ACTS
OF THE
FIFTY-SEVENTH
LEGISLATURE
OF
WEST VIRGINIA

Second Extraordinary Session, 1964
Regular Session, 1965
Regular Session, 1966
FOREWORD

This volume contains the acts of the 1965 and 1966 Regular Sessions of the 57th Legislature, the one act of the Second Extraordinary Session of the 56th Legislature, and resolutions of general interest adopted by the Legislature during these sessions.

Second Extraordinary Session, 1964

The Proclamation of the Governor convening this session limited the business to consideration of legislation to bring the meaning of terms in the West Virginia Personal Income Tax Act into conformity with the Federal Revenue Act of 1964.

The one-day session on November 27, 1964, adjourned sine die after passing a bill carrying out the purpose of the session. Only one bill was introduced in each House. The bills were identical and House Bill No. 1 was passed.

During the session one House Concurrent and four House Resolutions were offered, and the Senate had one Senate Concurrent and six Senate Resolutions, all of which were adopted.

Regular Session, 1965

The Regular Session of 1965 convened on January 13 and adjourned sine die on March 15, 1965. During the session, a total of 795 bills were introduced—504 House Bills and 291 Senate Bills. The Legislature passed 109 House Bills and 76 Senate Bills.

Of the 185 enactments of the session, the Governor approved 183 and vetoed one. The Budget Bill does not require executive action. The act vetoed was H. B. 530, relating to the regulation and licensing by municipalities of stationary engineers, plumbing contractors, plumbers, electrical contractors, electricians and other activities and trades affecting the public health and safety.

Four Constitutional Amendments were proposed. The proposed Amendments are listed herein under Joint Resolutions.

There were 54 House Concurrent, 18 House Joint and 52 House Resolutions offered during the session, of which 21 House
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Concurrent, three House Joint and 43 House Resolutions were adopted. The Senate had 34 Senate Concurrent, four Senate Joint and 14 Senate Resolutions, and 20 Senate Concurrent, one Senate Joint and 12 Senate Resolutions were adopted.

There were 75 House Bills, passed by the House, which were not passed by the Senate; and 17 Senate Bills, passed by that body, were not passed by the House.

Regular Session, 1966

This sixth 30-day session convened on January 12, 1966, and adjourned sine die on February 10, 1966. A total of 192 bills were introduced during the session—107 House Bills and 85 Senate Bills. The Legislature passed 25 House Bills and 41 Senate Bills.

The Governor approved all bills passed, except the Budget Bill which does not require executive action.

There were 55 House Concurrent, 4 House Joint and 19 House Resolutions offered during the session, of which 30 House Concurrent, 3 House Joint and 18 House Resolutions were adopted. The Senate had 29 Senate Concurrent, 3 Senate Joint and 13 Senate Resolutions, and 21 Senate Concurrent, 1 Senate Joint and 13 Senate Resolutions were adopted.

Five Constitutional Amendments were submitted to the voters. The proposed amendments are listed herein under the heading "Constitutional Amendments" under General Laws.

Three House Bills, passed by the House, were not passed by the Senate, and 7 Senate Bills passed by that body, were not passed by the House.

This volume may be purchased from the Division of Purchases, Department of Finance and Administration, Charleston, West Virginia 25305.

C. A. Blankenship, Clerk
House of Delegates

April 15, 1966
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### MEMBERS AND OFFICERS
#### FIFTY-SEVENTH LEGISLATURE
### SENATE
#### OFFICERS
- **President**—Howard W. Carson, Fayetteville
- **President Pro Tempore**—C. H. McKown, Wayne
- **Clerk**—J. Howard Myers, Martinsburg
- **Sergeant-at-Arms**—John E. Howell, Charleston
- **Doorkeeper**—Guy Douglas, Lookout

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(R) Republicans .............. 7

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*Senators elected in 1962, all others elected in 1964.
**Appointed January 11, 1965, to fill a vacancy caused by the death of her husband, Donald J. Baker, a Senator-elect.

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#### OFFICERS
- **Speaker**—H. Laban White, Clarksburg
- **Clerk**—C. A. Blankenship, Pineville
- **Sergeant-at-Arms**—Don Yoak, Spencer
- **Doorkeeper**—D. Earl Brawley, Charleston

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<td>Nick Fantasia (D)</td>
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<td>Mason</td>
<td>Brereton C. Jones (R)</td>
<td>Pt. Pleasant</td>
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1 Appointed September 20, 1965, to fill vacancy caused by the resignation of Earl M. Vickers.
2 Appointed September 20, 1965, to fill vacancy caused by the resignation of Gene W. Bailey.
3 Appointed March 11, 1965, to fill vacancy caused by the resignation, effective on that date, of A. J. Belcher.
<table>
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<tr>
<th>County or District</th>
<th>Name</th>
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<td>McDowell</td>
<td>W. Dewey Mentz (D)</td>
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<td>*Mrs. Maxie Mathis (D)</td>
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<td>Thomas C. Edgar (D)</td>
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<td>F. Wayne Lanham (D)</td>
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<td>Seventh District</td>
<td>*Billy B. Burke (D)</td>
<td>Glenville</td>
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(D) Democrats—91; (R) Republicans—9; Total—100


*Appointed December 17, 1965, to fill vacancy caused by the death of her husband, Boyd Mathis.

*Appointed September 20, 1965, to fill vacancy caused by the death of her husband, Herbert Schupbach.

*Appointed January 11, 1966, to fill vacancy caused by the death of Paul H. Kidd.
STANDING COMMITTEES OF THE SENATE

AERONAUTICS

Messrs. Taylor (of Mason) (Chairman), Montgomery (Vice Chairman), Kaufman, Mullins, Smith, Deem and Wolfe.

AGRICULTURE

Messrs. Parker (Chairman), and Jasper (Vice Chairman), Mrs. Baker, Messrs. Davis, Hedrick, McKown, Taylor (of Mason), Carrigan and Lambert.

BANKS AND CORPORATIONS

Messrs. Smith (Chairman), Porter (Vice Chairman), Brotherton, Floyd, Hylton, Jasper, Mullins, Carrigan and Lambert.

CLAIMS AND GRIEVANCES

Messrs. Kaufman (Chairman), and McCourt (Vice Chairman), Mrs. Baker, Messrs. Barnett, Brotherton, McKown, Tompos, Hubbard and Knapp.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Martin (Chairman), Gainer (Vice Chairman), Davis, Floyd, Jasper, Parker, Porter, Deem and Knapp.

EDUCATION

Messrs. McKown (Chairman), Hatcher (Vice Chairman), Barnett, Brotherton, Floyd, Holden, Martin, McCourt, Porter, Taylor (of Mason), Taylor (of Kanawha), Tompos, Carrigan, Lambert and Miller.

EXAMINE CLERK'S OFFICE

Messrs. Holden (Chairman), Mullins (Vice Chairman) and Miller.

FEDERAL RELATIONS

Messrs. Taylor (of Kanawha) (Chairman), Sharpe (Vice Chairman), Barnett, Hatcher, Jackson, Martin, Montgomery, Tompos and Miller.

FINANCE

Messrs. McCourt (Chairman), Jackson (Vice Chairman), Barnett, Floyd, Hatcher, Holden, Hylton, Jasper, Lambert, Martin, Montgomery, Mullins, Porter, Sharpe, Smith, Taylor (of Kanawha), Deem and Wolfe.
SENATE COMMITTEES

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Mrs. Baker (Chairman), Messrs. Brotherton (Vice Chairman), Barnett, Hatcher, Holden, Kaufman, Taylor (of Kanawha), Knapp and Miller.

INSURANCE

Messrs. Porter (Chairman), Taylor (of Kanawha) (Vice Chairman), Holden, Jackson, Martin, McKown, Smith, Carrigan and Lambert.

INTERSTATE COOPERATION

Messrs. Jackson (Chairman), McKown (Vice Chairman), Floyd, Gainer and Hubbard.

THE JUDICIARY

Messrs. Moreland (Chairman), and Kaufman (Vice Chairman), Mrs. Baker, Messrs. Barnett, Brotherton, Davis, Gainer, Hatcher, Hedrick, Holden, McKown, Parker, Taylor (of Mason), Tompos, Carrigan, Hubbard, Knapp and Miller.

LABOR

Messrs. Hedrick (Chairman), Tompos (Vice Chairman), Brotherton, Davis, Hatcher, Montgomery, Porter, Knapp and Wolfe.

MEDICINE AND SANITATION

Messrs. Mullins (Chairman), Taylor (of Mason) (Vice Chairman), Mrs. Baker, Messrs. Brotherton, Montgomery, Porter, Smith, Knapp and Miller.

MILITIA

Mr. Tompos (Chairman). Mrs. Baker, Messrs. Hedrick, Kaufman, McCourt, Sharpe, Smith, Knapp and Wolfe.

MINES AND MINING

Messrs. Jackson (Chairman), Holden (Vice Chairman), Davis, Gainer, Hedrick, Hylton, Montgomery, Deem and Hubbard.

NATURAL RESOURCES

Messrs. Gainer (Chairman), and Parker (Vice Chairman), Mrs. Baker, Messrs. Davis, Hatcher, Hedrick, Hylton, Jasper, McCourt, McKown, Mullins, Porter, Hubbard, Knapp and Lambert.

PENITENTIARY

Messrs. Montgomery (Chairman), Hylton (Vice Chairman), Floyd, Hedrick, Jasper, Martin, Mullins, Taylor (of Kanawha) and Deem.

PRIVILEGES AND ELECTIONS

Messrs. Floyd (Chairman), Martin (Vice Chairman), Brotherton, McCourt, Mullins, Parker, Sharpe, Deem and Lambert.
PUBLIC BUILDINGS AND HUMANE INSTITUTIONS
Messrs. Sharpe (Chairman), and Davis (Vice Chairman), Mrs. Baker, Messrs. Gainer, Hatcher, Hylton, Jackson, Jasper, Kaufman, Montgomery, Parker, Deem, Knapp, Lambert and Miller.

PUBLIC LIBRARY
Mr. Davis (Chairman), Mrs. Baker (Vice Chairman), Messrs. Hatcher, Sharpe, Smith, Taylor (of Mason), Tompos, Carrigan and Miller.

