aside for that purpose, tolls for the use  
44 of such bridge shall cease and such bridge shall thereafter  
45 be maintained and operated as a free bridge.

Sec. 23-b. *Imposition or Reimposition of Tolls upon*  
2 *Existing Bridges; Use of Proceeds.*—The commissioner is  
3 hereby authorized and empowered to combine any two  
4 or more bridges within the same traffic area for financing  
5 purposes, including both existing bridges and bridges to  
6 be constructed, and to pledge the revenues provided for  
7 herein from any or all of said bridges, including existing  
8 bridges, for bonds issued under authority of this article  
9 to finance the cost of any bridge or bridges to be con-  
10 structed in such traffic area. He is further authorized and  
11 empowered to impose or reimpose tolls or other charges  
12 upon any such existing bridge or bridges, and to pledge  
13 such tolls or other charges so imposed or reimposed to  
14 the payment of the principal of and interest on any bonds  
15 issued under this article for the construction of any other  
16 bridge or bridges with which such existing bridge or  
17 bridges are combined for the purpose of financing the  
18 construction of such other bridge or bridges to be con-  
19 structed, as fully and to the same extent as on such other

20 bridge or bridges to be constructed under this article:  
21 *Provided, however,* That the foregoing provisions of this  
22 section, as well as the provisions in section twenty-two  
23 above, in reference thereto, are expressly limited to the  
24 Parkersburg-Belpre bridges and any bridge or bridges  
25 crossing the Ohio river from or near Huntington, in Cabell  
26 county and/or Wayne county, West Virginia, and shall  
27 have no application to any other bridge or bridges: *Pro-*  
28 *vided further,* That nothing in this article shall be con-  
29 strued to permit any combination of an existing toll  
30 bridge with any other bridge at any time when any such  
31 toll bridge bonds, either the principal or interest thereon,  
32 are in default: *Provided further,* That nothing herein shall  
33 be construed to permit the commissioner to purchase or  
34 acquire any bridge over the Ohio river and/or the Ka-  
35 nawha river until all bonds issued in connection there-  
36 with, and all interest and charges thereon, have been paid,  
37 discharged and satisfied: *And provided further,* That no  
38 state funds shall be used or expended for payment, dis-  
39 charge or satisfaction of any such bonds, or interest there-  
40 on, issued in connection with any toll bridge now existing  
41 or hereafter constructed.

2     *Sec. 29. Certain Powers, Duties, etc., of the Bridge Com-*  
3 *mission Transferred to the State Road Commission.*—All  
4 rights, powers, privileges and functions which are con-  
5 ferred upon or vested in said West Virginia bridge com-  
6 mission by sections fifteen to twenty-eight, inclusive, of  
7 the official code of West Virginia, are hereby transferred  
8 to. conferred upon, and vested in the state road commis-  
9 sioner of West Virginia; and the state road commissioner  
10 of West Virginia is hereby charged with the performance  
11 of all duties, contracts and other obligations imposed upon  
12 the said West Virginia bridge commission by said sec-  
13 tions fifteen to twenty-eight, inclusive, of said official code  
14 of West Virginia. Wherever the word "commission" is  
15 used in sections fifteen to twenty-eight, inclusive, of ar-  
16 ticle seventeen of chapter seventeen of the official code  
17 of West Virginia, or either thereof, or in any amendment  
18 thereto, it shall, from and after the time this section be-  
19 comes effective, mean and refer to the said state road  
20 commissioner of West Virginia.

## CHAPTER 22

(Senate Bill No. 21—By Mr. Carrigan)

AN ACT to amend and reenact section eight-a, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the manufacturing and securing of license plates and road signs or markers.

[Passed February 11, 1960; in effect from passage. Approved by the Governor.]

### Article 5. The Penitentiary.

#### Section

8-a. Manufacture of license plates, road signs or markers; securing signs or markers when federal government reimburses state for cost thereof.

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

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

Section 8-a. *Manufacture of License Plates, Road Signs or Markers; Securing Signs or Markers when Federal Government Reimburses State for Cost Thereof.*—For the purpose of obtaining license plates to be used upon motor vehicles licensed for operation in this state and road signs or markers of any description for state roads, the West Virginia commissioner of public institutions is hereby authorized and empowered on behalf of the state to establish and operate a plant for the manufacture of such license plates and road signs or markers at the West Virginia penitentiary at Moundsville, West Virginia.

It shall be unlawful for any state official or employee to manufacture or obtain such license plates, road signs or markers otherwise than as herein specified: *Provided, however,* That the state road commissioner may originally secure road signs or markers from sources other than that



17 provided herein, when it is necessary in order to source re-  
18 imbursement from the United States against the cost  
19 thereof or against the cost of installation and erection  
20 thereof or against the cost of the project upon which the  
21 road signs or markers have been installed or are to be in-  
22 stalled, in accordance with the regulations of the bureau  
23 of public roads of the United States department of com-  
24 merce.

## CHAPTER 23

(Com. Sub. for House Bill No. 17—Originating in the House  
Committee on Finance)

AN ACT to amend and reenact section five-b, article twelve-a,  
chapter eleven of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to definitions  
under and the computation of the privilege tax on certain  
carrier corporations.

[Passed February 9, 1960; in effect July 1, 1960. Approved by the Governor.]

### Article 12-a. Privilege Tax on Certain Carrier Corporations.

#### Section

5-b. Definitions; computation of tax.

*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; Computation of Tax.*—When  
2 used in this section the phrase “normal tax” shall mean  
3 the tax computed by the application of rates against intra-  
4 state gross income, assessed value of all property in West  
5 Virginia and by prorated net income as set forth in sec-  
6 tions two, four or five, inclusive, of this article.  
7 When used in this section the term “surtax” shall mean

8 the tax computed by the application of the tax rate as set  
9 forth in section five-a of this article.

10 When used in this section the phrase "total net balance  
11 of taxes due" shall mean the total of the normal tax and  
12 surtax less exemption at the rate of fifty dollars annually  
13 or at the rate of four dollars and sixteen cents per month  
14 for the period actually engaged in business.

15 The normal tax shall be computed by the application  
16 of rates against intrastate gross income, assessed value of  
17 all property in West Virginia, and by prorated net in-  
18 come as set forth in sections two, four or five, inclusive,  
19 of this article. The surtax shall be computed by the  
20 application of the tax rate as set forth in section five-a  
21 of this article. For the period commencing July one, one  
22 thousand nine hundred sixty-one, the total net balance  
23 of taxes due shall be reduced by the five percent credit  
24 allowed herein. The total net balance of taxes due, for  
25 the period commencing on the aforesaid date, reduced by  
26 the five percent credit is the amount of tax payable.

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## CHAPTER 24

(Senate Bill No. 47—By Mr. Bean, Mr. President, and Mr. Smith)

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AN ACT to amend article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section four-a, relating to the ultimate liability for excise tax imposed on the sale of cigarettes.

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[Passed February 11, 1960; in effect from passage. Approved by the Governor.]

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### Article 17. Excise Tax on Sale of Cigarettes.

#### Section

#### 4-a. Ultimate liability for tax.

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

That article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended by adding thereto a new section designated section four-a, to read as follows:

Section 4-a. *Ultimate Liability for Tax.*—Every wholesaler, distributor, jobber, or retailer who advances or pays the tax imposed by this article through the purchase of such stamps shall add the amount of the tax so advanced or paid to the price of the cigarettes sold, it being intended that the ultimate incidence of and the liability for the tax shall be upon the ultimate consumer or user.

## CHAPTER 25

(Com. Sub. for House Bill No. 8—Originating in the House  
Committee on Finance)

AN ACT to amend and reenact section one, article nineteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the tax on bottled soft drinks and soft drink syrups and definitions in connection therewith.

[Passed February 8, 1960; in effect July 1, 1960. Approved by the Governor.]

### Article 19. Soft Drinks Tax.

#### Section

##### 1. Definitions.

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

That section one, article nineteen, 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. *Definitions.*—As used in this article:

- (1) "Bottled soft drinks" shall include any and all nonalcoholic 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,

7   flavoring or syrup is added, or any and all preparations  
8   commonly referred to as "soft drinks" of whatever kind,  
9   which are closed and sealed in glass, paper, or any other  
10  type of container, envelope, package, or bottle, whether  
11  manufactured with or without the use of any syrup. The  
12  term "bottled soft drinks" shall not include fluid milk to  
13  which no flavoring has been added, or natural undiluted  
14  fruit juice or vegetable juice.

15   (2) "Soft drink syrups and powders" shall include the  
16  compound mixture or the basic ingredients, whether dry  
17  or liquid, practically and commercially usable in making,  
18  mixing or compounding soft drinks by the mixing thereof  
19  with carbonated or plain water, ice, fruit, milk or any  
20  other product suitable to make a soft drink, among such  
21  syrups being such products as coca cola syrup, chero  
22  cola syrup, pepsi cola syrup, doctor pepper syrup, root  
23  beer syrup, nu-grape syrup, lemon syrup, vanilla syrup,  
24  chocolate syrup, cherry smash syrup, rock candy syrup,  
25  simple syrup, chocolate drink powder, malt drink powder,  
26  or any other prepared syrups or powders sold or used  
27  for the purpose of mixing soft drinks commercially at  
28  soda fountains, restaurants or similar places as well as  
29  those powder bases prepared for the purpose of domes-  
30  tically mixing soft drinks such as kool aid, oh boy drink,  
31  tip top, miracle aid and all other similar products.

32   (3) "Simple syrup" shall mean the making, mixing,  
33  compounding or manufacturing, by dissolving sugar and  
34  water or any other mixtures that will create simple syrup  
35  to which may or may not be added concentrates or  
36  extracts.

37   (4) "Person" shall mean and include an individual,  
38  firm, partnership, association or corporation.

39   (5) "Wholesale dealer" includes only those persons who  
40  sell any bottled soft drink or soft drink syrup to retail  
41  dealers for the purpose of resale.

42   (6) "Retail dealer" includes every person other than a  
43  wholesale dealer mixing, making, compounding or man-  
44  ufacturing any drink from a soft drink syrup or powder  
45  base, or a person selling such syrup or powder.

46   (7) "Distributor" shall mean any person who man-

47 ufactures, bottles, produces or purchases for sale to retail  
48 dealers any bottled soft drink or soft drink syrup.

49 (8) "Commissioner" means the state tax commis-  
50 sioner, and where the meaning of the context requires,  
51 all deputies and employees duly authorized by him.

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## CHAPTER 26

(House Bill No. 46—By Mr. Myles and Mr. Seibert)

AN ACT to amend and reenact sections one and six, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the excise tax upon the privilege of transferring real property.

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[Passed February 9, 1960; in effect from passage. Approved by the Governor.]