PUBLIC PRINTING
Messrs. Hylton (Chairman), Hedrick (Vice Chairman), Holden, Jackson, Martin, Sharpe, Taylor (of Kanawha), Deem and Wolfe.

RAILROADS
Messrs. Jasper (Chairman), Barnett (Vice Chairman), Davis, Gainer, Hylton, Parker, Smith, Hubbard and Wolfe.

REDISTRICTING
Messrs. Hatcher (Chairman), Taylor (of Mason) (Vice Chairman), Jasper, McCourt, McKown, Porter, Taylor (of Kanawha), Hubbard and Wolfe.

ROADS AND NAVIGATION
Messrs. Barnett (Chairman), Martin (Vice Chairman), Floyd, Gainer, Jasper, Kaufman, Montgomery, Mullins, Porter, Sharpe, Smith, Taylor (of Kanawha), Taylor (of Mason), Tompos, Carrigan, Deem and Hubbard.

RULES
Messrs. Carson (Chairman ex officio), Holden, Jackson, Kaufman, McCourt, McKown, Moreland, Carrigan and Wolfe.

TEMPERANCE
Messrs. Brotherton (Chairman), Floyd (Vice Chairman), Davis, Hylton, McCourt, Sharpe, Taylor (of Mason), Deem and Hubbard.

VETERANS' AFFAIRS
Messrs. Tompos (Chairman), Smith (Vice Chairman), Gainer, Hedrick, Hylton, Mullins, Porter, Lambert and Miller.

JOINT COMMITTEE ON ENROLLED BILLS
Messrs. Parker (Chairman), Kaufman, Tompos, Hubbard and Miller.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE
Messrs. Carson (Chairman ex officio), Barnett, Davis, McCourt, Moreland, Carrigan and Wolfe.

JOINT COMMITTEE ON JOINT RULES
Messrs. Carson (Chairman ex officio), Moreland and Carrigan.
STANDING COMMITTEES OF THE
HOUSE OF DELEGATES

AGRICULTURE

Messrs. Slonaker (Chairman), Shiflet (Vice Chairman), Auvil, Beall, Bowling, Burke, Covey, Dawson, Edgar, Frazer, Goodwin, Hager (of Lincoln), Hovermale, Lanham, Mrs. Mathis, Messrs. McCoy, Moyers, Neal, Smith, Steptoe, Watson, Wilt, Wright, Jones and Ours.

BANKING

Messrs. Myles (Chairman), Armistead (Vice Chairman), Anderson, Ayers, Boiarsky, Burke, Cann, Castleberry, D'Aurora, Dusci, Hager (of Lincoln), Hager (of Logan), Hill, Knotts, Marstiller, Mrs. Mathis, Messrs. Mentz, Pauley (of McDowell), Poindexter, Mrs. Schupbach, Messrs. Slonaker, Watson, Wilt, Nicely and Seibert.

CLAIMS

Messrs. Ghiz (Chairman), Moyers (Vice Chairman), Anderson, Beall, Cain, Cann, Christian, Craig, Dawson, Dunaway, England, Hager (of Logan), Hovermale, Kessinger, Kopp, Lanham, McManus, Myles, Seabright, Slonaker, Stalnaker, Watson, Woo, Buck and Seibert.

COUNTIES, DISTRICTS AND MUNICIPALITIES

Messrs. Black (Chairman), Madden (Vice Chairman), Adams, Armistead, Ayers, Bowling, Cain, Dusci, Fantasia, Griffith, Kessinger, Kincaid, Knotts, Lohr, McManus, Mentz, Nelson, Payne, Scott, Mrs. Thornhill, Messrs. Tokash, Varney, Woo, Ours and Poling.

DELMINQUENT LANDS

Messrs. Given (Chairman), Covey (Vice Chairman), Auvil, Bedell, Black, Boiarsky, Cain, Coghill, Craig, Frazer, Griffith, Hager (of Lincoln), Kincaid, Knight, Loop, Mrs. Mathis, Messrs. Neal, Ragan, Scott, Steptoe, Tokash, Varney, Wooten, Nicely and Poling.

EDUCATION

Messrs. Auvil (Chairman), Smith (Vice Chairman), Bowling, Cain, Christian, Church, Dawson, Dunaway, Dusci, England, Frazer, Hager (of Logan), Holliday, Knotts, McManus, Mrs. Paul, Mr. Pyles, Mrs. Schupbach, Messrs. Shiflet, Simpkins, Mrs. Thornhill, Messrs. Tokash, Wilt, Harman and Jones.

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ELECTIONS

Messrs. Anderson (Chairman), Pyles (Vice Chairman), Bedell, Boiarsky, Cain, Castleberry, Covey, England, Gibson, Hovermale, Howell, Loop, Madden, Neal, Nelson, Mrs. Paul, Messrs. Payne, Riccardi, Scott, Seabright, Mrs. Thornhill, Messrs. Wooten, Wright, Jones and Nicely.

FINANCE

Messrs. Boiarsky (Chairman), Cann (Vice Chairman), Auvil, Beall, Bedell, Black, Covey, D'Aurora, Edgar, Fantasia, Frazer, Ghiz, Hager (of Logan), Hill, Hovermale, Kincaid, Knight, Lohr, McCoy, McManus, Mentz, Sawyers, Seabright, Ours and Poling.

FORESTRY AND CONSERVATION

Messrs. England (Chairman), Edgar (Vice Chairman), Auvil, Barker, Bowling, Casey, Church, Dunaway, Gibson, Given, Goodwin, Holliday, Lohr, McCoy, Mrs. Paul, Messrs. Pauley (of Kanawha), Shiflet, Slonaker, Steptoe, Stewart, Varney, Wilt, Mrs. Withrow, Messrs. Buck and Ours.

GAME AND FISH

Messrs. McCoy (Chairman), Sawyers (Vice Chairman), Allen, Beall, Black, Covey, Dawson, England, Fantasia, Ghiz, Goodwin, Hovermale, Knight, Kopp, Lanham, Morasco, Neal, Mrs. Paul, Mrs. Schupbach, Messrs. Stalnaker, Tokash, Wilt, Wooten, Ashley and Harman.

HEALTH

Messrs. Poindexter (Chairman), Holliday (Vice Chairman), Adams, Ayers, Castleberry, Christian, Church, Dawson, Dunaway, Dusci, Griffith, Hager (of Logan), Kincaid, Knight, Lohr, Madden, Marstiller, Nelson, Seabright, Simpkins, Smith, Mrs. Withrow, Messrs. Wright, Harman and Queen.

HUMANE INSTITUTIONS

Mrs. Withrow (Chairman), Messrs. Craig (Vice Chairman), Board, Castleberry, Christian, Church, D'Aurora, Davidson, Dusci, Gibson, Griffith, Holliday, Knight, Moyers, Poindexter, Pyles, Ragan, Shiflet, Simpkins, Smith, Mrs. Thornhill, Messrs. Tokash, Wright, Ashley and Jones.

INSURANCE

Messrs. Hill (Chairman), Marstiller (Vice Chairman), Armisted, Board, Castleberry, Coghill, Davidson, England, Frazer, Hager (of Lincoln), Kessinger, Mentz, Morasco, Myles, Pauley (of Kanawha), Payne, Scott, Shiflet, Smith, Steptoe, Mrs. Thornhill, Messrs. Varney, Wright, Nicely and Queen.
INTERSTATE COOPERATION

Messrs. Hager (of Logan) (Chairman), Frazer (Vice Chairman), McCoy, Myles and Buck.

JUDICIARY

Messrs. Watson (Chairman), Steptoe (Vice Chairman), Adams, Anderson, Armistead, Ayers, Barker, Casey, Coghill, Craig, Given, Kessinger, Loop, Madden, Marstiller, Morasco, Moyer, Myles, Nelson, Pauley (of McDowell), Payne, Stonaker, Stalnaker, Ashley and Seibert.

LABOR AND INDUSTRY

Messrs. Cann (Chairman), D'Aurora (Vice Chairman), Allen, Barker, Casey, Coghill, Davidson, Gibson, Given, Goodwin, Holliday, Howell, Knotts, Kopp, Loop, Mrs. Mathis, Mrs. Paul, Messrs. Pyles, Ragan, Scott, Stalnaker, Stewart, Woo, Buck and Jones.

MILITARY AFFAIRS

Messrs. Adams (Chairman), Gibson (Vice Chairman), Allen, Ayers, Barker, Bedell, Board, Boiarsky, Burke, Dunaway, Hovermale, Kincaid, Knight, Lanham, Morasco, Neal, Pauley (of Kanawha), Payne, Ragan, Sawyers, Shiflet, Stewart, Varney, Harman and Poling.

MINING

Messrs. Frazer (Chairman), Wooten (Vice Chairman), Beall, Black, Bowling, Church, Coghill, Covey, Fantasia, Ghiz, Hager (of Lincoln), Hill, Kopp, Mrs. Mathis, Messrs. Pauley (of Kanawha), Pauley (of McDowell), Pyles, Ragan, Riccardi, Simpkins, Varney, Mrs. Withrow, Messrs. Woo, Ashley and Queen.

PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Casey (Chairman), Barker (Vice Chairman), Adams, Allen, Auvil, Ayers, Dawson, Dunaway, Edgar, Ghiz, Given, Goodwin, Howell, Kessinger, Kopp, Lanham, Madden, Morasco, Riccardi, Mrs. Schupbach, Messrs. Stalnaker, Stewart, Varney, Harman and Queen.

RAILROADS

Messrs. Board (Chairman), Christian (Vice Chairman), Allen, Armistead, Burke, Davidson, Edgar, Goodwin, Hager (of Lincoln), Hill, Knotts, Mrs. Paul, Messrs. Pauley (of McDowell), Poindexter, Ragan, Riccardi, Sawyers, Mrs. Schupbach, Messrs. Simpkins, Smith, Stalnaker, Stewart, Watson, Ours and Seibert.

REDISTRICTING

Messrs. Lohr (Chairman), Loop (Vice Chairman), Adams, Burke, Cann, Coghill, Gibson, Howell, Marstiller, McCoy, Mo-
rasco, Myles, Nelson, Pauley (of Kanawha), Pauley (of McDowell), Poindexter, Riccardi, Sawyers, Scott, Seabright, Step­toe, Watson, Wooten, Buck and Nicely.

ROADS

Messrs. Bedell (Chairman), Wilt (Vice Chairman), Allen, Barker, Cain, Davidson, Fantasia, Given, Griffith, Kessinger, Kopp, Lanham, Lohr, Madden, Moyers, Neal, Pauley (of Kanawha), Pauley (of McDowell), Pyles Sawyers, Simpkins, Mrs. Withrow, Messrs. Wooten, Jones and Queen.

RULES

Messrs. White (Chairman ex officio), Bedell, Boiarsky, Cann, Hill, Madden, Myles, Pauley (of McDowell), Poindexter, Steptoe, Watson and Seibert.

TEMPERANCE

Messrs. Castleberry (Chairman), Kincaid (Vice Chairman), Anderson, Armistead, Board, Boiarsky, Cann, Casey, D'Aurora, Dusci, Edgar, Ghiz, Hager (of Logan), Howell, McCoy, Myles, Sawyers, Slonaker, Stewart, Tokash, Mrs. Withrow, Messrs. Woo, Wright, Ashley and Buck.

VETERANS AFFAIRS

Messrs. Mentz (Chairman), Fantasia (Vice Chairman), Anderson, Beall, Black, Bowling, Casey, Christian, Craig, D'Aurora, Griffith, Hill, Holliday, Howell, Knotts, Marstiller, McManus, Moyers, Nelson, Riccardi, Seabright, Stalnaker, Woo, Nicely and Poling.

JOINT COMMITTEE ON ENROLLED BILLS

Messrs. Loop (Chairman), Davidson (Vice Chairman), Ayers, D'Aurora and Nicely.

JOINT COMMITTEE ON GOVERNMENT AND FINANCE

Messrs. White (ex officio), Boiarsky, Cann, Pauley (of McDowell), Watson, Ours and Seibert.

JOINT COMMITTEE ON JOINT RULES

Messrs. White (ex officio), Pauley (of McDowell) and Seibert.
AN ACT to amend and reenact section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the recovery of damages in wrongful death actions.

Be it enacted by the Legislature of West Virginia:

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

Article 7. Actions for Injuries.

Section 6. Party plaintiff in such actions; damages; distribution; limitation.

Every such action shall be brought by and in the name of the personal representative of such deceased person, and the amount recovered in every such action shall be recovered by said personal representative and be distributed in accordance here-with. In every such action the jury may award such damages as they deem fair and just, not exceeding ten thousand dollars, and the amount recovered shall be distributed to the parties and in the proportion provided by
law for the distribution of personal estate left by persons
dying intestate. In addition, the jury may award such
further damages, not exceeding the sum of one hundred
thousand dollars, as shall equal the financial or pecuniary
loss sustained by the dependent distributee or distributees
of such deceased person, and shall be distributed as
though part of the decedent's estate to decedent's de­
pendent distributees in the proportions provided by the
laws of descent and distribution.

In every such action and in addition to the damages
awarded pursuant to the foregoing provisions hereof, the
personal representative of the deceased shall be entitled
to recover the reasonable funeral expenses of such de­
ceased person and the reasonable hospital, medical and
other expenses incurred as a result of the wrongful act,
neglect or default of the defendant or defendants which
resulted in death.

In its verdict the jury shall set forth separately the
amount of damages, if any, awarded by it for reasonable
funeral, hospital, medical and said other expenses in­
curred as a result of the wrongful act, neglect or default
of the defendant or defendants which resulted in death,
and any such amount recovered for such expenses shall
be so expended by the personal representative.

Every such action shall be commenced within two years
after the death of such deceased person.

The provisions of this section shall not apply to actions
brought for the death of any person occurring prior to
the effective date hereof.

CHAPTER 2

(Senate Bill No. 104—By Mr. Brotherton)

(Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.)

AN ACT to amend and reenact section twenty-eight, article one,
chapter forty-four of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended, relating to the payment of small sums due employees to distributees of decedents upon whose estates there have been no qualifications.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article one, 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:

Article 1. Personal Representatives.

Section 28. Payment of small sums due employees to distributees of decedents upon whose estates there have been no qualifications.

Section 28. Payment of Small Sums Due Employees to Distributees of Decedents upon Whose Estates There Have Been No Qualifications.—When there is due from the state of West Virginia, any of its political subdivisions, the United States, or any employer, as pension or money allowed for burial expenses, or money, wages or salary due from any employer to a deceased employee, upon whose estate there has been no qualification, a sum of not exceeding one thousand dollars, it shall be lawful for the state of West Virginia, any of its political subdivisions, the United States, or such employer, after one hundred and twenty days from the death of said person to whom such money is due, to pay said sum to his or her surviving consort, if any; if none such, then to the distributees of the said decedent under the laws of the state of West Virginia, whose receipt therefor shall be a full discharge and acquittance to all persons whomsoever on account of such sum.

CHAPTER 3
(Senate Bill No. 16—By Mr. Carson, Mr. President)

[Passed February 5, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and three, article two, chapter forty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to publication by a commissioner of accounts of a notice of time for receiving claims against decedents’ estates and the certification by the commissioner of the publication of such notice.

Be it enacted by the Legislature of West Virginia:

That sections two and three, 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:

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

Section 2. Commissioner to publish notice of time for receiving claims against decedents’ estates.

3. Commissioner to certify to publication of notice.

Section 2. Commissioner to Publish Notice of Time for Receiving Claims against Decedents’ Estates.—Each month the commissioner of accounts shall publish a notice designating a convenient time and place when and where claims against the estate or estates referred to him during the previous calendar month may be presented, examined and allowed. The time so designated by the commissioner shall not be less than four months nor more than six months from the date of the first publication of the notice hereinafter set forth. The notice shall be to the following effect:

To the Creditors and Beneficiaries of the Estate(s) of (Naming the decedent or decedents, as the case may be)

All persons having claims against the estate(s) of the said deceased, whether due or not, are notified to exhibit same, with the voucher thereof, legally verified, to the undersigned, at (designating the place) on or before the ______ day of _______, 19____; otherwise they may by law be excluded from all benefit of said estate(s). All beneficiaries of said estate(s) may appear on or before said day to examine said claims and otherwise protect their interests.
Given under my hand this ______ day of ________, 19____

Commissioner of Accounts,
County of

Such notice shall be published once a week for three successive weeks in some newspaper of general circulation published in the county, but if no such newspaper is published in the county such notice shall be published in some newspaper of general circulation in the county. The publication of such notice shall be equivalent to personal service on the creditors, distributees and legatees, or any of them.

Sec. 3. Commissioner to Certify to Publication of Notice.

—In his certificate to the report of claims against the estate, to be made as hereafter provided, the commissioner of accounts shall certify that the notice required by section two of this article was published and shall state the name of the newspaper in which the notice was published and the dates of publishing.

CHAPTER 4

(House Bill No. 625—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact article ten-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the production, processing, sale and distribution of eggs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

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

Section

1. Short title; purpose.
2. Definitions.
3. Distributor required to have certificate of authorization; application; fee; terms; renewal; posting; revocation or suspension.
4. Exemption.
5. Consumer grade and size or weight class to be shown on container; conformance to designation.
7. Stop sale provisions.
8. Labeling requirements.
9. Invoice to be furnished purchaser; seller and purchaser to keep invoice on file for thirty days.
10. Advertising.
11. Commissioner of agriculture to enforce article.
12. Egg handling facilities; temperature and humidity; sanitation and cleaning.
13. Access to premises, etc.
14. Penalty for violation of article or rules and regulations; injunction; duty of prosecuting attorney.
15. Persons punishable as principals.

Section 1. Short Title; Purpose.—This article shall be known and may be cited as the “Egg Marketing Law” and is designed to regulate the commercial processing, sale and distribution of eggs in this state.

Section 2. Definitions.—As used in this article, or in any rule or regulation authorized by it, unless the context clearly requires otherwise or a different meaning is specifically prescribed:

(a) “Authorized representative” means the commissioner or any duly authorized agent or employee who is assigned to carry out the provisions of this article.

(b) “Candling and grading” means selecting eggs as to their conformity to the standards of quality and size or weight class preparatory to marketing them as a specific grade and size or weight class.

(c) “Commissioner” means the commissioner of agriculture.

(d) “Container” means any box, case, basket, carton, sack, bag or other receptacle containing eggs.

(e) “Consumer” means any person who purchases eggs for his or her own family use or consumption and not for resale.

(f) “Department of Agriculture” or “department” means the department of agriculture of West Virginia.
(g) "Distributor" means any person, firm or corporation offering for sale or distributing eggs in the state to a retailer, cafe, restaurant or any other establishment offering for sale to consumers, or to an institutional user; and shall include any person, firm or corporation distributing eggs to his or its own retail outlets or stores but shall not include any person, producer, firm or corporation engaged only to haul or transport eggs nor retailers selling at retail eggs purchased from producers.

(h) "Eggs" means eggs in the shell that are the product of a domesticated chicken.

(i) "Facilities" means any room, compartment, or refrigerator used in handling eggs in any manner.

(j) "Grades" means and includes specifications defining the limit of variation in quality of two or more eggs.

(k) "Institutional consumer" means a restaurant, hotel, licensed boardinghouse, commercial bakery or any other institution in which eggs are prepared as food for use by its patrons, residents or patients.

(l) "Lot" means a physical grouping of eggs or containers with eggs therein, as determined by an authorized representative of the department of agriculture.

(m) "Marketing of eggs" or "market" means the sale, offer for sale, gift, barter, exchange, advertising, branding, marking, labeling, grading or other preparatory operation or distribution in any manner of eggs or containers of eggs as defined in this article.

(n) "Packer" means any person who is engaged in grading, shell treating or packing shell eggs for sale to consumers, direct or through distributors or retailers.

(o) "Person" means and includes any individual, firm, partnership, exchange, association, trustee, receiver, corporation, or any other business organization and any member, officer, or employee thereof.

(p) "Retailer" means any person who markets eggs to consumers.