### Article 21. Excise Tax on Privilege of Transferring Real Property.

#### Section

1. Definitions.
6. Duties of clerks; declaration of consideration or value; remittance and use of proceeds.

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

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

Section 1. *Definitions.*—The following words when used  
2 in this chapter shall have meanings ascribed to them in  
3 this section, except in those instances where the context  
4 clearly indicates a different meaning:

5 "Association" means a partnership, limited partnership,  
6 or any other form of unincorporated enterprise, owned  
7 or conducted by two or more persons.

8 "Corporation" means a corporation or joint-stock asso-  
9 ciation, organized under the laws of this state, the United

10 States or any other state, territory, or foreign country, or  
11 dependency, including, but not limited to, banking insti-  
12 tutions.

13 "Commissioner" means the state tax commissioner.

14 "Document" means any deed, or instrument or writing  
15 whereby any real property within this state or any in-  
16 terest therein shall be granted, conveyed or otherwise  
17 transferred to the grantee, purchaser, or any other person;  
18 but does not include wills, transfer of real property where  
19 the value of the property transferred is one hundred dol-  
20 lars or less, testamentary or inter vivos trusts, deeds of  
21 partition, deeds made pursuant to mergers of corporations.  
22 deeds made by a subsidiary corporation to its parent cor-  
23 poration for no consideration other than the cancellation  
24 or surrender of the subsidiary's stock, leases, transfers be-  
25 tween husband and wife, or between parent and child  
26 without consideration, transfers without consideration be-  
27 tween a principal and straw party for any purpose, trans-  
28 fer without consideration between voluntary charitable or  
29 educational associations or trustees thereof and like non-  
30 profit corporations having the same or similar purposes,  
31 quitclaim or corrective deeds without consideration, trans-  
32 fers to or from the United States, the state of West Vir-  
33 ginia, or to or from any of their instrumentalities, agencies  
34 or political subdivisions, by gift, dedication, deed or con-  
35 demnation proceedings, or mortgages or deeds of trust  
36 given as security for a debt.

37 "Person" means every natural person, association, or  
38 corporation. Whenever used in any clause prescribing and  
39 imposing a fine or imprisonment, or both, the term "per-  
40 son" as applied to associations, shall mean the partners  
41 or members thereof, and, as applied to corporations, the  
42 officers thereof.

43 "Transaction" means the delivering, accepting, or pre-  
44 senting for recording of a document.

45 "Value" means in the case of any document not a gift,  
46 the amount of the full actual consideration therefor, paid  
47 or to be paid, including the amount of any lien or liens  
48 assumed; in the case of a gift, or any other document  
49 without consideration, the actual monetary value of the  
50 property conveyed or transferred. In the event any docu-

51 ment includes real property or any interest therein lying  
52 outside the state of West Virginia or includes personal  
53 property, value shall be the proportion of the considera-  
54 tion paid in case of the transfer for consideration, or the  
55 proportion of the true and actual value in case of a gift,  
56 which the actual value of the real property located in  
57 West Virginia bears to the total actual value of all the  
58 property, real or personal, transferred by the document.  
59 The value as herein defined shall be stated in the declara-  
60 tion of consideration or value provided for in section six  
61 hereof.

Sec. 6. *Duties of Clerk; Declaration of Consideration*  
2 *or Value; Remittance and Use of Proceeds.*—When any  
3 instrument on which the tax as herein provided is im-  
4 posed is offered for recordation, the clerk of the county  
5 court shall ascertain and compute the amount of the tax  
6 due thereon and shall ascertain if stamps in the proper  
7 amount are attached thereto as a prerequisite to accept-  
8 ance of the instrument for recordation.

9 When offered for recording on or after the first day of  
10 July, one thousand nine hundred fifty-nine, each instru-  
11 ment subject to the tax as herein provided shall have  
12 appended on the face or at the end thereof, a statement  
13 or declaration signed by the grantor, grantee or other  
14 responsible party familiar with the transaction therein  
15 involved declaring the consideration paid for or the value  
16 of the property thereby conveyed. Such declaration may  
17 be in the following language:

18 "DECLARATION OF CONSIDERATION OR VALUE

19 I hereby declare:

20 (a) The total consideration paid for the property con-  
21 veyed by the document to which this declaration is ap-  
22 pended is \$.....; or,

23 (b) The true and actual value of the property trans-  
24 ferred by the document to which this declaration is ap-  
25 pended is, to the best of my knowledge and belief \$ ..... ;  
26 or,

27 (c) The proportion of all the property included in the  
28 document to which this declaration is appended which is  
29 real property located in West Virginia is ..... %;

30 the value of all the property \$.....; the value of  
31 real estate in West Virginia is \$.....; or,

32 (d) This deed conveys real estate located in more than  
33 one county in West Virginia; the total consideration paid  
34 for, or actual cash value of, all the real estate located in  
35 West Virginia conveyed by this document is \$.....;  
36 and documentary stamps showing payment of all of the  
37 excise tax on all of said real estate are attached to an  
38 executed counterpart of this deed recorded in.....  
39 county.

40 Given under my hand this ..... day of .....,  
41 19.....

42 Signature .....  
43 (Indicate whether grantor, grantee, or other  
44 interest in conveyance).  
45 .....

46 Address ..... ”

47 Such declaration shall be considered by the clerk in  
48 ascertaining the correct number of stamps required, and  
49 if declaration (d) is used no stamps shall be required  
50 on the duplicate deed to which it is attached and such  
51 duplicate deed shall be admitted to record, and when re-  
52 corded shall have the same effect for all purposes as if  
53 stamps were attached thereto.

54 The clerk shall, at the end of the month, pay all of the  
55 proceeds collected from the sale of stamps to the state  
56 auditor in the manner provided by law which shall be  
57 credited to the state general revenue fund.

—○—

## CHAPTER 27

(Senate Bill No. 46—By Mr. Bean, Mr. President, and Mr. Smith)

AN ACT to amend article twelve, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten-a, relating to the ultimate liability for the tax or service charge established by a board of trustees of a sanitary district.



[Passed February 11, 1960; in effect from passage. Approved by the Governor.]

## Article 12. Sanitary Districts for Sewage Disposal.

### Section

10-a. Ultimate liability for tax or service charge.

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

That article twelve, 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 ten-a, to read as follows:

- Section 10-a. *Ultimate Liability for Tax or Service Charge.*—It is the intent of this article that the tax or service charge herein imposed by said board of trustees is a tax, the ultimate incidence of and liability for which shall be upon the property owner or ultimate consumer.

## CHAPTER 28

(Senate Bill No. 26—By Mr. Martin)

AN ACT to amend and reenact section two, chapter one hundred seventy-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-nine, as amended, 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, for county courthouse and jail repairs, improvements and additions; and for a county health center.

[Passed February 4, 1960; in effect ninety days from passage. Approved by the Governor.]

### Section

2. Use of funds for courthouse and jail repairs, improvements and additions and county health center; apportionment of funds; expenditure.

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

That section two, chapter one hundred seventy-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-nine, as amended, be amended and re-enacted to read as follows:

Section 2. *Use of Funds for Courthouse and Jail Repairs, Improvements and Additions and County Health Center; 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 courthouse and jail of Berkeley county: *Provided*, That such moneys and funds may also, in the discretion of said court, be used or expended for the construction and/or purchase of an annex to said courthouse or the construction and/or purchase of a new courthouse, which may include a space for rooms for the county health department and a public library: *Provided, however*, That such moneys and funds may also, in the discretion of said court, be used or expended for the construction and/or purchase of a county health center.

—C—

## CHAPTER 29

(House Bill No. 57—By Mr. Kincaid)

AN ACT creating the Cabell-Wayne development commission; providing for membership therein; for the acquisition by it of real and personal property to stimulate and promote the expansion of business and industrial activity in Cabell

and Wayne counties; granting it tax exemption for its property, funds and obligations; for contributions to its funds and the issuance of revenue bonds.

[Passed February 9, 1960: in effect ninety days from passage. Approved by the Governor.]

### **Cabell-Wayne Development Commission.**

#### **Section**

1. Cabell-Wayne development commission created.
2. Purposes.
3. Members of commission.
4. Qualification of members of commission.
5. Compensation of members of the commission.
6. Commission to be a public corporation.
7. Powers.
8. Indebtedness of the commission.
9. Agreement in connection with obtaining funds.
10. Property, bonds and obligations of commission exempt from taxation.
11. Participation and appropriations authorized.
12. Contributions to commission by county courts and municipalities; funds and accounts of the commission.
13. Appointment of members.
14. Sale or lease of property.
15. Employees to be covered by workmen's compensation.
16. Liberal construction of act.
17. Provisions severable.

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

#### **Section 1. Cabell-Wayne Development Commission**

- 2 **Created.**—There is hereby created and established a public
- 3 agency to be known as "Cabell-Wayne Development Com-
- 4 mission" for the purpose and in the manner hereinafter
- 5 set forth.

- 2 **Sec. 2. Purposes.**—The purposes for which the commis-
- 3 sion is created are to promote, develop and advance the
- 4 business prosperity and economic welfare of the Cabell
- 5 and Wayne county area of the state of West Virginia, its
- 6 citizens and its industrial complex; to encourage and assist
- 7 through loans, investments or other business transactions
- 8 in the locating of new business and industry within Cabell
- 9 and Wayne counties and to rehabilitate and assist existing
- 10 businesses and industries therein; to stimulate and promote
- the expansion of all kinds of business and industrial ac-

11 tivity which will tend to advance business and industrial  
12 development and maintain the economic stability of  
13 Cabell and Wayne counties, provide maximum opportu-  
14 nities for employment, encourage thrift, and improve the  
15 standard of living of the citizens of Cabell and Wayne  
16 counties; to cooperate and act in conjunction with other  
17 organizations, federal, state or local, in the promotion  
18 and advancement of industrial, commercial, agricultural,  
19 and recreational developments within Cabell and Wayne  
20 counties; and to furnish money and credit, land and in-  
21 dustrial sites, technical assistance and such other aid as  
22 may be deemed requisite to approved and deserving appli-  
23 cants for the promotion, development and conduct of all  
24 kinds of business activity within Cabell and Wayne  
25 counties.