(q) "Producer" means any person owning laying hens who markets eggs of his own production only.

(r) "Size or weight class" means a classification of eggs based on weight at the rate per dozen.
"Standards for quality" means specifications of the physical characteristics of any or all of the component parts of the individual egg.

"Subcontainer" means any container used within another container.

Sec. 3. Distributor Required to Have Certificate of Authorization; Application; Fee; Terms; Renewal; Posting; Revocation or Suspension.—Every distributor as defined by this article shall obtain from the commissioner of agriculture a certificate authorizing such distributor to engage in the selling or distributing of eggs. Application for such certificate shall be accompanied by a fee of five dollars to cover cost of recording such certificate and shall expire on the thirtieth day of June next succeeding date of issue thereof. Certificates shall be renewable and shall be posted in a conspicuous place in holder's place of business. The commissioner shall have the power to revoke or suspend the certificate for failure to comply with the provisions of the article and shall refuse to issue a certificate to wilful violators.

Sec. 4. Exemption.—A producer or distributor marketing one hundred fifty dozen or less per week of his own production shall be exempt from the provisions of this article.

Sec. 5. Consumer Grade and Size or Weight Class to Be Shown on Container; Conformance to Designation.—No distributor shall market to consumers, institutional users or retailers or expose for that purpose any eggs unless there is clearly designated therewith on the container the consumer grade and size or weight class established in accordance with the provisions of this article and such eggs shall conform to the designated grade and size or weight class, except when sold on contract to an agency of the United States government.

Sec. 6. Standards, Grades and Weight Classes.—The specifications for consumer grades and weight classes and the standards for quality of individual eggs shall be those promulgated by the United States department of agriculture as set forth in the regulations governing the
grading of shell eggs and United States standards, grades and weight classes for shell eggs as amended from time to time.

Sec. 7. Stop Sale Provisions.—If an authorized representative of the department of agriculture shall determine, after inspection, that any lot of eggs is in violation of this article, he may issue an embargo. An embargo shall specify the reason for its issuance. An embargo shall prohibit the further marketing of the eggs subject to it until such eggs are released by the department of agriculture.

Sec. 8. Labeling Requirements.—Any container or sub-container in which eggs are marketed to consumers shall bear on the outside portion of the container, but not limited to, the following:
(a) The applicable consumer grade or quality by designation provided for in this article.
(b) The applicable size or weight class provided for in this article.
(c) The word “eggs.”
(d) The name and address of the packer, distributor or retailer.
Words and numerals used to designate the grade and size shall be clearly legible.
Any person intending to reuse a container shall obscure any inappropriate labeling thereon and relabel the container in accordance with this section prior to refilling the container with eggs. In any event, the address of the packer or distributor shall be clearly legible. No descriptive term other than the applicable grade and size may be used except that the term “fresh” may only be applied to eggs conforming to the specifications for Grade A or better.

Sec. 9. Invoice to Be Furnished Purchaser; Seller and Purchaser to Keep Invoice on File for Thirty Days.—Any distributor, when marketing eggs to a retailer, institutional user, or to any other person shall furnish to the purchaser at the time of delivery an invoice showing date of sale, name and address of seller, name of purchaser, quantity, grade and size, and weight classification.
A copy of such invoice shall be kept on file by both the person selling and the purchaser at their respective places of business for a period of at least thirty days.

Sec. 10. Advertising.—No person shall advertise eggs for sale at a given price unless the unabbreviated grade or quality and size-weight are conspicuously designated.

Sec. 11. Commissioner of Agriculture to Enforce Article.—The commissioner of agriculture is hereby charged with the enforcement of the provisions of this article and is empowered to prescribe and enforce such rules and regulations as may be necessary to administer and enforce the provisions of this article.

Sec. 12. Egg Handling Facilities; Temperature and Humidity; Sanitation and Cleaning.—Any packer or distributor engaged in the assembling, marketing or the processing of eggs for marketing shall, in addition to maintaining egg handling facilities in a manner commensurate with laws governing food establishments, keep the eggs at a temperature not higher than sixty degrees Fahrenheit and in a relative humidity of not less than seventy percent. In addition, any container, including the packaging material therein, when used for the marketing of eggs shall be clean, unbroken and free from foreign odor. In all instances eggs shall, so far as possible and by use of all reasonable means, be protected from being soiled or dirtied by foreign matter. When cleaning is necessary, an acceptable sanitary method shall be employed: Provided, That any producer selling eggs of his own production is exempt from the temperature and humidity provisions of this section, if his production is not in excess of one hundred and fifty dozen per week.

Sec. 13. Access to Premises, Etc.—The commissioner, or his authorized agents or representatives, shall during business hours have access to any establishment or facility where eggs are bought, stored, sold, offered for sale, or processed in order to inspect and examine eggs, egg containers, and the premises, and to examine the records of such establishments or facilities relevant thereto.

Sec. 14. Penalty for Violation of Article or Rules and
Regulations; Injunction; Duty of Prosecuting Attorney.—Any person who violates any of the provisions of this article or of the rules or regulations adopted pursuant to the provisions thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than two hundred dollars. In addition to the penalties provided for in this article, the commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rules or regulations promulgated under this article notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

Nothing in the article shall be construed as requiring the commissioner or his representative to report for prosecution minor violations of this article when he believes that the public interest will be best served by a suitable notice of warning in writing. It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 15. Persons Punishable as Principals.—(a) Whoever commits any act prohibited by any section of this article or aids, abets, induces, or procures its commission, is punishable as a principal.

(b) Whoever causes an act to be done which if directly performed by him or another would be a violation of the provisions of this article, is punishable as a principal.

Sec. 16. Separability.—If any of the provisions of this article shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions of the article, and to these ends the provisions of this article are declared to be severable.
CHAPTER 5

(House Bill No. 637—By Mr. Slonaker and Mr. Ours)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article fourteen, relating to agricultural feeding stuffs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and a new article fourteen be enacted in lieu thereof, to read as follows:

Article 14. West Virginia Commercial Feed Law.

Section
1. Title.
2. Enforcing official.
3. Definitions of words and terms when used in this article.
4. Registration.
5. Labeling.
6. Inspection fees.
7. Adulteration.
8. Misbranding.
9. Inspection; sampling; analysis.
11. Right to inspect; "stop sale" orders and "embargoes"; hearings; appeals; condemnation and confiscation.
12. Penalties.
13. Publications.

Section 1. Title.—This article shall be known as the "West Virginia Commercial Feed Law."

Sec. 2. Enforcing Official.—This article shall be administered by the commissioner of agriculture of the state of West Virginia, hereinafter referred to as the "commissioner."

Sec. 3. Definitions of Words and Terms When Used in This Article.—(a) The term "person" includes individual, partnership, corporation and association; (b) the
term “distribute” means to offer for sale, sell or barter, commercial feed or customer-formula feed; or to supply, furnish or otherwise provide commercial feed or customer-formula feed to a contract feeder. The term “distributor” means any person who distributes; (c) the term “sell” or “sale” includes exchange; (d) the term “commercial feed” means all materials which are distributed for use as feed or for mixing in feed, for animals other than man except: (1) Unmixed or unprocessed whole seeds; (2) unground hay, straw, stover, silage, cobs, husks and hulls when not mixed with other materials; (3) individual chemical compounds when not mixed with other materials; (e) the term “feed ingredient” means each of the constituent materials making up a commercial feed; (f) the term “mineral feed” shall mean a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients; (g) the term “customer-formula feed” means a mixture of commercial feeds and/or materials each batch of which mixture is mixed according to the specific instructions of the final purchaser or contract feeder; (h) the term “brand name” means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor and distinguishing it from that of others; (i) the term “product name” means the name of the commercial feed which identifies it as to kind, class or specific use; (j) the term “label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or customer-formula feed is distributed; (k) the term “ton” means a net weight of two thousand pounds avoirdupois; (l) the term “per cent” or “percentage” means percentage by weight; (m) the term “official sample” means any sample of feed taken by the commissioner or his agent and designated as “official”; and (n) the term “contract feeder” means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished or otherwise provided to such person and whereby such person’s remuneration is determined
all or in part by feed consumption, mortality, profits, or
amount or quality of product.

Sec. 4. Registration.—(a) Each commercial feed shall
be registered before being distributed in this state: "Provided, however, That customer-formula feeds are exempt from registration. The application for registration shall be submitted on forms furnished by the commissioner, and, if the commissioner so requests, shall also be accompanied by a label or other printed matter describing the product. Upon approval by the commissioner a copy of the registration shall be furnished to the applicant. All registrations are considered permanent unless new registrations are called for by the commissioner or unless cancelled by the registrant. The application shall include the information required by subdivisions (2), (3), (4), and (5) of subsection (a) of section five. The commissioner may by regulation permit on the registration the alternative listing of ingredients of comparable feeding value, provided that the label for each package shall state the specific ingredients which are in such package. (b) A distributor shall not be required to register any brand of commercial feed which is already registered under this article by another person. (c) Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted provided there is satisfactory evidence that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed. Any changes permitted shall be considered as a new registration. (d) The commissioner is empowered to refuse registration of any application not in compliance with the provisions of this article and to cancel any registration subsequently found not to be in compliance with any provision of this article: "Provided, however, That no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the commissioner and to amend his application in order to comply with the requirements of this article.

Sec. 5. Labeling.—(a) Any commercial feed distributed in this state shall be accompanied by a legible label bearing the following information: (1) The net weight.
4 (2) The product name, brand name, if any, under which
5 the commercial feed is distributed. (3) The guaranteed
6 analysis of the commercial feed, listing the minimum per-
7 centage of crude protein, minimum percentage of crude
8 fat, and maximum percentage of crude fiber. For all
9 mineral feeds and for those commercial feeds containing
10 a level of added mineral ingredients established by reg-
11 ulation, the list shall include the following, if added:
12 Minimum and maximum percentages of calcium (Ca),
13 minimum percentage of phosphorus (P), minimum per-
14 centage of iodine (I), and minimum and maximum per-
15 centage of salt (NaC\(_\text{3}\)). Other substances or elements,
16 determinable by laboratory methods, may be guaranteed
17 by permission of the commissioner. When any items are
18 guaranteed, they shall be subject to inspection and anal-
19 ysis in accordance with the methods and regulations that
20 may be prescribed by the commissioner. Products dis-
21 tributed solely as mineral and/or vitamin supplements
22 and guaranteed as specified in this section need not show
23 guarantees for protein, fat and fiber. (4) The common
24 or usual name of each ingredient used in the manufacture
25 of the commercial feed, except as the commissioner may,
26 by regulation, permit the use of a collective term for a
27 group of ingredients all of which perform the same func-
28 tion. An ingredient statement is not required for single
29 standardized ingredient feeds which are officially defined.
30 (5) The name and principal address of the person re-
31 sponsible for distributing the commercial feed. (b) When
32 a commercial feed is distributed in this state in bags or
33 other containers, the label shall be placed on or affixed
34 to the container; when a commercial feed is distributed
35 in bulk the label shall accompany delivery or be furnished
36 to the purchaser. (c) A customer-formula feed shall be
37 labeled by invoice. The invoice, which is to accompany
38 delivery and be supplied to the purchaser at the time of
39 delivery, shall bear the following information: (1) Name
40 and address of the mixer. (2) Name and address of the
41 purchaser. (3) Date of sale. (4) The product name and
42 brand name, if any, and number of pounds of each regis-
43 tered commercial feed used in the mixture and the name
44 and number of pounds of each other feed ingredient
(d) If a commercial feed or a customer-formula feed contains a nonnutritive substance which is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or which is intended to affect the structure or any function of the animal body, the commissioner may require the label to show the amount present, directions for use, and/or warnings against misuse of the feed.

Sec. 6. Inspection Fees.—(a) There shall be paid to the commissioner for all commercial feeds distributed in this state an inspection fee at the rate of twenty cents per ton: Provided, however, That customer-formula feeds are hereby exempted if the inspection fee is paid on the commercial feeds which they contain: And provided further, That distribution of commercial feeds to manufacturers are hereby exempted if the commercial feeds so distributed are used solely in manufacture of feeds which are registered: And provided further, That the manufacturer of commercial feeds or his designated dealer who furnishes or supplies feed to a person to be fed to poultry owned by the manufacturer or his designated dealer is hereby exempt from paying the inspection fee on all such feed actually fed to poultry owned by the feed manufacturer or his designated dealer: And provided further, That any distributor shall pay an annual registration fee of twenty-five dollars for each brand of commercial feed distributed in individual packages of ten pounds or less, and the distributor of such brand shall not be required to pay the inspection fee on such packages of the brand so registered. Fees so collected shall constitute a fund for the payment of the cost of inspection, sampling, and analysis, and other expenses necessary for the administration of this article. All moneys collected under the provisions of this article shall be deposited with the state treasurer in a “special revenue account,” and shall be expended upon order of the commissioner of agriculture.

(b) Every person, except as hereinafter provided, who distributes commercial feed in this state shall: (1) File, not later than the twentieth day of January and July of each year, a semiannual statement under oath, setting forth the number of net tons of commercial feeds dis-
tributed in this state during the preceding six-month period and upon filing such statement shall pay the in-
spection fee at the rate stated in subsection (a) of this section. When more than one person is involved in the
distribution of a commercial feed, the person who dis-
tributes to the consumer is responsible for reporting the
tonnage and paying the inspection fee unless the report
and payment have been made by a prior distributor of
the feed. (2) Keep such records as may be necessary or
required by the commissioner to indicate accurately the
tonnage of commercial feed distributed in this state,
and the commissioner shall have the right to examine
such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or
to pay the inspection fee or comply as provided herein
shall constitute sufficient cause for the cancellation of all
registrations on file for the distributor.

Sec. 7. Adulteration.—No person shall distribute an
adulterated feed. A commercial feed or customer-formula
feed shall be deemed to be adulterated: (a) If any poison-
ous, deleterious or nonnutritive ingredient has been
added in sufficient amount to render it injurious to the
health of a human who may consume the resultant food
product of the animal or to the health of the animal when
fed in accordance with directions for use on the label.
(b) If any valuable constituent has been in whole or
in part omitted or abstracted therefrom or any less valu-
able substance substituted therefor. (c) If its composi-
tion or quality falls below or differs from that which it
is purported or is represented to possess by its labeling.
(d) If it contains added hulls, screenings, straw, cobs,
or other high fiber material unless the name of each
such material is stated on the label. (e) If it contains
whole weed seeds in amounts exceeding the limits which
the commissioner shall establish by rule or regulation.

Sec. 8. Misbranding.—No person shall distribute mis-
branded feed. A commercial feed or customer-formula
feed shall be deemed to be misbranded: (a) If its
labeling is false or misleading in any particular. (b) If
it is distributed under the name of another feed. (c) If
it is not labeled as required in section five of this article and in regulations prescribed under this article. (d) If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the commissioner; in the adopting of such regulations the commissioner shall give due regard to commonly accepted definitions such as those issued by the Association of American Feed Control Officials, Incorporated. (e) If any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read or understood by the ordinary individual under customary conditions of purchase and use.

Sec. 9. Inspection; Sampling; Analysis.—(a) It shall be the duty of the commissioner, who may act through his authorized agent, to sample, inspect, make analyses of, and test commercial feeds and customer-formula feeds distributed within this state at such time and place and to such an extent as he may deem necessary to determine whether such feeds are in compliance with the provisions of this article. The commissioner, individually or through his agent, is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours in order to have access to commercial feeds and customer-formula feeds and to records relating to their distribution. (b) The methods of sampling and analysis shall be those adopted by the commissioner from sources such as the journal of the association of official agricultural chemists. (c) The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in subsection (m) of section three, which sample is obtained and analyzed as provided for in subsection (b) of this section. (d) When the inspection and analysis of an
official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor and the purchaser. Upon request made within thirty days the commissioner shall furnish to the distributor a portion of the sample concerned.

Sec. 10. Rules and Regulations.—The commissioner is hereby charged with the enforcement of the provisions of this article, and is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to administer and enforce the provisions of this article.

Sec. 11. Rights to Inspect; “Stop Sale” Orders and “Embargoes”; Hearings; Appeals; Condemnation and Confiscation.—(a) The commissioner or his agent shall have free access to all places of business, mills, buildings and conveyances of any kind used in the transportation, importation, manufacture, sale or storage of any commercial feeding stuffs, with power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and upon full payment of the selling price, to take therefrom samples for analyses, and to examine the books and all records pertaining to the shipment, manufacture, sale or distribution of any commercial feeding stuffs.

(b) Whenever it appears that any commercial feeding stuff is being offered or exposed for sale in this state in violation of any of the provisions of this article, the commissioner is hereby authorized to issue a written or printed “stop sale” order or “embargo,” and it shall be unlawful for any person, firm, corporation or manufacturer to permit any such commercial feed to be moved or disposed of in any manner except upon written order of the commissioner of agriculture or by court order. The commissioner shall cause notice of such violation to be given to the person affected thereby, and any person so notified shall be given an opportunity to be heard under such rules and regulations as the commissioner may prescribe. Any person aggrieved by any such “stop sale” order or “embargo” may appeal to the circuit court of
the county in which the alleged infraction occurred, and
jurisdiction is hereby conferred upon such circuit court
to hear and determine such appeal.

(c) Any lot of commercial feed not in compliance
with the provisions of this article or any reasonable rules
and regulations promulgated by the commissioner shall
be subject to seizure and confiscation on complaint of the
commissioner to the circuit court of the county in which
the commercial feeding stuff in question is located, and
jurisdiction is hereby conferred upon such circuit court
to hear and determine such matter. If the court finds
that said commercial feeding stuff is in violation of the
provisions of this article or such reasonable rules and
regulations, and if the court determines that such feeding
stuff should be confiscated, the court shall order the
destruction of such commercial feeding stuff or its dis-
position in any manner consistent with the quality of
such commercial feeding stuff and not in violation of any
other laws of this state: Provided, That if the court de-
termines not to order the destruction of such commercial
feeding stuff, it shall not order the same to be disposed
of in any manner without first giving the owner thereof
an opportunity to process or relabel such commercial
feeding stuff or otherwise dispose of the same in full com-
pliance with the provisions of this article and any reason-
able rules and regulations of the commissioner.

(d) Any party aggrieved by a final judgment entered
by a circuit court in accordance with the provisions of
this section may seek a review thereof by appeal to the
supreme court of appeals of this state, and jurisdiction is
hereby conferred upon such court to hear and entertain
such appeals upon application made therefor in the man-
er and within the time provided by law for civil appeals
generally.

Sec. 12. Penalties.—(a) Any person violating any of
the provisions of this article or the rules and regulations
issued thereunder or who shall impede, obstruct, hinder,
or otherwise prevent or attempt to prevent said com-
missioner or his duly authorized agent in the performance
of his duty in connection with the provisions of this
article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars for the first violation, and not less than fifty dollars nor more than two hundred dollars for any subsequent violation. In all prosecutions under this article involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the commissioner or his agent shall be accepted as prima facie evidence of the composition.

(b) Nothing in this article shall be construed as requiring the commissioner or his representative to report for prosecution or for the institution of seizure and confiscation proceedings as a result of minor violations of the article when he believes that the public interest will be best served by a suitable notice of warning in writing.

(c) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present his view to the commissioner. (d) Upon application by the commissioner therefor, the circuit court of the county in which the violation is occurring, has occurred or is about to occur, as the case may be, may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article, notwithstanding the existence of other remedies at law. Any such injunction shall be issued without bond.

Sec. 13. Publications.—The commissioner shall publish at least annually, in such form as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label: Provided, however, That the information concerning production
Sec. 14. Constitutionality.—If any clause, sentence, paragraph, or part of this article shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CHAPTER 6
(House Bill No. 794—By Mr. Wilt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and three, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to assessing and collecting of head tax on dogs; duties of assessors and sheriffs relating thereto; and registration of dog kennels.

Be it enacted by the Legislature of West Virginia:

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

Article 20. Dogs.
Section
2. Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor.
3. Registration of dog kennels; fee.