Sec. 3. *Members of Commission.*—The management and  
2 control of Cabell-Wayne development commission, its  
3 property, operations, business and affairs, shall be lodged  
4 in a board of not fewer than twelve persons who shall  
5 be known as members of the commission and who shall  
6 be appointed for a term of three years each, one member  
7 of the original board being appointed by each of the  
8 following: The county court of Cabell county, the county  
9 court of Wayne county, the Huntington city council, the  
10 Barboursville town council, the Milton town council, the  
11 Wayne town council, the Ceredo town council, the Kenova  
12 city council, the Huntington district labor council, the  
13 Huntington chamber of commerce, the Wayne chamber  
14 of commerce, and the Ceredo-Kenova chamber of com-  
15 merce; except that, as to the first board appointed, the  
16 terms of the members appointed by the county court of  
17 Cabell county, the county court of Wayne county, the  
18 Huntington city council, and the Barboursville town  
19 council shall expire the thirtieth day of June, next en-  
20 suing, the terms of the members appointed by the Milton  
21 town council, the Wayne town council, the Ceredo town  
22 council, the Kenova city council, shall expire one year  
23 thereafter, and the terms of the members appointed by  
24 the Huntington district labor council, the Huntington  
25 chamber of commerce, the Wayne chamber of commerce,  
26 and the Ceredo-Kenova chamber of commerce shall ex-

27 pire two years thereafter. As a member's term expires,  
28 the agency by whom such member was appointed shall  
29 appoint a member for a full term of three years. A mem-  
30 ber may be reappointed for such additional term or terms  
31 as the appointing agency may deem proper. If a member  
32 resigns, is removed or for any other reason his member-  
33 ship terminates during his term of office, a successor shall  
34 be appointed by the appointing agency to fill out the  
35 remainder of his term. Members in office at the expira-  
36 tion of their respective terms shall continue to serve until  
37 their successors have been appointed and have qualified.  
38 The appointing agency may at any time remove its ap-  
39 pointed member of the commission by an order duly en-  
40 tered of record or by other action appropriate for such  
41 appointing agency and may appoint a successor member  
42 for any member so removed.

43 In addition to the appointing agencies hereinbefore  
44 named, such other persons, firms, unincorporated asso-  
45 ciations and corporations, who reside, maintain offices, or  
46 have economic interests, as the case may be, in Cabell or  
47 Wayne counties, shall be eligible to participate in and to  
48 appoint members to the Cabell-Wayne development com-  
49 mission, as the said commission shall by its by-laws pro-  
50 vide.

Sec. 4. *Qualification of Members of Commission.*—All  
2 members of the board of the commission shall be citizens  
3 of Cabell or Wayne counties, West Virginia, and bona fide  
4 members of the agency by which they are appointed.

Sec. 5. *Compensation of Members of the Commission.*—  
2 No member of the commission shall receive any compen-  
3 sation, whether in formal salary, per diem allowances or  
4 otherwise, or in connection with his services as such mem-  
5 ber. Each member shall, however, be entitled to reim-  
6 bursement by the commission for any necessary expen-  
7 ditures in connection with the performance of his gen-  
8 eral duties as such member.

Sec. 6. *Commission to Be a Public Corporation.*—The  
2 commission and the members thereof shall constitute and  
3 be a public corporation under the name of Cabell-Wayne  
4 development commission, and as such shall have perpetual

5 succession, may contract and be contracted with, sue and  
6 be sued, plead and be pleaded, and have and use a com-  
7 mon seal.

Sec. 7. *Powers.*—The Cabell-Wayne development com-  
2 mission is hereby given power and authority as follows:  
3 (1) To make and adopt all necessary by-laws, rules and  
4 regulations for its organization and operations not incon-  
5 sistent with law; (2) to elect its own officers, to appoint  
6 committees and to employ and fix compensation for per-  
7 sonnel necessary for its operation; (3) to enter into con-  
8 tracts with any person, agency, governmental department,  
9 firm or corporation, including both public and private  
10 corporations, and generally to do any and all things  
11 necessary or convenient for the purpose of promoting,  
12 developing and advancing the business prosperity and eco-  
13 nomic welfare of Cabell and Wayne counties, West Vir-  
14 ginia, their citizens and industrial complex; (4) to dele-  
15 gate any authority given to it by law to any of its officers,  
16 committees, agents or employees; (5) to apply for, re-  
17 ceive and use grants-in-aid, donations and contributions  
18 from any source or sources, and to accept and use be-  
19 quests, devises, gifts and donations from any person, firm  
20 or corporation; (6) to acquire lands and hold title thereto  
21 in its own name; (7) to purchase, own, hold, sell and dis-  
22 pose of personal property and to sell, lease or otherwise  
23 dispose of any real estate which it may own; (8) to bor-  
24 row money and execute and deliver negotiable notes,  
25 mortgage bonds, other bonds, debentures, and other evi-  
26 dences of indebtedness therefor, and give such security  
27 therefor as shall be requisite, including giving a mortgage  
28 or deed of trust on its real or personal property and  
29 facilities in connection with the issuance of mortgage  
30 bonds; (9) to raise funds by the issuance and sale of  
31 revenue bonds in the manner provided by the applicable  
32 provisions of article four-a, chapter eight of the code of  
33 West Virginia, one thousand nine hundred thirty-one, as  
34 amended, being chapter sixty-eight, acts of the Legisla-  
35 ture, regular session, one thousand nine hundred thirty-  
36 five, as amended, it being hereby expressly provided that  
37 the Cabell-Wayne development commission is a "municipi-  
38 pal authority" within the definition of that term as used

39 in said article four-a, chapter eight of the code; and (10)  
40 to expend its funds in the execution of the powers and  
41 authority herein given.

Sec. 8. *Indebtedness of the Commission.*—The commis-  
2 sion may incur any proper indebtedness and issue any  
3 obligations and give any security therefor which it may  
4 deem necessary or advisable in connection with carrying  
5 out its purposes as hereinbefore mentioned. No statutory  
6 limitation with respect to the nature or amount of indebt-  
7 edness which may be incurred by municipalities or other  
8 public bodies shall apply to indebtedness of the authority.  
9 No indebtedness of any nature of the authority shall con-  
10 stitute an indebtedness of the county courts of Cabell  
11 or Wayne counties or the municipalities of Huntington,  
12 Barboursville, Milton, Wayne, Ceredo, or Kenova, the  
13 Huntington district labor council, the Huntington cham-  
14 ber of commerce, the Wayne chamber of commerce, or the  
15 Ceredo-Kenova chamber of commerce, or a charge  
16 against any property of said county courts, municipalities,  
17 or other appointing agencies. The rights of creditors of  
18 the commission shall be solely against the commission  
19 as a corporate body and shall be satisfied only out of  
20 property held by it in its corporate capacity.

Sec. 9. *Agreement in Connection with Obtaining Funds.*  
2 —The commission may, in connection with obtaining  
3 funds for its purposes, enter into any agreement with  
4 any person, firm or corporation, including the federal gov-  
5 ernment, or any agency or subdivision thereof, containing  
6 such provisions, covenants, terms and conditions as the  
7 commission may deem advisable.

Sec. 10. *Property, Bonds and Obligations of Commis-*  
2 *sion Exempt from Taxation.*—The commission shall be  
3 exempt from the payment of any taxes or fees to the  
4 state or any subdivisions thereof or to any officer or em-  
5 ployee of the state or other subdivision thereof. The  
6 property of the commission shall be exempt from all local  
7 and municipal taxes. Bonds, notes, debentures and other  
8 evidence of indebtedness of the commission are declared  
9 to be issued for a public purpose and to be public instru-  
10 mentalities, and shall be exempt from taxes.

Sec. 11. *Participation and Appropriations Authorized.*—

2 The county court of Cabell county, the county court of  
3 Wayne county, the city of Huntington, the town of Bar-  
4 boursville, the town of Milton, the town of Wayne, the  
5 town of Ceredo, and the city of Kenova, or any one or  
6 more of them, jointly and severally are hereby authorized  
7 and empowered to appoint members of the said commis-  
8 sion and to contribute by appropriation from their respec-  
9 tive general funds not otherwise appropriated to the cost  
10 of its operation and projects.

11 Any of the foregoing county courts or municipal cor-  
12 porations is hereby authorized and empowered to trans-  
13 fer and convey to the said commission property of any  
14 kind heretofore acquired by said county court or municip-  
15 al corporation for or adaptable to use in industrial and  
16 economic development, such transfers or conveyances to  
17 be without consideration or for such price and upon such  
18 terms and conditions as the said county courts or municip-  
19 al corporations shall deem proper.

Sec. 12. *Contributions to Commission by County Courts  
2 and Municipalities; Funds and Accounts of the Commis-  
3 sion.*—Contributions may be made to the commission from  
4 time to time by the county court of Cabell county, the  
5 county court of Wayne county, the city of Huntington,  
6 the town of Barboursville, the town of Milton, the town  
7 of Wayne, the town of Ceredo, or the city of Kenova, and  
8 by any persons, firms or corporations which shall desire  
9 so to do. All such funds and all other funds received  
10 by the commission shall be deposited in such bank or  
11 banks as the commission may direct and shall be with-  
12 drawn therefrom in such manner as the commission may  
13 direct. The commission shall keep strict account of all  
14 its receipts and expenditures and shall each quarter make  
15 a quarterly report to each of the aforesaid county courts  
16 and municipalities containing an itemized statement of  
17 its receipts and disbursements during the preceding  
18 quarter. Within sixty days after the end of each fiscal  
19 year, the commission shall make an annual report con-  
20 taining an itemized statement of its receipts and dis-  
21 bursements for the preceding year, and such annual re-  
22 port shall be published once a week for two successive



23 weeks in two newspapers of opposite politics of general  
24 circulation in Cabell and Wayne counties, West Virginia.  
25 The books, records and accounts of the commission shall  
26 be subject to audit and examination by the office of the  
27 state tax commissioner of West Virginia and by any other  
28 proper public official or body in the manner provided  
29 by law.

Sec. 13. *Appointment of Members.*—Any public corporation authorized to levy taxes having appointed members to the commission which shall thereafter fail to furnish any contribution to the funds of the commission during any levy year shall not thereafter be permitted to appoint a member to the commission during the period in which it shall not make contribution to the funds of the commission, unless such permission be granted by two thirds of the remaining members of the commission.

Sec. 14. *Sale or Lease of Property.*—In the event all of the corporations contributing to the funds of the commission shall so determine the commission shall make sale of all of its properties and assets and distribute the proceeds thereof among the contributing corporations according to their respective contributions; or in the event the board of the commission shall so determine the commission may lease all of its property and equipment on such terms and conditions as the commission may fix and determine.

Sec. 15. *Employees to Be Covered by Workmen's Compensation.*—All employees of the commission eligible thereto shall be deemed to be within the workmen's compensation act of West Virginia, and premiums on their compensation shall be paid by the commission as required by law.

Sec. 16. *Liberal Construction of Act.*—It is the purpose of this act to provide for promotion, development and advancement of the business prosperity and economic welfare of Cabell and Wayne counties, West Virginia, their citizens and their industrial complex, and this act shall be liberally construed as giving to the commission

7 full and complete power reasonably required to give  
8 effect to the purposes hereof.

Sec. 17. *Provisions Severable.*—The several sections and  
2 provisions of this act are severable, and if any section or  
3 provision hereof shall be held unconstitutional, all the  
4 remaining sections and provisions of this act shall never-  
5 theless remain valid.

## CHAPTER 30

(House Bill No. 5—By Mr. Ours)

AN ACT to authorize and empower the county court of Grant  
county to lease a certain parcel of land owned by said  
county, the same being known as the Hyre farm.

[Passed February 1, 1960; in effect from passage. Approved by the Governor.]