Section 2. Collection of Head Tax on Dogs; Duties of 2 Assessor and Sheriff; Registration of Dogs; Disposition of 3 Head Tax; Taxes on Dogs Not Collected by Assessor.— 4 It shall be the duty of the county assessor and his deputies
of each county within this state, at the time they are
making assessment of the personal property within such
county, to assess and collect a head tax of one dollar on
each male or spayed female dog and of two dollars on
each unspayed female dog; and in addition to the above,
the assessor and his deputies shall have the further duty
of collecting any such head tax on dogs as may be levied
by the ordinances of each and every municipality within
the county. In the event that the owner, keeper, or per-
son having in his possession or allowing to remain on
any premises under his control any dog above the age
of six months, shall refuse or fail to pay such tax, when
the same is assessed or within fifteen days thereafter,
to the assessor or deputy assessor, then such assessor or
deputy assessor shall certify such tax to the county dog
warden; if there be no county dog warden he shall certify
such tax to the county sheriff, who shall take charge of
the dog for which the tax is delinquent and impound the
same for a period of fifteen days, for which service he
shall be allowed a fee of one dollar and fifty cents to be
charged against such delinquent taxpayer in addition to
the taxes herein provided for. In case the tax and im-
ounding charge herein provided for shall not have been
paid within the period of fifteen days, then the sheriff
may sell the impounded dog and deduct the impounding
charge and the delinquent tax from the amount received
therefor, and return the balance, if any, to the delinquent
taxpayer. Should the sheriff fail to sell the dog so im-
ounded within the time specified herein, he shall kill
such dog and dispose of its body.

At the same time as the head tax is assessed, the as-
sessor and his deputies shall, on the forms prescribed
under section four of this article, take down the age,
sex, color, character of hair (long or short) and breed
(if known) and the name and address of the owner,
keeper or harborer thereof. When the head tax, and
extra charges, if any, are paid, the officer to whom pay-
ment is made shall issue a certificate of registration and
a registration tag for such dog.

In addition to the assessment and registration above
provided for, whenever a dog either is acquired or be-
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24  comes six months of age after the assessment of the per-
46 sonal property of the owner, keeper or harborer thereof,
47 the said owner, keeper or harborer of said dog shall,
48 within ten days after the acquisition or maturation, reg-
50 ister the said dog with the assessor, and pay the head
51 tax thereon unless the prior owner, keeper or harborer
52 paid the head tax.

53 All certificates of registration and registration tags is-
54 sued pursuant to the provisions of this section shall be
55 issued for the fiscal year and shall be valid from the date
56 on which issued until the thirtieth day of June of that
57 fiscal year, or until reissued by the assessor or his deputy
58 in the regular performance of his duties, but in no case
59 shall previous registration tags be valid after September
60 thirtieth of the next ensuing fiscal year.

61 The assessor collecting the head tax on dogs shall be
62 allowed a commission of ten per cent upon all such taxes
63 collected by him, and shall turn in to the county treasury
64 ninety per cent of such taxes so collected, as are levied
65 by this section; and the assessor shall turn over to the
66 treasurer or other proper officer of each and every mu-
67 nicipality within the county ninety per cent of such taxes
68 levied by the ordinances of such municipality. All such
69 dog taxes, except those belonging to municipalities, shall
70 be accredited to the dog and kennel fund provided for
71 in section ten of this article. Such dog taxes as are col-
72 lected for and turned over to municipalities shall be
73 deposited by the proper officer of such municipality to
74 such fund and shall be expended in such manner as the
75 law of such municipality may provide. All taxes on dogs
76 not collected by the assessor shall be collected by the
77 regular tax collecting officer of the county and placed to
78 the credit of the dog and kennel fund.

Sec. 3. Registration of Dog Kennels; Fee.—Every
2 owner or operator of a kennel, wherein dogs are bred,
3 kept, boarded or sold as a commercial venture for profit
4 shall annually, between the first day of July and the
5 thirtieth day of September of each year, file with the
6 assessor of the county in which such kennel is located,
7 kept or maintained, an application for the registration of
such kennel for the fiscal year. Such application shall
state the location of the kennel, the name and address of
the person actually in charge of and supervising it, and
the name and address of the owner of the kennel. Upon
the filing of such application, together with the payment
to the assessor of a fee of ten dollars the assessor shall
issue a certificate of registration for such kennel. The
registration of a kennel, as herein provided, shall entitle
the registrant to register and receive certificates and tags
for not more than five dogs without the payment of a
separate head tax on such dogs. The head tax provided
for in section two of this article shall, on such five or less
dogs, be included in and charged against the kennel
registration fee herein provided.

Every person upon becoming the owner or operator
of a kennel of dogs as herein described after the thirtieth
day of September of any year shall, within three days
after becoming such owner or operator, register such
kennel for the remainder of the current fiscal year in the
manner, and upon the payment of the registration fee,
herein provided.

All certificates of registration issued pursuant to the
provisions of this section shall be issued for the fiscal
year, and shall be valid from the date on which issued
until the thirtieth day of June of that fiscal year.

CHAPTER 7
(Senate Bill No. 221—By Mr. Carson, Mr. President)

(Passed March 4, 1965; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact section four, article one, chapter
sixty of the code of West Virginia, one thousand nine hun-
dred thirty-one, as amended, providing that alcoholic
liquors shall be sold at wholesale and retail in this state
only by or through the West Virginia alcohol beverage con-
trol commissioner or retail agencies established by him or
any predecessor commissioner or commission.
Be it enacted by the Legislature of West Virginia:

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

**Article 1. General Provisions.**

**Section 4. Sales to Be Made by or through the West Virginia Alcohol Beverage Control Commissioner.**—Alcoholic liquors shall be sold at wholesale and retail in this state only by or through the West Virginia alcohol beverage control commissioner or retail agencies established by him or any predecessor commissioner or commission.

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**CHAPTER 8**

(Senate Bill No. 222—By Mr. Carson, Mr. President)

[Passed March 4, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to change in name of the office of West Virginia liquor control commissioner to West Virginia alcohol beverage control commissioner.

Be it enacted by the Legislature of West Virginia:

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

**Article 2. Alcohol Beverage Control Commissioner.**

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

CHAPTER 9
(House Bill No. 506—By Mr. Speaker, Mr. White)

(Passed February 27, 1965; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section four, article four, and section four, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the time for presenting a petition for an appeal from, or writ of error or supersedeas to, a judgment, decree or order of a court of record of limited jurisdiction or of a circuit court; and requiring a notice of intent to file a petition for appeal or writ of error in criminal cases to be filed with the clerk of the court in which the judgment or order was entered within sixty days after the entry of such judgment or order.

Be it enacted by the Legislature of West Virginia:

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

Article
4. Appeals from Courts of Record of Limited Jurisdiction.
5. Appellate Relief in Supreme Court of Appeals.

Article 4. Appeals from Courts of Record of Limited Juris-
diction.

Section
4. Time for appeal or writ of error; notice of intent to file petition in
   criminal cases to be filed with clerk stating grounds.

   Section 4. Time for Appeal or Writ of Error; Notice of
   Intent to File Petition in Criminal Cases to Be Filed
   with Clerk Stating Grounds.—No petition shall be pre-
   sented to the circuit court or judge for an appeal from,
   or writ of error or supersedeas to, any judgment, decree
   or order rendered or made by such court of limitedjuris-
   diction, whether the state be a party thereto or not, which
   shall have been rendered or made more than four months
   before such petition is presented.

   In criminal cases no petition for appeal or writ of error
   shall be presented unless a notice of intent to file such
   petition shall have been filed with the clerk of the court
   in which the judgment was entered within sixty days af-
   ter such judgment was entered. The notice shall fairly
   state the grounds for the petition without restricting the
   right to assign additional grounds in the petition.

Article 5. Appellate Relief in Supreme Court of Appeals.

Section
4. Time for appeal or writ of error; notice of intent to file petition in
   criminal cases to be filed with clerk stating grounds.

   Section 4. Time for Appeal or Writ of Error; Notice of
   Intent to File Petition in Criminal Cases to Be Filed with
   Clerk Stating Grounds.—No petition shall be presented
   for an appeal from, or writ of error or supersedeas to,
   any judgment, decree or order, whether the state be
   a party thereto or not, which shall have been rendered
   or made more than eight months before such petition is
   presented.

   In criminal cases no petition for appeal or writ of error
   shall be presented unless a notice of intent to file such
   petition shall have been filed with the clerk of the court
in which the judgment or order was entered within sixty
days after such judgment or order was entered. The notice
shall fairly state the grounds for the petition without re-
stricting the right to assign additional grounds in the peti-
tion.

CHAPTER 10
(Senate Bill No. 83—By Mr. Moreland and Mr. Carrigan)

[Passed February 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seventeen, article five,
chapter fifty-eight of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
printing or reproduction of records in cases in which an
appeal, writ of error or supersedeas is allowed by the su-
preme court of appeals.

Be it enacted by the Legislature of West Virginia:

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

Article 5. Appellate Relief in Supreme Court of Appeals.

Section
17. Court to prescribe method and form of reproducing record; repro-
duction of record by clerk; distribution; costs; felony cases.

Section 17. Court to Prescribe Method and Form of
Reproducing Record; Reproduction of Record by Clerk;
Distribution; Costs; Felony Cases.—The supreme court
of appeals shall by order prescribe the method and form
of reproducing records. Such order shall prescribe the
number of copies to be reproduced, the contents thereof,
the type size and quality of paper and the maximum rate
per page that may be charged for the printing or repro-
duction of such records.
The cost of printing or reproduction, photostating and
blueprinting, if any, shall be included at the end of the
record with the date the same was printed or otherwise
reproduced.
The clerk shall have the record printed or reproduced when the party obtaining the appeal, writ of error or supersedeas shall deposit with him a sufficient sum to pay for same. The clerk shall deliver one copy of such record to the judge and clerk of the trial court, two copies to counsel on each side, and retain the remaining copies in his office. He shall cause all copies of the record remaining in his office to be compared with the typewritten transcript certified to the supreme court of appeals and correct all errors that may appear therein. The cost of such printing or reproduction, unless otherwise ordered by the court, shall be taxed against the unsuccessful party, if the judgment, decree or order appealed from be reversed. And should the appellant or plaintiff in error fail for three months after his case has been docketed in the court of appeals to deposit with the clerk of the said court, the sum estimated by said clerk, to pay for the printing or other reproduction of the record, he shall be deemed to have abandoned his appeal or writ of error and the same shall be dismissed; but it may be renewed at any time within eight months from the date of the judgment, order or decree appealed from, according to the provisions of section four of this article. In every felony case, the clerk shall have the usual number of records printed or otherwise reproduced at a cost not exceeding the amount fixed by the court, and dispose of the same as in other cases; and upon the certificate of the president of the supreme court of appeals stating that such record has been printed or otherwise reproduced as required by the court, and the amount said clerk is entitled to, the cost of printing or reproducing the same shall be paid to said clerk out of the treasury of the state, and the auditor shall draw his warrant on the treasury for the payment thereof out of the fund for criminal charges.