### Section

1. County court of Grant county authorized to lease certain county-owned property.

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

Section 1. *County Court of Grant County Authorized  
2 to Lease Certain County-owned Property.*—The county  
3 court of Grant county is hereby authorized and empower-  
4 ed to lease for a term of years a certain tract of real prop-  
5 erty owned by said county, consisting of two hundred  
6 fifty acres, more or less, situate in Milroy district of said  
7 county, and known as the Hyre farm, the same being the  
8 property conveyed to said county court by Samuel L.  
9 Hyre and Vergia B. Hyre, his wife, by deed dated Jan-  
10 uary second, one thousand nine hundred forty-five, of  
11 record in the office of the county clerk of Grant county  
12 in Deed Book No. forty-two, page one hundred ninety-  
13 three.

14 This property may be leased for industrial or such other  
15 purposes as the county court may deem advisable. Any  
16 rentals derived from this property shall be credited to  
17 the general county fund of the county.

## CHAPTER 31

(Senate Bill No. 15—By Mr. Hedrick and Mr. Holden)

AN ACT authorizing the county court of Harrison county and the county court of Marion county to create an airport authority, specifying the purposes of the authority and providing for membership in the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation by the authority of a public airport; for corporate existence of the authority; for the issuance by the authority of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and giving security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and obligations of the authority; for acquisition by the authority from the county court of Harrison county of the present county airport, known as the "Benedum Airport", and the improvement and operation thereof; for the authority to lease the airport; for the county court of Harrison county and the county court of Marion county to become the lessees of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of Harrison county and the county court of Marion county and others; for keeping the funds and accounts of the authority; for the disposition of any surplus funds; for covering the employees of the authority by workmen's compensation; and for dissolution of the authority.

[Passed January 21, 1960: in effect from passage. Approved by the Governor.]

### **Benedum Airport Authority.**

#### **Section**

1. Benedum airport authority authorized.
2. Purposes.
3. Members of authority.
4. Qualification of members of the authority.
5. Compensation of members of the authority.
6. Authority to be a public corporation.

7. Powers.
8. Indebtedness of the authority.
9. Agreements in connection with obtaining funds.
10. Authority to have right of eminent domain.
11. Property, bonds and obligations of authority exempt from taxation.
12. County court authorized to convey present airport properties and facilities to the authority.
13. Authority may lease airport and facilities to county courts of Harrison and Marion counties or other lessee or lessees.
14. Disposition of surplus of authority.
15. Contributions to authority by county courts and others; funds and accounts of the authority.
16. Employees to be covered by workmen's compensation.
17. Dissolution of authority.
18. What shall constitute capital contributions to the airport.
19. Automatic termination of the right to establish the authority.
20. Liberal construction of act.
21. Provisions severable.
22. This act and chapter 183, acts of the Legislature, 1959, both to remain in effect until an airport authority is established.

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

*Section 1. Benedum Airport Authority Authorized.—*

- 2 The county court of Harrison county and the county court
- 3 of Marion county are hereby authorized to create and
- 4 establish a public agency to be known as the "Benedum
- 5 Airport Authority" for the purposes and in the manner
- 6 hereinafter set forth.

- Sec. 2. Purposes.—*The authority is hereby authorized
- 2 and empowered to acquire, equip, construct, improve,
  - 3 maintain and operate a public airport with all usual and
  - 4 convenient appurtenances and facilities in Harrison
  - 5 county, West Virginia, to serve as a public airport for
  - 6 the convenience and accommodation of the inhabitants
  - 7 of Harrison county and Marion county and the public
  - 8 generally.

- Sec. 3. Members of Authority.—*The management and
- 2 control of the "Benedum Airport Authority", its property,
  - 3 operations, business and affairs, shall be lodged in a
  - 4 board of six persons who shall be known as the members
  - 5 of the authority and who shall be appointed for a term
  - 6 of three years each, three members by the county court
  - 7 of Harrison county, and three members by the county
  - 8 court of Marion county, except that, as to the first board
  - 9 appointed, the term of one member appointed by each
  - 10 county court shall expire on the first day of March next

11 ensuing, the term of another member appointed by each  
12 county court shall expire on the first day of the following  
13 March, and the term of the third original member ap-  
14 pointed by each county court shall expire on the first day  
15 of the next following March. All members of the board  
16 except the members of the first board shall be appointed  
17 for full three-year terms. As a member's term expires,  
18 the county court which appointed such member shall  
19 appoint a member for a full term of three years. A mem-  
20 ber may be reappointed for such additional term or terms  
21 as the county court appointing him may deem proper.  
22 If a member resigns, is removed or for any reason his  
23 membership terminates during his term of office, a suc-  
24 cesssor member to fill out the remainder of his term shall  
25 be appointed by the county court which appointed him.  
26 Members in office at the expiration of their respective  
27 terms shall continue to serve until their successors have  
28 been appointed and have qualified. The county court  
29 of the county appointing a member may at any time for  
30 good cause, and upon at least five days' notice in writing  
31 to such member, remove such member of the board of  
32 the authority by an order duly entered of record in the  
33 record book of such court and may appoint a successor  
34 member for any member so removed. If any member  
35 objects to being so removed, he may, in writing, demand  
36 a hearing, and the county court proposing to remove  
37 him shall promptly thereafter, in its own county, hold a  
38 public hearing thereon. After such public hearing, the  
39 county court holding the hearing shall determine whether  
40 the member shall be removed or shall be permitted to  
41 continue in office.

*Sec. 4. Qualification of Members of the Authority.—*

2 All members of the board of the authority shall be citizens  
3 of West Virginia, over thirty years of age, and residents  
4 of either Harrison county or Marion county. No member  
5 of the board shall be engaged in the aviation business as  
6 a major part of his activities. Not more than two mem-  
7 bers of the authority from the same county shall belong to  
8 the same political party. One member of the board of the  
9 authority from each county may also be a member of the  
10 county court of his county.

Sec. 5. *Compensation of Members of the Authority.*—

2 No member of the board of the authority shall receive  
3 any compensation, whether in form of salary, per diem  
4 allowances or otherwise, for or in connection with his  
5 services as such member. Each member shall, however,  
6 be entitled to reimbursement by the authority for any  
7 necessary expenditures in connection with the perform-  
8 ance of his general duties as such member.

Sec. 6. *Authority to Be a Public Corporation.*—The

2 authority when created, and the members thereof, shall  
3 constitute and be a public corporation under the name  
4 of "Benedum Airport Authority", and as such shall have  
5 perpetual succession, may contract and be contracted  
6 with, sue and be sued, plead and be impleaded, and have  
7 and use a common seal.

Sec. 7. *Powers.*—The "Benedum Airport Authority" is  
2 hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules  
4 and regulations for its organization and operations not  
5 inconsistent with law;

6 (2) To elect its own officers, to appoint committees  
7 and to employ and fix the compensation for personnel  
8 necessary for its operation;

9 (3) To enter into contracts with any person, govern-  
10 mental department, firm or corporation, including both  
11 public and private corporations, and generally to do any  
12 and all things necessary or convenient for the purpose  
13 of acquiring, equipping, constructing, maintaining, im-  
14 proving, extending, financing and operating a public air-  
15 port in Harrison county, West Virginia;

16 (4) To delegate any authority given to it by law to  
17 any of its officers, committees, agents or employees;

18 (5) To apply for, receive and use grants-in-aid, dona-  
19 tions and contributions from any source or sources, and  
20 to accept and use bequests, devises, gifts and donations  
21 from any person, firm or corporation;

22 (6) To acquire lands and hold title thereto in its own  
23 name;

24 (7) To purchase, own, hold, sell and dispose of per-

25 sonal property and to sell, lease or otherwise dispose of  
26 any real estate which it may own;

27 (8) To borrow money and execute and deliver nego-  
28 tiable notes, mortgage bonds, other bonds, debentures,  
29 and other evidences of indebtedness therefor, and give  
30 such security therefor as shall be requisite, including  
31 giving a mortgage or deed of trust on its airport properties  
32 and facilities in connection with the issuance of mortgage  
33 bonds.

34 (9) To raise funds by the issuance and sale of revenue  
35 bonds in the manner provided by the applicable pro-  
36 visions of article four-a, chapter eight of the code of West  
37 Virginia, being chapter sixty-eight, acts of the Legisla-  
38 ture, one thousand nine hundred thirty-five, as amended,  
39 it being hereby expressly provided that the "Benedum  
40 Airport Authority" is a "municipal authority" within the  
41 definition of that term as used in said article four-a,  
42 chapter eight of the code; and

43 (10) To expend its funds in the execution of the  
44 powers and authority herein given.

Sec. 8. *Indebtedness of the Authority.*—The authority  
2 may incur any proper indebtedness and issue any obliga-  
3 tions and give any security therefor which it may deem  
4 necessary or advisable in connection with carrying out  
5 its purposes as hereinbefore mentioned. No statutory  
6 limitation with respect to the nature or amount of  
7 indebtedness which may be incurred by municipalities  
8 or other public bodies shall apply to indebtedness of the  
9 authority. No indebtedness of any nature of the authority  
10 shall constitute an indebtedness of the county court of  
11 Harrison county or the county court of Marion county or  
12 a charge against any property of said county courts, or  
13 either of them. No obligation incurred by the authority  
14 shall give any right against any member of the county  
15 court of Harrison county or the county court of Marion  
16 county or any member of the board of the authority. The  
17 rights of creditors of the authority shall be solely against  
18 the authority as a corporate body and shall be satisfied  
19 only out of property held by it in its corporate capacity.

Sec. 9. *Agreements in Connection with Obtaining*

2 *Funds.*—The authority may, in connection with obtaining  
3 funds for its purposes, enter into any agreement with any  
4 person, firm or corporation, including the federal govern-  
5 ment, or any agency or subdivision thereof, containing  
6 such provisions, covenants, terms and conditions as the  
7 authority may deem advisable.

Sec. 10. *Authority to Have Right of Eminent Domain.*—  
2 Whenever it shall be deemed necessary by the authority  
3 in connection with the exercise of its powers herein con-  
4 ferred to take or acquire any lands, structures or build-  
5 ings or other rights, either in fee or as easements for the  
6 purposes herein set forth, the authority may purchase  
7 the same directly or through its agents from the owner  
8 or owners thereof, or failing to agree with the owner or  
9 owners thereof, the authority may exercise the power of  
10 eminent domain in the manner provided for condemna-  
11 tion proceedings in chapter fifty-four of the code of West  
12 Virginia, as heretofore and hereafter amended.

Sec. 11. *Property, Bonds and Obligations of Authority*  
2 *Exempt from Taxation.*—The authority shall be exempt  
3 from the payment of any taxes or fees to the state or any  
4 subdivisions thereof or to any officer or employee of  
5 the state or other subdivision thereof. The property of  
6 the authority shall be exempt from all local and municip-  
7 al taxes. Bonds, notes, debentures and other evidence  
8 of indebtedness of the authority are declared to be issued  
9 for a public purpose and to be public instrumentalities,  
10 and, together with interest thereon, shall be exempt from  
11 taxes.