Any increased rate for printing or reproducing records as may be prescribed by order of the court shall apply to all cases docketed in the supreme court of appeals on the effective date of the order of the court, pending reproduction of the record. Such latter cases, however, shall not be subject to dismissal because of any increased rate, where statement for estimated costs has been ren-
dered and paid as provided in this section, but they shall not be placed upon the argument docket until the increased cost thereof shall have been paid in full.

CHAPTER 11
(Com. Sub. for House Bill No. 541—By Mr. Speaker, Mr. White)

[Passed March 15, 1965; in effect from passage.]

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

Be it enacted by the Legislature of West Virginia:

Title
2. Appropriations.
3. Administration.

Title 1. General Provisions.

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

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

Sec. 2. Definitions.—For the purpose of this act:
1 “Board” shall mean the board of public works;
2 “Spending Unit” shall mean the department, agency or institution to which an appropriation is made;
3 The “fiscal year one thousand nine hundred sixty-six” shall mean the period from July first, one thousand nine hundred sixty-five through June thirtieth, one thousand nine hundred sixty-six;
4 “From Collections” shall mean that part of the Total Appropriation which must be collected by the spending unit
to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred sixty-one.

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

“Personal Services” shall be expended only for the payment of salaries, wages, fees and other compensation for skill, work, or employment, except from the appropriations made to the universities and state colleges there may be transferred to a state non-appropriated account an amount sufficient to match the 90-10 Federal Grant for the College Work Study Program under the Economic Opportunity Act; Unless otherwise specified, appropriations for personal services shall include salaries of heads of spending unit; “Current Expenses” shall be expended only for operating cost other than personal services or capital outlay; “Repairs and Alterations” shall include all expenditures for materials, supplies and labor used in repairing and altering buildings, grounds and equipment, other than personal services; “Equipment” shall be expended only for things which have an appreciable and calculable period of usefulness in excess of one year; “Buildings” shall include construction and alteration of structures and the improvements of lands, sewer and water improvements, and shall include shelter, support, storage, protection, or the improvement of a natural condition; “Land” shall be expended only for the purchase of lands or interest in lands.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit freedom
31 to spend an appropriation for more than one of the above 32 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

1. Appropriations from general revenue.

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<th>38</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint expenses—Acct. No. 103</td>
<td>39</td>
</tr>
<tr>
<td>Senate—Acct. No. 101</td>
<td>37</td>
</tr>
</tbody>
</table>

### MISCELLANEOUS BOARDS AND COMMISSIONS

<table>
<thead>
<tr>
<th>Board of architects—Acct. No. 595</th>
<th>69</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of dental examiners—Acct. No. 589</td>
<td>67</td>
</tr>
<tr>
<td>Board of embalmers and funeral directors—Acct. No. 593</td>
<td>68</td>
</tr>
<tr>
<td>Board of examiners for practical nurses—Acct. No. 587</td>
<td>67</td>
</tr>
<tr>
<td>Board of examiners for registered nurses—Acct. No. 588</td>
<td>67</td>
</tr>
<tr>
<td>Board of law examiners—Acct. No. 597</td>
<td>69</td>
</tr>
<tr>
<td>Board of optometry—Acct. No. 592</td>
<td>68</td>
</tr>
<tr>
<td>Board of osteopathy—Acct. No. 591</td>
<td>68</td>
</tr>
<tr>
<td>Board of pharmacy—Acct. No. 590</td>
<td>68</td>
</tr>
<tr>
<td>Board of professional foresters—Acct. No. 5895</td>
<td>68</td>
</tr>
<tr>
<td>Board of registration for professional engineers—Acct. No. 594</td>
<td>68</td>
</tr>
<tr>
<td>Board of sanitarians—Acct. No. 599</td>
<td>69</td>
</tr>
<tr>
<td>Human rights commission—Acct. No. 598</td>
<td>69</td>
</tr>
<tr>
<td>State road commission—Acct. No. 641</td>
<td>70</td>
</tr>
<tr>
<td>State veterinary board—Acct. No. 596</td>
<td>69</td>
</tr>
<tr>
<td>West Virginia public employees retirement board—Acct. No. 614</td>
<td>69</td>
</tr>
</tbody>
</table>

### PROTECTION

<table>
<thead>
<tr>
<th>Adjutant general (state militia)—Acct. No. 580</th>
<th>66</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor’s office (social security)—Acct. No. 582</td>
<td>66</td>
</tr>
<tr>
<td>Department of civil and defense mobilization—Acct. No. 581</td>
<td>66</td>
</tr>
<tr>
<td>Department of public safety—Acct. No. 570</td>
<td>65</td>
</tr>
<tr>
<td>Public institutions (insurance)—Acct. No. 585</td>
<td>67</td>
</tr>
<tr>
<td>State board of education (insurance)—Acct. No. 584</td>
<td>67</td>
</tr>
</tbody>
</table>

### Appropriations from other funds.

**PAYABLE FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Auditor’s office (land department operating fund)—Acct. No. 812</th>
<th>77</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of agriculture—Acct. No. 818</td>
<td>78</td>
</tr>
<tr>
<td>Department of finance and administration (division of purchases—revolving fund)—Acct. No. 814</td>
<td>77</td>
</tr>
<tr>
<td>Department of natural resources—Acct. No. 830</td>
<td>81</td>
</tr>
</tbody>
</table>
3. Supplemental and deficiency appropriations.
4. Awards for claims against the state.
5. Reappropriations.
6. Appropriations from surplus revenues.
7. Special revenue appropriations.
8. Specific funds and collection accounts.
10. Sinking fund deficiencies.
11. Appropriations from taxes and license fees.
12. Appropriations to pay costs of publication of delinquent corporations.
13. Appropriations for local governments.
14. Total appropriations.
15. General school fund.
Section 1. Appropriations from General Revenue.—

From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred sixty-one, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred sixty-six.

**LEGISLATIVE**

1—Senate

Acct. No. 101

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>1965-66</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Members</td>
<td>$51,000.00</td>
</tr>
<tr>
<td>2 Compensation and per diem of officers and attaches</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>4 Mileage of Members</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>5 Current Expenses and Contingent Fund</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>

6 To pay Clerk of the Senate for compiling and publishing the West Virginia Blue Book, the distribution of which shall be made by the office of the Clerk of the Senate and shall include seventy-five copies for each member of the Legislature and two copies to each classified and approved High and Junior High School and one to each Elementary School within the state ........................................... $10,000.00

15 To pay cost of printing the 1965 edition of Blue Book .......................................................... $49,000.00

17 Drafting Service .................................................. $11,000.00

18 The appropriations for the Senate for the fiscal year 1964-65 are to remain in full force and effect, and are hereby reappropriated to June 30, 1966.

22 Any balances so reappropriated may be transferred and credited to the 1965-66 accounts.

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

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

2—House of Delegates

Acct. No. 102

1 Salaries of Members ........................................ $ 150,000.00
2 Compensation and per diem of officers and attaches ........................................... 95,000.00
3 Mileage of Members ........................................ 7,500.00
4 Current Expenses and Contingent Fund ........................................ 75,000.00
5 Drafting Service ........................................ 5,000.00

The appropriations for the House of Delegates for the fiscal year 1964-65 are to remain in full force and effect, and are hereby reappropriated to June 30, 1966.

Any balances so reappropriated may be transferred and credited to the 1965-66 accounts.

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

The Clerk of the House of Delegates, with approval of the Speaker, is authorized to draw his requisitions upon the Auditor,
Ch. 11] Appropriations

21 payable out of the contingent fund of the
22 House of Delegates, for any bills for sup-
23 plies and services that may have been in-
24 curred by the House of Delegates, and not
25 included in the appropriation bill, for bills
26 for services and supplies incurred in prepa-
27 ration for the opening of the session and
28 after adjournment, and for the necessary
29 operation of the House of Delegates offices,
30 the requisition for same to be accompanied
31 by bills to be filed with the Auditor.
32 For duties imposed by law and by the House
33 of Delegates, including the salary allowed
34 by law as keeper of the rolls, the Clerk of
35 the House of Delegates shall be paid a sal-
36 ary of $950.00 per month, payable from the
37 contingent fund of the House of Delegates,
38 and the Clerk may employ a secretary and
39 a clerk at a salary to be determined by the
40 Speaker of the House of Delegates.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative printing and
2 stationery .............................................. $ 110,000.00
3 Commission on Interstate Cooperation ........ 20,000.00
4 Joint Committee on Government and Finance 290,000.00
5 Other Authorized Legislative Committees ..... 15,000.00
6 The appropriation for Joint Expenses for
7 the fiscal year 1964-65 are to remain in
8 full force and effect, and are hereby re-
9 appropriated to June 30, 1966.
10 Any balances so reappropriated may be trans-
11 ferred and credited to the 1965-66 accounts.
12 Upon the written request of the Clerk of the
13 Senate and the Clerk of the House of Dele-
14 gates the State Auditor shall transfer
15 amounts between items of the total appro-
appropriation in order to protect or increase the efficiency of the service.