Sec. 12. *County Court Authorized to Convey Present*  
2 *Airport Properties and Facilities to the Authority.*—The  
3 county court of Harrison county is hereby authorized  
4 to convey to the authority the present airport property  
5 owned by the county court, known as the "Benedum Air-  
6 port", together with all the appurtenances and facilities  
7 therewith, such conveyance to be without consideration  
8 or for such price and upon such terms and conditions as  
9 the county court and the authority shall deem proper.

Sec. 13. *Authority May Lease Airport and Facilities*  
2 *to County Courts of Harrison and Marion Counties or*



3 *Other Lessee or Lessees.*—The authority may lease its  
4 airport and all the appurtenances and facilities there-  
5 with to the county court of Harrison county and the  
6 county court of Marion county as joint lessees, or to any  
7 other available lessee, or joint lessees, at such rental and  
8 upon such terms and conditions as the authority shall  
9 deem proper. If the authority determines to lease the  
10 airport and its appurtenances and facilities, it shall first  
11 offer the same to the county court of Harrison county  
12 and the county court of Marion county upon an annual  
13 lease, and it shall not lease the airport and its appurten-  
14 ances and facilities to any other lessee until the county  
15 court of Harrison county and the county court of Marion  
16 county have indicated that they do not desire to lease said  
17 properties. The county court of Harrison county and the  
18 county court of Marion county are hereby authorized to  
19 enter into a lease with the authority for said airport and  
20 appurtenances and facilities at such rental and upon such  
21 terms and conditions as they shall deem proper, and the  
22 county court of Harrison county and the county court of  
23 Marion county are each hereby authorized to levy taxes  
24 as provided by law for the purpose of paying their re-  
25 spective portions of the rent for said airport, appurten-  
26 ances and facilities, said county courts to be equal lessees  
27 thereof.

2 *Sec. 14. Disposition of Surplus of Authority.*—If the  
3 authority should realize a surplus, whether from operat-  
4 ing the airport or leasing it for operation, over and above  
5 the amount required for the maintenance, improvement  
6 and operation of the airport and for meeting all required  
7 payments on its obligations, it shall set aside such reserve  
8 for future operations, maintenance, improvements and  
9 contingencies as it shall deem proper and shall then ap-  
10 ply the residue of such surplus, if any, to the payment  
11 of any recognized and established obligations not then  
12 due; and after all such recognized and established obli-  
13 gations have been paid off and discharged in full, the  
14 authority shall, at the end of each fiscal year, set aside  
15 the reserve for future operations, maintenance, improve-  
16 ments and contingencies, as aforesaid, and then pay the  
17 residue of such surplus, if any, to the county court of

17 Harrison county and the county court of Marion county  
18 in the proportions in which they respectively made con-  
19 tributions to the authority for the airport during the year  
20 just ended, until their respective contributions for such  
21 year have been repaid in full, and the residue, if any, of  
22 such surplus shall be paid over to said two county courts  
23 in the proportions in which they have respectively made  
24 capital contributions for constructing, altering, extending  
25 and improving the airport from the time of the inception  
26 of the airport, about the year one thousand nine hundred  
27 thirty-five, until the date of such distribution, which dis-  
28 tributions, if any, shall be used by said county courts for  
29 general county purposes in their respective counties.

Sec. 15. *Contributions to Authority by County Courts  
2 and Others; Funds and Accounts of the Authority.—*  
3 Contributions may be made to the authority from time to  
4 time by the county court of Harrison county and the  
5 county court of Marion county and by any persons, firms  
6 or corporations that shall desire so to do. All such funds  
7 and all other funds received by the authority shall be  
8 deposited in such bank or banks as the authority may  
9 direct and shall be withdrawn therefrom in such manner  
10 as the authority may direct. The authority shall keep  
11 strict account of all its receipts and expenditures and  
12 shall each quarter make a quarterly report to the county  
13 court of Harrison county and the county court of Marion  
14 county containing an itemized account of its receipts and  
15 disbursements during the preceding quarter. Such re-  
16 port shall be made within sixty days after the termina-  
17 tion of the quarter. Within sixty days after the end of  
18 each fiscal year, the authority shall make an annual  
19 report to each of said county courts containing an itemized  
20 statement of its receipts and disbursements for the pre-  
21 ceding year, and such annual report shall be published  
22 once a week for two successive weeks in two newspapers  
23 of opposite politics of general circulation in, and pub-  
24 lished in, Harrison county, West Virginia, and for a like  
25 period in two newspapers of opposite politics of general  
26 circulation in, and published in, Marion county, West  
27 Virginia. The books, records and accounts of the au-  
28 thority shall be subject to audit and examination by the

29 office of the state tax commissioner of West Virginia and  
30 by any other proper public official or body in the manner  
31 provided by law.

Sec. 16. *Employees to Be Covered by Workmen's Com-*  
2 *pensation.*—All employees of the authority eligible there-  
3 to shall be deemed to be within the workmen's compen-  
4 sation act of West Virginia, and premiums on their com-  
5 pensation shall be paid by the authority as required by  
6 law.

Sec. 17. *Dissolution of Authority.*—The authority may  
2 at any time pay off and discharge in full all of its in-  
3 debtedness, obligations and liabilities, convey the air-  
4 port properties, appurtenances and facilities to the county  
5 court of Harrison county and the county court of Marion  
6 county and be dissolved. If said airport properties, ap-  
7 purtenances and facilities are conveyed to the county court  
8 of Harrison county and the county court of Marion county,  
9 they shall be conveyed in the proportions in which each  
10 county court has made capital contributions for con-  
11 structing, altering, extending and improving the airport  
12 and its appurtenances and facilities from the time of the  
13 inception of the airport, about the year one thousand nine  
14 hundred thirty-five, until the date of such conveyance.  
15 Before making such conveyance of its properties to said  
16 county courts, the authority shall first publish notice of  
17 its intentions so to do and of its intention to be dissolved  
18 once a week for four successive weeks in two newspapers  
19 of opposite politics published in, and of general circula-  
20 tion in, Harrison county, West Virginia, and for a like  
21 period in two newspapers of opposite politics published  
22 in, and of general circulation in, Marion county, West  
23 Virginia. Certificates from the publishers of the papers  
24 of such publications shall be filed with the county court of  
25 Harrison county and the county court of Marion county  
26 on or before the day on which the deed conveying said  
27 properties is delivered. Any funds remaining in the hands  
28 of the authority at the time of the conveyance of said  
29 properties shall be by the authority paid over to the  
30 county court of Harrison county and the county court  
31 of Marion county in the respective proportions in which

32 the airport properties, appurtenances and facilities were  
33 conveyed to them, which funds shall be used by said  
34 county courts for purposes in connection with said airport.  
35 Upon the payment of its indebtedness, obligations and  
36 liabilities, the publishing of the notices aforesaid, the con-  
37 veyance of its properties, and the paying over to said  
38 county courts of any funds remaining in its hands, the  
39 authority shall cause a certificate showing its dissolution  
40 to be executed under its name and seal and to be re-  
41 corded in the office of the clerk of the county court of  
42 Harrison county and in the office of the clerk of the  
43 county court of Marion county, and thereupon its dissolu-  
44 tion shall be complete.

Sec. 18. *What Shall Constitute Capital Contributions to the Airport.*—At the time of establishing the authority,  
2 the county court of Harrison county and the county court  
3 of Marion county may by agreement stipulate the amount  
4 that each has contributed by way of capital contributions  
5 for constructing, altering, extending and improving the  
6 airport and its appurtenances and facilities from the time  
7 of the inception of the airport, about the year one thou-  
8 sand nine hundred thirty-five, until the establishment  
9 of the authority. If the amounts cannot be agreed upon,  
10 they shall be determined by a certified public accountant  
11 to be selected by said county courts. After the authority is  
12 established, it shall keep a careful record of all capital  
13 contributions to it by each county court. If the two county  
14 courts should become lessees and operate the airport  
15 under a lease from the authority, all sums paid by them  
16 to the authority as rent shall be treated and considered  
17 as capital contributions, unless both county courts agree  
18 otherwise in writing.

Sec. 19. *Automatic Termination of the Right to Establish the Authority.*—If on or before the first day of March,  
2 one thousand nine hundred seventy, the county court  
3 of Harrison county and the county court of Marion county  
4 have not appointed the members of the authority who are  
5 to constitute the board for management of its business and  
6 affairs, as provided in section three hereof, all right to  
7

8 create and establish "Benedum Airport Authority" under  
9 this act shall automatically terminate.

Sec. 20. *Liberal Construction of Act.*—It is the purpose  
2 of this act to provide for the acquisition, construction,  
3 improvement, extending, maintenance and operation of  
4 a public airport in a prudent and economical manner,  
5 and this act shall be liberally construed as giving to the  
6 authority full and complete power reasonably required  
7 to give effect to the purposes hereof. The provisions of  
8 this act are in addition to and not in derogation of any  
9 power existing in the county court of Harrison county  
10 and the county court of Marion county under any con-  
11 stitutional or statutory provisions which they, or either  
12 of them, may now have, or may hereafter acquire.

Sec. 21. *Provisions Severable.*—The several sections  
2 and provisions of this act are severable, and if any sec-  
3 tion or provision hereof shall be held unconstitutional,  
4 all the remaining sections and provisions of this act shall  
5 nevertheless remain valid.

Sec. 22. *This Act and Chapter 183 Acts of the Legisla-*  
2 *ture, 1959, Both to Remain in Effect Until an Airport*  
3 *Authority is Established.*—The county court of Harrison  
4 county was authorized to create an airport authority to  
5 be known as the "Benedum Airport Authority" by chapter  
6 one hundred eighty-three, acts of the Legislature, one  
7 thousand nine hundred fifty-nine. This act does not  
8 repeal chapter one hundred eighty-three, acts of the Leg-  
9 islature, one thousand nine hundred fifty-nine, except  
10 that if an airport authority is created and established by  
11 the county court of Harrison county and the county court  
12 of Marion county under this act, then chapter one hundred  
13 eighty-three, acts of the Legislature, one thousand nine  
14 hundred fifty-nine, shall no longer be in effect; but  
15 if the county court of Harrison county should create and  
16 establish an airport authority under chapter one hundred  
17 eighty-three, acts of the Legislature, one thousand nine  
18 hundred fifty-nine, then this act shall thereupon no longer  
19 be in effect.

## CHAPTER 32

(House Bill No. 58—By Mr. Brotherton)

AN ACT to amend and reenact chapter one hundred forty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, authorizing the county court of Kanawha county to expend funds for the construction and maintenance of the Four-H camp in Kanawha county.

[Passed February 9, 1960; in effect July 1, 1960. Approved by the Governor.]

### Section

1. Kanawha county court authorized to expend funds for Four-H camp.

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

- Section 1. *Kanawha County Court Authorized to Expend Funds for Four-H Camp.*—The county court of Kanawha county may expend annually from the general county fund a sum not to exceed twenty-five thousand dollars for the construction and maintenance of the Kanawha County Four-H camp.

## CHAPTER 33

(Senate Bill No. 16—By Mr. Hedrick and Mr. Moreland)

AN ACT to authorize the county court of Marion county, West Virginia, to establish and maintain a special fund to be known as the "Airport Fund", and to use and transfer to said airport fund unexpended funds and surpluses in any fund of said county, and to raise and deposit in said fund all money that may be raised from tax levies and appropriations made, provided and authorized for that purpose, and within the constitutional limitations, and all money and income derived from the operation of an airport in this

county or in other counties in this state, operated jointly with another or other counties or a public agency known as "Benedum Airport Authority", and all grants, appropriations, gifts, donations and financial assistance made to said airport by the state of West Virginia, or the United States government, or any person, firm or corporation, and to use said fund for the acquisition, construction, maintenance, improvement, operation, or leasing of an airport in Marion county or in other counties in this state operated jointly with another or other counties, or a public agency known as "Benedum Airport Authority", and to annually transfer from said fund to the general county fund any money in said fund not needed for airport purposes.

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[Passed January 21, 1960; in effect from passage. Approved by the Governor.]

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**Section**

1. Authorizing Marion county to establish airport fund.

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

Section 1. *Authorizing Marion County to Establish Airport Fund.*—The county court of Marion county, West Virginia, is authorized to establish and maintain a special fund to be known as the "Airport Fund", and to use and transfer to said airport fund unexpended funds and surpluses in any fund of said county, and to raise and deposit in said fund all money that may be raised from tax levies and appropriations made, provided and authorized for that purpose, and within constitutional limitations, and all money and income derived from the operation of an airport in this county or in other counties in this state operated jointly with another or other counties of a public agency known as "Benedum Airport Authority", and all grants, appropriations, gifts, donations and financial assistance made to said airport by the state of West Virginia, or the United States government, or any person, firm or corporation, and to use said fund for the acquisition, construction, maintenance, improvement, operation or leasing of an airport in Marion county, or in other

20 counties in this state, operated jointly with another or  
21 other counties, a public agency known as "Benedum Air-  
22 port Authority", and to annually transfer from said fund  
23 to the general county fund any money in said fund not  
24 needed for airport purposes.

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## CHAPTER 34

(House Bill No. 30—By Mr. Seibert)

AN ACT to amend and reenact section nine, chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-three, relating to the salary of the judge of the intermediate court of Ohio county.

[Passed January 29, 1960; in effect ninety days from passage. Approved by the Governor.]

### Section

9. Salary of judge.

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

That section nine, chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred fifty-three, be amended and reenacted to read as follows:

Section 9. *Salary of Judge.*—The said judge shall, from  
2 and after the first day of January, one thousand nine  
3 hundred sixty-one, for his services receive twelve thou-  
4 sand dollars per annum, to be paid out of the county  
5 treasury of said county of Ohio.

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## CHAPTER 35

(House Bill No. 31—By Mr. Seibert)

AN ACT authorizing the city of Wheeling and the board of commissioners of the county of Ohio, to own land in common



and to erect, construct, maintain, operate, improve and enlarge a building thereon for housing the offices and other quarters of the various officers and agencies of said city and county, and to enter into an agreement for the joint operation and maintenance of such building.

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[Passed January 29, 1960; in effect from passage. Approved by the Governor.]

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Section

1. Joint ownership by city of Wheeling and county of Ohio of land; erection, operation and maintenance of buildings thereon; contracts for joint operation and maintenance of buildings; expenditure of funds; bond and duties of disbursing officer.
2. City and county authorized to provide funds for erection, maintenance and operation of buildings; expenses of agency created; transfer of funds.

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

Section 1. *Joint Ownership by City of Wheeling and County of Ohio of Land; Erection, Operation and Maintenance of Buildings Thereon; Contracts for Joint Operation and Maintenance of Buildings; Expenditure of Funds; Bond and Duties of Disbursing Officer.*—That the city of Wheeling and the board of commissioners of the county of Ohio shall have power to acquire and hold in common land within said city and county and to erect, construct, improve, enlarge, operate, repair and maintain thereon or upon any part thereof a building or buildings for housing the offices and other quarters of the various officers, agencies and employees of said city and county, and to enter into such contracts and agreements with each other as they may mutually approve for the joint operation, management, repair, maintenance and control thereof. Among other provisions, such agreement may create a jointly controlled agency for such operation, management, repair, maintenance and control, with power to contract and expend monies for such purposes to the extent that the same may be made available to such agency by the said city and county, provided that the disbursing officer of such agency shall give bond with solvent surety in such amount as shall be fixed in such agreement con-

ditioned for the faithful performance of his duties, the accounting for all funds that may come into his hands or under his control, and upon the termination of his duties, the surrender of all monies in his possession and the delivery of all records pertaining to his office to the proper authorities.

Sec. 2. *City and County Authorized to Provide Funds for Erection, Maintenance and Operation of Buildings; Expenses of Agency Created; Transfer of Funds.*—The board of commissioners of the county of Ohio and the city of Wheeling shall have power and authority to provide funds for the payment of all costs of erecting, constructing, improving, enlarging, operating, repairing, maintaining and managing any building or buildings of the kind mentioned in section one hereof, and the expenses of any agency created by agreement of said county and city for said purposes, and may transfer such funds to such agency in such amounts, in such manner, and at such times as may be provided by mutual agreement of said city and county.

## CHAPTER 36

(House Bill No. 61—By Mr. Seibert)

AN ACT to amend and reenact section seven of an act entitled "An act to establish a county court and a board of commissioners of Ohio county, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia," approved December thirty-first, one thousand eight hundred seventy-two, as amended by acts of the Legislature, one thousand nine hundred nine, and as further amended by chapter one hundred thirty-two, acts of the Legislature, one thousand nine hundred twenty-three, as amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, and last amended by chapter two hundred fourteen, acts of the Legislature, regular session, one thousand nine hundred fifty-one, relating to the board

of commissioners of Ohio county, meetings, commissioners, powers.

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[Passed February 11, 1960; in effect from passage. Approved by the Governor.]

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Section

7. Board of commissioners of Ohio county; meetings; compensation; powers.
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*Be it enacted by the Legislature of West Virginia:*

That section seven of an act entitled "An act to establish a county court and a board of commissioners of Ohio county, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia," approved December thirty-first, one thousand eight hundred seventy-two, as amended by the acts of the Legislature, one thousand nine hundred nine, and as further amended by chapter one hundred thirty-two, acts of the Legislature, one thousand nine hundred twenty-three, as amended by chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-nine, and last amended by chapter two hundred fourteen, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted to read as follows:

Section 7. *Board of Commissioners of Ohio County; Meetings; Compensation; Powers.*—The commissioners elected as provided in section five shall constitute a board, to be known as "the Board of Commissioners of the County of Ohio", by which name they may sue and be sued, and make and use a common seal, and enact ordinances and by-laws not inconsistent with the laws of this state. They will meet steadily on the first Monday in every month, at the court house of their county, and may hold special and adjourned meetings at any time after their first meeting after election. They shall elect one of their number president of the board, and appoint a clerk, who shall hold office at their pleasure, and shall keep a journal of their proceedings, including a record of their ordinances in a volume separate from the journal of their proceedings, and shall perform such other services pertaining to his office as may be by them or by law required;

18 and whose compensation shall be forty-two hundred dol-  
19 lars annually, which salary shall be paid from the county  
20 treasury and no fees or additional salary shall be received  
21 by said clerk without approval by said board. The said  
22 board shall have the same powers now vested in the board  
23 of commissioners of Ohio county as to the superintendence  
24 and administration of the internal police and fiscal affairs  
25 of the county, including the establishment and regulation  
26 of roads, ways, bridges, public landings, ferries and mills,  
27 the granting of ordinary and other licenses, with authority  
28 to lay and disburse the county levies. The board shall,  
29 in all contested cases, judge of the election, qualification  
30 and returns of its own members, and of all county and  
31 district officers; and it shall exercise such other jurisdic-  
32 tion and perform such other duties as may be prescribed  
33 by law. The said commissioners shall each receive a com-  
34 pensation of forty-five hundred dollars annually, which  
35 salary shall be paid from the county treasury, and no fees,  
36 commissions or additional salary shall be received by any  
37 of said commissioners. Any commissioner may be indicted  
38 for malfeasance, misfeasance or neglect of official duty,  
39 and, upon conviction thereof, his office shall become  
40 vacant. A vacancy in the board of commissioners, whether  
41 from resignation, removal from the subdivision from  
42 which he was elected, removal from office, death or other  
43 cause, shall be filled by the remaining members of the  
44 board.

45 All acts or parts of acts inconsistent herewith are here-  
46 by repealed.

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## CHAPTER 37

(House Bill No. 35—By Mr. Smith, of Putnam, and Mr. Goshorn)

AN ACT authorizing and empowering the board of education of Putnam county to pay to the board of education of Kanawha county the per capita costs of students in the city of Nitro, Putnam county, attending school in Kanawha county.

[Passed February 5, 1960; in effect ninety days from passage. Approved by the Governor.]

Section

1. Putnam county board of education authorized to pay the per capita costs of students in the city of Nitro, Putnam county, attending school in Kanawha county.

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

Section 1. *Putnam County Board of Education Authorized to Pay the Per Capita Costs of Students in the City of Nitro, Putnam County, Attending School in Kanawha County.*—Notwithstanding any other acts of this Legislature, the board of education of Putnam county is hereby authorized and empowered to reimburse the board of education of Kanawha county for the actual per capita costs of elementary, junior high school and high school students residing in the city of Nitro, West Virginia, and in the county of Putnam, and attending schools in the school system of Kanawha county, minus the average state aid per pupil received by Kanawha county for each pupil residing in the city of Nitro, West Virginia, county of Putnam, and transferred to attend schools in the school system of Kanawha county under section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended.



# RESOLUTIONS

## HOUSE CONCURRENT RESOLUTION NO. 22

(By Mr. Parker and Mrs. Walker)

[Adopted January 29, 1960.]

Relating to consideration of types of fuel in plans and specifications for new buildings at state educational and other institutions.

WHEREAS, Heating of buildings at the various state institutions constitutes a major item in the cost of operation of such institutions; and

WHEREAS, This State has an abundant supply of coal as well as other types of fuel; and

WHEREAS, The cost of heating should be taken into consideration in designs for new buildings; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature hereby expresses as a policy that all state boards and agencies letting contracts for new buildings should carefully consider the various types of heating, including owning and operating costs; and permit the submission of plans and specifications for all of the various types of heating before final designs are approved.

## HOUSE CONCURRENT RESOLUTION NO. 24

(By Mr. Speaker, Mr. Pauley)

[Adopted February 1, 1960.]

Showing intent to provide certain measures of relief for emergency employment in distressed areas throughout the State of West Virginia through repairs and improvements at state parks.

WHEREAS, It is apparent to this Legislature that in certain areas of our State there exists an emergency in relation to unemployment; and

WHEREAS, The physical condition of certain of our parks makes it seem imperative that repairs be undertaken to meet the demands of the supporters of these facilities; and

WHEREAS, To undertake such needed improvements at this time will not only appear to be a necessity, but will also allow the employment of many persons in those areas not now employed and tend to lessen the emergency existing; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That it is the sense of this Legislature that from available revenues there be appropriated to the Conservation Commission funds for repairs and improvements to existing facilities at state parks.

It is the intent of the Legislature that funds so appropriated be used to relieve unemployment in the State and, to this end, employment preference for work on projects covered by such appropriation shall be given to unemployed persons who have exhausted unemployment benefits and who receive no aid from the Department of Public Assistance or other agencies.

## HOUSE CONCURRENT RESOLUTION NO. 25

(By Mr. Speaker, Mr. Pauley)

[Adopted February 1, 1960.]

Showing intent to provide certain measures of relief for emergency employment in distressed areas throughout the State of West Virginia, through construction of farm market facilities, eradication of oak wilt disease and a soil conservation program.

WHEREAS, It is apparent to this Legislature that in certain areas of our State there exists an emergency in relation to unemployment; and

WHEREAS, It is also apparent that a need exists for development of farm market facilities, eradication of oak wilt disease, and an expanded soil conservation program; and



WHEREAS, To undertake such needed programs at this time not only appear to be a necessity but will also allow the employment of many persons in those areas not now employed and tend to lessen the emergency condition existing; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

It is the intent of this Legislature that from available revenues there be appropriated to the Department of Agriculture funds for construction of farm market facilities, eradication of oak wilt disease, and for cooperation with the Soil Conservation Committee in a soil conservation program.

It is also the intent of this Legislature that funds so appropriated be used to relieve unemployment in the State and, to this end, employment preference for work on projects covered by such appropriation shall be given to unemployed persons who have exhausted unemployment benefits and who receive no aid from the Department of Public Assistance or other agency.

#### HOUSE CONCURRENT RESOLUTION NO. 27

(By Mr. Cruikshank)

[Adopted February 11, 1960.]

Providing for a comprehensive investigation into crime, vice and gambling in the State of West Virginia to ascertain the extent of such activities and whether legislation is needed to facilitate the discovery of such and the prosecution of persons involved.

WHEREAS, At the present time, there is evidence of crime, vice and gambling in the State of West Virginia; and

WHEREAS, The press reports that gambling devices are being shipped out of the State of Pennsylvania and into the State of West Virginia; and

WHEREAS, The press has carried accounts of alleged connections between various gambling interests and certain law enforcement officers; and

WHEREAS, There are circumstances which cause some citizens of the State of West Virginia to believe state funds are being embezzled; and

WHEREAS, The State of West Virginia must take all effective measures to discover the existence of such crime, vice and gambling, and to prosecute all persons engaged in such activities; and

WHEREAS, Legislative measures may be necessary to facilitate such discovery and prosecution; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That a special interim legislative committee to be known as "The Crime Commission of West Virginia", consisting of five members of the Senate, to be appointed by the President thereof, no more than three of whom shall be appointed from the same political party, and five members of the House of Delegates, to be appointed by the Speaker thereof, no more than three of whom shall be appointed from the same political party, to be headed by two co-chairmen, one to be selected by and from the members appointed from the Senate, and one to be selected by and from the members appointed from the House; is hereby created to conduct a comprehensive and detailed investigation into the existence of crime, vice and gambling in the State of West Virginia, including, but not limited to, the methods and places of operation, persons engaged in such activities directly or indirectly, and particularly persons holding any sort of state or local governmental position who may be in any way connected with such activities.

That the commission is hereby expressly authorized to sit during the recess of the Senate and House of Delegates.

That the commission is hereby authorized to employ such legal, technical, investigative, clerical, stenographic, advisory and other personnel as it may deem advisable to conduct such comprehensive investigation, and within the appropriation herein specified to fix reasonable compensation and expenses of such persons and firms as may be employed.

That the commission may consult and confer with all persons and agencies, public and private, as have information and data

pertinent to such investigation; all state and local governmental personnel and agencies shall cooperate to the fullest extent with said commission, and said commission is hereby empowered to call upon any department or agency of state government for such services, information and assistance as it may deem advisable.

That the commission may hold such hearings at such times and places as it may deem advisable.

That the commission is hereby authorized to examine witnesses and to send for such persons and books, records, documents and such other papers as it believes should be examined to make a complete investigation. All witnesses appearing before said commission shall testify under oath or affirmation, and any member of the commission may administer oaths or affirmations to such witnesses. To compel the attendance of witnesses at such hearings or the production of any books, records, documents or such other papers, the commission may issue subpoenae to be signed by one of the co-chairmen, all in accordance with section five, article one, chapter four of the Code of West Virginia, one thousand nine hundred thirty-one, as amended. Such subpoenae shall be served by any person authorized by law to serve and execute legal process, and service of such process shall be made without charge. Any persons called to testify may be granted immunity by said commission from trial and punishment for the offense of which they may have been guilty, and concerning which they are to testify. Persons granted such immunity may be compelled to testify concerning all matters for which immunity was granted. The commission is hereby authorized and empowered to punish for contempt. Interrogation by any person, of any witness who may appear before the commission in executive session, or a member of the commission or of the staff of the commission, except by a member of the commission or a member of its staff, shall be construed as contempt.

The commission has the right to hold executive sessions for the purpose of establishing business, policy, agenda and the interrogation of a witness or witnesses: *Provided, however,* That if the witness desires a public and/or open hearing he shall have the right to demand the same and shall not be heard otherwise: *And provided further,* That if a witness desires a

hearing in an executive session, he shall have the right to demand the same and shall not be heard otherwise. However, members of the staff of the commission may be permitted to attend executive sessions with permission of the commission.

That the members of the commission shall receive twenty-five dollars per diem and ten cents per mile for transportation, as expenses actually incurred in the discharge of their duties. Such expenses and all other expenses including those incurred by the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from the appropriation for "other authorized legislative committees".

That said commission shall make reports to the members of the Legislature by mail from time to time as it shall deem advisable, and shall on or before September 1, 1960, make an interim report by mail to the members of the Legislature embracing its findings and recommendations to that time. Not later than the third week after convening of the regular session of the Legislature in the year one thousand nine hundred sixty-one, the commission shall make a final report to the Legislature and shall include in such report such findings and recommendations as it shall deem pertinent and shall include in such report drafts of any proposed legislation which it deems necessary to carry the recommendations of the commission into effect.

#### HOUSE CONCURRENT RESOLUTION NO. 42

(By Mr. Craig and Mr. Zabeau)

[Adopted February 11, 1960.]

Relating to salary increases for employees of Weston State Hospital.

WHEREAS, A ten percent increase was provided by each of the 1957, 1958 and 1959 Legislatures for employees of the Weston State Hospital; and

WHEREAS, To date, these employees have been given only one of these ten percent increases and said hospital has been using the personal service appropriations provided to buy equipment and for administrative personnel; and has even had surpluses in the personal service fund which have reverted to the general fund; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Department of Mental Health is hereby directed to immediately put into effect the salary increases provided by the Legislature for the employees of Weston State Hospital.

## HOUSE JOINT RESOLUTION NO. 2

(By Mr. Armistead and Mr. Kessel)

[Adopted January 28, 1960.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section two, article fourteen thereof, relating to amendments to the Constitution.

*Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:*

That the question of ratification or rejection of an amendment to the Constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty, which proposed amendment is as follows:

That section two, article fourteen of the Constitution be amended to read as follows:

**Section 2. How Amendments Are Made.**—Any amendment to the Constitution of the State may be proposed in either House of the Legislature; and if the same, being read on three several days in each House, be agreed to on its third reading by two thirds of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and it shall be the duty of the Legislature to provide by law, for submitting the same to the voters of the State for ratification or rejection at the next general election thereafter, and cause the same to be published, at least three months before such election in some newspaper in every county in which a newspaper is printed. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as part of the Con-

stitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment.

### SENATE CONCURRENT RESOLUTION NO. 6

(By Mr. Bean, Mr. President)

[Adopted January 29, 1960.]

Providing for a study of the laws now in effect in West Virginia pertaining to adoption of children with a view of correcting any provisions that may presently appear to be archaic, or outmoded, while preserving the permanent interests of the child itself.

WHEREAS, The statutes relating to adoption of children (chapter forty-eight, article four of the Code of West Virginia, as amended), were enacted many years ago, and that of the Department of Public Assistance (chapter nine of the Code of West Virginia, as amended), as it relates to juvenile and child welfare cases, as well as other statutory references, with comparatively few amendments in succeeding years; and

WHEREAS, Many court proceedings and child welfare proceedings have undergone processes of streamlining; and

WHEREAS, Recent events have led many citizens of our State to become aroused regarding the procedure for placing children in homes leading to adoption under placement contracts; and

WHEREAS, The complete procedure appears in the minds of many of our citizens to be a slow process and not in keeping with present modern facilities, and a specific case in Tucker County, West Virginia, involving foster parents having received wide publicity which has not yet been resolved, and could be referred to as sufficient reason for a close study of such laws; and

WHEREAS, The interests of the children themselves are recog-

nized as transcending any other reasons for consideration; now, therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Joint Committee on Government and Finance be and it is hereby authorized and directed to make a comprehensive study of all the laws pertaining to adoption of children, in connection with the laws now in effect in other states, and as the same may be applicable in the State of West Virginia. The committee may consult and confer with such persons and agencies, public and private, as may have information and data pertinent to the study.

The expense for attendance and per diem of the members and other incidental expenses shall be paid from the appropriation for other joint committees.

The committee shall make a report of its findings and recommendations to the Legislature at the regular session to be convened in January, one thousand nine hundred sixty-one.

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## SENATE CONCURRENT RESOLUTION NO. 8

(By Mr. Bean, Mr. President)

[Adopted February 5, 1960.]

Pertaining to Washington's Western Lands National Monument.

WHEREAS, The West Virginia Historical Society, through the efforts of its Washington's Western Lands National Monument committee, is promoting the establishment of "Washington's Western Lands National Monument", which would include the prehistoric and historic sites in the area encompassed by the eight tracts of land owned by George Washington in the Ohio and Great Kanawha River Valleys; and

WHEREAS, Bills on the proposal were introduced in the first session of the Eighty-sixth Congress by U. S. Senators Jennings Randolph and Robert Byrd in the Senate and by Representative Ken Hechler in the House, on last June fourth and fifth; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature of West Virginia in regular session, one thousand nine hundred sixty, do endorse this project; and that the Clerk of the Senate be instructed to send a copy of this resolution to West Virginia's congressional delegation, urging the passage of Senate Bill No. 2120 and House Bill No. 7603, "To authorize the establishment of the Washington's Western Lands National Monument in the State of West Virginia".

#### SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Vassar and Mr. Stemple)

[Adopted January 27, 1960.]

Providing for the appointment of a Scientific Advisory Council on the Uses of Coal, and authorizing the Joint Committee on Government and Finance to make a study and recommendations on a program of coal research.

WHEREAS, For years the coal industry, once the life-blood of West Virginia's economy, has been faltering and falling back from one retrenchment to another which has resulted in the principal ills of our state-wide economy and contributed in large measure to the unemployment conditions now prevailing in the State; and

WHEREAS, While West Virginia is rich in natural resources, the depressed condition of the coal industry is costing the State dearly and threatening our most abundant asset with obsolescence; and

WHEREAS, During the same period in which the coal industry has declined, lost markets and yielded to other products, the chemical industry within the State has expanded and prospered, steadily advancing from one new height to another; and

WHEREAS, The contrast between the economic plight of the coal industry and the prosperous condition of the chemical and related industries, is generally accredited to the fact that the



chemical industry is built upon and sustained by constant research while the coal industry is not; and

WHEREAS, West Virginia is now importing from far-away areas of the United States enormous quantities of natural gas, bearing the same chemicals obtainable from our coal reserves, and it is believed the fullest exploration should be made into the possibilities of producing gas from coal as well as finding new uses and markets for our coal; and

WHEREAS, Since the coal industry has not seen fit to invest in research as have other industries, and because of the tremendous adverse affect the lagging condition of this important industry is having upon the State from economic, political and social standpoints, it is believed the State cannot afford to delay consideration of steps to aid and advance scientific approaches to the solution of these pressing problems; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

1. That the Governor appoint a Scientific Advisory Council on the Uses of Coal.

The council shall consist of eleven members. Its members shall embrace representatives of leading industries of the State.

It shall be the duty of this council to make recommendations to the Governor and the Legislature upon plans and methods for finding new uses for coal; and in general to make such studies and recommendations as it may deem wise in an effort to improve and advance the coal industry; and

2. That the Joint Committee on Government and Finance, with the advice and counsel of the Scientific Advisory Council, undertake a study of the feasibility of the State giving financial assistance to a program of coal research, which study shall include the consideration of the establishment of a coal research center at West Virginia University.

The committee shall report its recommendations to the Legislature as soon as practicable after the opening of the 1961 regular session.

## SENATE CONCURRENT RESOLUTION NO. 16

(Originating in the Senate Committee on Finance)

[Adopted February 11, 1960.]

Providing for the investigation of problems relating to proper aid and care for mentally ill persons.

WHEREAS, The West Virginia Association for Mental Health and the American Legion have ably brought to the attention of the Legislature the development of many new methods of treatment now available to the mentally ill; and

WHEREAS, The early return of these patients to their homes will serve a humanitarian and economic purpose; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Joint Committee on Government and Finance shall conduct or cause to be conducted an exhaustive study of the entire area of mental illness, and such Committee shall make a full report of its study, investigation and recommendations for legislative or other action to the Legislature on or before January first, one thousand nine hundred sixty-one.

That the Committee is authorized to employ such associations, firms, corporations or persons as it deems qualified to conduct said study and to fix the reasonable compensation to be paid to such associations, firms, corporations or persons as may be so employed, within the amount made available to said Committee.

## SENATE CONCURRENT RESOLUTION NO. 17

(By Mr. Bean, Mr. President, and Mr. Carrigan)

[Adopted February 9, 1960.]

Showing intent to provide a representative of the Department of Employment Security within each county to receive applications for emergency employment upon public improvement projects.

WHEREAS, Under the provisions of Senate Bill No. 40, which is an amendment of chapter nine of the Code of West Virginia, as amended, of the Legislature of one thousand nine hundred sixty, persons desiring to work upon a public improvement project shall file applications with the office of the Department of Employment Security for the area wherein he resides; and

WHEREAS, Such office may be at a distant location that would work a hardship upon an unemployed person to travel a great distance necessary to file such application; now, therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That it is the intent of this Legislature that the Department of Employment Security shall provide for a representative of that Department to be made available at reasonable intervals within each county of the State of West Virginia to receive applications from any person residing in that county and desiring to work upon a public improvement project under the provisions of Senate Bill No. 40, or any substitute of such bill, which may be passed at this session of the Legislature.

#### SENATE CONCURRENT RESOLUTION NO. 20

(By Mr. Smith and Mr. McKown)

[Adopted February 9, 1960.]

Regarding the construction of a forest tree nursery in West Virginia.

WHEREAS, The nineteen hundred fifty-nine session of the Legislature appropriated one hundred thousand dollars for construction of forest tree nursery facilities at McClintic Wildlife Station; and

WHEREAS, A difference of opinion has arisen between the state Conservation Commission and the state Department of Agriculture as to the suitability of the proposed location for such purpose; and

WHEREAS, The matter has been the subject of considerable discussion in the press and by interested citizens of the State; and

WHEREAS, An interim committee was created by the Legislature to make a study of the natural resources of the State; now, therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the interim committee so created be instructed to broaden the scope of its study, if necessary, to include therein the suitability of the location of the forest tree nursery at McClintic Wildlife Station; the desirability, the water facilities, the soil conditions, the climate, the altitude, the acreage, and any other objections or advantages related to this proposed project.

That this committee investigate and determine other suitable and desirable state-owned locations, in the vicinity of the McClintic Wildlife Station, or elsewhere in the State, which may be made available for such purpose.

That this committee be continued in order that a report may be made as to the conclusions and recommendations of the interim committee at the earliest practicable date, and that a copy of the conclusions and recommendations of the committee be furnished to the Joint Committee on Government and Finance and, with their concurrence, a copy be transmitted to the Board of Public Works.

#### SENATE CONCURRENT RESOLUTION NO. 21

(By Mr. Jackson, of Lincoln)

[Adopted February 9, 1960.]

Providing for an interim committee to continue and extend a study of the relationship of teaching to nonteaching personnel employed in the public school system of this State.

WHEREAS, House Resolution No. 21, adopted by the House of Delegates on the eleventh day of February, 1959, called upon the county school superintendents of the fifty-five counties of the State of West Virginia to furnish to the House of Delegates certain information concerning nonteaching personnel employed by the respective county boards of education; and

WHEREAS, House Concurrent Resolution No. 44 provided for an interim committee to continue a study of the relationship of teaching to nonteaching personnel employed in the public school system of this State; and

WHEREAS, A comparison of data supplied by the respective county superintendents and from other sources considered in relation to the size and student enrollment of such counties has disclosed a great disparity among the counties as regards the numbers and classification of and expenditures for such nonteaching personnel; and

WHEREAS, In the absence of a state-wide salary schedule in relation to nonteaching personnel there appears to be too much variation in monthly salaries throughout the different counties; and

WHEREAS, The varied number of persons employed in certain counties does not immediately justify itself in relation to possible work loads handled by county superintendents' offices; and

WHEREAS, Transportation and maintenance problems will have to be evaluated separately according to conditions existing in counties; and

WHEREAS, The State exercises very little control over the detail of the county school budgets, due to insufficiency of administrative rules and regulations; and

WHEREAS, It would seem that some counties employ too many nonteaching employees, thus diverting moneys to nonteaching positions that could be used for teachers' salaries; and

WHEREAS, A continued study of the organization of the respective county public school systems would furnish invaluable data on which to base proposed legislation relating to the public schools; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Joint Committee on Government and Finance is directed to continue and expand a study, survey and investiga-

tion of the numbers and classifications of and expenditures for supervisory and nonteaching personnel employed in the public school system of the fifty-five counties of this State, and to give the county boards of education an extension of time to correct or explain their own situation before terminating the study on nonteaching personnel; and then, if constructive effort has not been made by county school boards for improvement of what would seem to be this lack of uniformity, to make a finding, report and recommendation to the Legislature at the beginning of the next regular session, one thousand nine hundred sixty-one.

### SENATE CONCURRENT RESOLUTION NO. 23

(Originating in the Senate Committee on Finance)

[Adopted February 9, 1960.]

Requesting and directing the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to continue, or to direct, a study of our entire fiscal accounting, auditing, and administrative procedure.

WHEREAS, By direction of the Legislature, the Joint Committee on Government and Finance and the Commission on Interstate Cooperation created a subcommittee to make a study of accounting procedures and practices in West Virginia, and which joint committee made a fiscal report in one thousand nine hundred fifty-six on the present fiscal structure of the State of West Virginia, a critique and a proposed reorganization; and

WHEREAS, As a result of such study, the Legislature in the session of one thousand nine hundred fifty-seven enacted a law creating the West Virginia Department of Finance and Administration as a first step in this fiscal reorganization plan, with a general understanding that detail legislation to implement the program and clarify existing conflicting statutes would be enacted in the next session of the Legislature, but which has failed to pass; and

WHEREAS, The adoption and effectuation of the fiscal reorganization program in its entirety would undoubtedly provide

a vastly improved framework for fiscal management, and was so contemplated in the recommendations of this joint committee, and would eliminate duplication of effort in various fiscal operations and tend to reduce the alarming costs of many necessary expenses; such as duplication of printing of reports and other printing by the departments of our state government and which, in all probability, is approaching and may exceed one million dollars for this item alone; and

WHEREAS, The importance of post auditing and fiscal revision cannot be too strongly emphasized in relation to their dual function, and the effective fiscal control apparently is almost nonexistent insofar as state receipts are concerned; and

WHEREAS, The Legislature is responsible for study and review of executive budget requests and for appropriating anticipated state revenue and therefore should exercise the power of post audit to determine whether state funds have been, or are being, applied as appropriated; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be requested and instructed to continue or to direct a study of our fiscal accounting, auditing, and administrative procedure; that such study include a possible reorganization plan in all of the departments, institutions, boards, and agencies of the state government which will represent practical, economic, and modern accounting and reporting; and that such committees shall make a full report of their study and recommendations for legislative or other action of the Legislature on or before January eleventh, one thousand nine hundred sixty-one.

That the committees are authorized to employ such assistance as they may deem advisable and to fix reasonable compensation and expenses of such persons and firms as may be employed within the amount available by the appropriations under account number one hundred and three for joint expenses.

## SENATE CONCURRENT RESOLUTION NO. 24

(By Mr. Bean, Mr. President, and Mr. Hedrick)

[Adopted February 10, 1960.]

Requesting and directing the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to direct a study of a retirement plan for officers of the Conservation Commission in the State of West Virginia.

WHEREAS, There is presently no retirement system for officers of the Conservation Commission of the State of West Virginia; and

WHEREAS, The study of retirement systems would furnish invaluable data on which to base proposed legislation relating thereto; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be requested and instructed to direct a study of the different systems applicable to officers of the Conservation Commission of the State of West Virginia.

That prior to the convening of the next regular session of the Legislature, the committees make and issue a report to the Legislature concerning its study, together with such recommendations and any proposed legislation as may in its opinion best serve the best interests of the State and its people.

That the committees are authorized to employ such assistance as they may deem advisable and to fix reasonable compensation and expenses of such persons and firms as may be employed within the amount made available by the appropriations under account number one hundred and three for joint expenses.



# DISPOSITION OF BILLS ENACTED

## Regular Session, 1959

The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

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