**JUDICIAL**

4—Supreme Court of Appeals

Acct. No. 110

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges</td>
<td>$112,500.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$153,280.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$23,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$291,780.00</strong></td>
</tr>
</tbody>
</table>

5—Judicial—Auditor's Office

Acct. No. 111

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges</td>
<td>$449,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$91,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>4 Judges Retirement System</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>5 Criminal Charges</td>
<td>$275,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$890,000.00</strong></td>
</tr>
</tbody>
</table>

This appropriation shall be administered by the State Auditor who shall draw his requisition for warrants in payment of salaries in the form of payrolls, making deductions therefrom as required by law, for taxes and other items. The appropriation for Judges' Retirement System is to be transferred to the Judges' Retirement Fund, in accordance with the law relating thereto, upon requisition of the State Auditor.

6—State Law Library

Acct. No. 114

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$29,400.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$18,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$49,900.00</strong></td>
</tr>
</tbody>
</table>
7—Judicial Council
Acct. No. 118

1 To pay expenses of Members of the Council...$12,000.00

EXECUTIVE
8—Governor’s Office
Acct. No. 120

1 Salary of Governor ................................................................. $25,000.00
2 Other Personal Services ....................................................... 140,200.00
3 Current Expenses ................................................................. 30,000.00
4 Equipment ............................................................................ 10,000.00
5 Civil Contingent Fund ............................................................ 175,000.00
6 Of this appropriation there may be expended, at the discretion of the Governor, an amount not to exceed $1,000.00 as West Virginia’s contribution to the Interstate Oil Compact Commission.
7 Custodial Fund ..................................................................... 75,000.00
8 To be used for current general expenses, including compensation of servants and employees, household maintenance, cost of official functions, and any additional household expenses occasioned by such official functions.
9 Appalachian Regional Area Development Program and Office of Economic Opportunity... 25,000.00
10 Constitutional Convention Expense Fund ........................................ 250,000.00
11 The above appropriation to be expended upon requisition of the Secretary of State.
12 Operation Headstart Program ...................................................... 75,000.00
13 To implement Public Law 88-452.

25 Total ...................................................................................... $805,200.00

26 Appropriation for above Appalachian Regional Area Development Program and Office of Economic Opportunity may be transferred to Special Revenue to match Federal Funds.
### APPROPRIATIONS

**9—Department of Personnel**

Acct. No. 121

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

**10—Board of Probation and Parole**

Acct. No. 123

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$249,720.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$113,625.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$369,345.00</td>
</tr>
</tbody>
</table>

**FISCAL**

**11—Auditor’s Office—General Administration**

Acct. No. 150

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Auditor</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$387,840.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$119,600.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Microfilm Program</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$545,440.00</td>
</tr>
</tbody>
</table>

**12—Treasurer’s Office**

Acct. No. 160

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Treasurer</td>
<td>$17,500.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$134,360.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$20,400.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$182,260.00</td>
</tr>
</tbody>
</table>

**13—Sinking Fund Commission**

Acct. No. 170

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$23,100.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$25,100.00</td>
</tr>
</tbody>
</table>
### 14—State Tax Commissioner

**Acct. No. 180**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,719,180.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>520,760.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>23,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,262,940.00</strong></td>
</tr>
</tbody>
</table>

### 15—State Tax Commissioner

**Acct. No. 185**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Property Appraisal</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>2 Any balance remaining in the 1963-64 and 1964-65 appropriation “Property Appraisal” at the close of the fiscal year 1964-65 is hereby reappropriated for expenditure during the fiscal year 1965-66.</td>
<td></td>
</tr>
</tbody>
</table>

### 16—State Commissioner of Public Institutions

**Acct. No. 190**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>103,740.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>24,200.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$142,940.00</strong></td>
</tr>
</tbody>
</table>

### 17—Department of Finance and Administration

**Acct. No. 210**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$636,980.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>280,300.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>53,100.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>20,300.00</td>
</tr>
<tr>
<td>5 Postage</td>
<td>130,000.00</td>
</tr>
<tr>
<td>6 Records Management</td>
<td>18,000.00</td>
</tr>
<tr>
<td>7 Office of State Emergency Planning</td>
<td>29,800.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,168,480.00</strong></td>
</tr>
</tbody>
</table>
9 The Workman's Compensation Commission, Department of Welfare, Public Service Commission, Department of Natural Resources, Department of Motor Vehicles, State Road Commission, State Health Department and State Tax Commissioner—Income Tax Division, shall reimburse the Postage appropriation of the Department of Finance and Administration monthly for all meter service. Any spending unit operating from Special Revenue or receiving reimbursement for postage costs from the Federal Government shall refund to the "Postage Account" of the Department of Finance and Administration such amounts. Should this appropriation for Postage be insufficient to meet the mailing requirements of the State spending units as set out above, any excess postage meter service requirements shall be a proper charge against the units, and each spending unit shall refund to the Postage appropriation of the Department of Finance and Administration any amounts required for that Department for postage in excess of this appropriation.

Any unexpended balance remaining in the "Postage Account" at the close of the fiscal year 1964-65 is hereby reappropriated for expenditure during the fiscal year 1965-66.

The State Road Commissioner shall reimburse the appropriation of the Department of Finance and Administration monthly for all actual expenses incurred pursuant to (the provisions of) chapter seventeen, article two-a, section thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

18—The Board of Public Works
Acct. No. 220

1 Contingent Fund .................................................... $ 55,000.00
19—State Board of Insurance
Acct. No. 225

1 Personal Services .................................. $ 12,000.00
2 Current Expenses .................................. 3,650.00
3 Equipment ............................................. 400.00

4 Total .................................................. $ 16,050.00

LEGAL
20—Attorney General
Acct. No. 240

1 Salary of Attorney General ......................... $ 18,500.00
2 Other Personal Services .......................... 259,780.00
3 Current Expenses .................................. 26,145.00
4 Equipment ............................................... 15,500.00
5 To protect the resources or tax structure of the State in controversies or legal proceedings affecting same .................................. 3,250.00

8 Total .................................................. $ 323,175.00

When legal counsel is appointed by the Attorney General, upon the request of the proper authority in any state spending unit, this account shall be reimbursed from such unit’s appropriated account in an amount agreed upon by the Attorney General and the proper authority of said spending unit.

21—Commission on Uniform State Laws
Acct. No. 245

1 Total .................................................. $ 2,000.00

INTEGRATING AND RECORDING
22—Secretary of State
Acct. No. 250

1 Salary of Secretary of State ......................... $ 17,000.00
2 Other Personal Services .......................... 81,400.00
### Appropriations

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>30,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>7,800.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>136,200.00</td>
</tr>
</tbody>
</table>

#### Educational

**23—Department of Education**

<table>
<thead>
<tr>
<th>Account No. 290</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Comprehensive Educational Program</td>
<td>1,000,000.00</td>
</tr>
<tr>
<td>2</td>
<td>To be used in accordance with Senate Bill No. 102, 1965 Regular Session of the Legislature.</td>
<td></td>
</tr>
</tbody>
</table>

**24—Educational Broadcasting Authority**

<table>
<thead>
<tr>
<th>Account No. 291</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>75,000.00</td>
</tr>
</tbody>
</table>

**25—State Board of Education—Vocational Division**

<table>
<thead>
<tr>
<th>Account No. 293</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Implement Vocational Education Act of 1963 P.L. 88-210</td>
<td>400,000.00</td>
</tr>
</tbody>
</table>

**26—State Board of Education—Vocational Division**

<table>
<thead>
<tr>
<th>Account No. 294</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>225,000.00</td>
</tr>
</tbody>
</table>

2 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1964-65 is hereby reappropriated for expenditure during the fiscal year 1965-66.

**27—State Board of School Finance—State Aid to Schools**

<table>
<thead>
<tr>
<th>Account No. 295</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State Aid to supplement the General School Fund</td>
<td>$73,844,268.00</td>
</tr>
</tbody>
</table>

3 To be transferred to the General School Fund upon the requisition of the Governor.
28—Department of Education—Aid for Exceptional Children

Acct. No. 296

1 Personal Services ........................................ $ 28,260.00
2 Current Expenses ........................................ 7,300.00
3 Out-of-State Instruction ................................ 54,000.00
4 Aid to Counties ........................................... 569,000.00

5 Total ....................................................... $ 658,560.00

6 The appropriation for “Out-of-State Instruction” may be expended to provide instruction, care and maintenance for educable persons who have multiple handicaps and for whom the state provides no facilities.

29—Department of Education—Textbook Aid

Acct. No. 297

1 Textbooks for Schools ..................................... $ 150,000.00

2 To be distributed according to chapter fifty-one, acts of the legislature, regular session, one thousand nine hundred and thirty-nine.

30—Teachers Retirement Board

Acct. No. 298

1 Benefit Fund—Payments to Retired Teachers $ 3,505,974.00
2 Employers’ Accumulation Fund—To match contribution of members 3,344,000.00
3 Expense Fund ........................................... 33,304.00

4 Total ....................................................... $ 6,883,278.00

31—State Commission on Higher Education

Acct. No. 299

1 Total ....................................................... $ 20,000.00

32—West Virginia University

Acct. No. 300

1 Personal Services ........................................ $10,743,000.00
2 Current Expenses ........................................ 1,620,000.00
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Repairs and Alterations</td>
<td>472,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>710,200.00</td>
</tr>
<tr>
<td>5 Oak Wilt Control Research</td>
<td>10,000.00</td>
</tr>
<tr>
<td>6 State aid to students of Veterinary Medicine</td>
<td>48,000.00</td>
</tr>
<tr>
<td>7 Institute for Planning and Research</td>
<td>150,600.00</td>
</tr>
<tr>
<td>8 Bureau for Coal Research</td>
<td>130,600.00</td>
</tr>
<tr>
<td>9 National Youth Science Camp</td>
<td>65,600.00</td>
</tr>
<tr>
<td>10 Forestry Products</td>
<td>67,000.00</td>
</tr>
<tr>
<td>11 Appalachian Center—Second Phase</td>
<td>100,000.00</td>
</tr>
<tr>
<td>12 Institute of Regional Research</td>
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<td><strong>Total</strong></td>
<td><strong>$14,167,000.00</strong></td>
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Out of the above appropriation for Personal Services, the sum of $8,500.00 shall be used only for the employment of a Spray Specialist who shall be stationed only at West Virginia University Farm at Kearneysville, and $7,200.00 for the employment of a Labor Specialist.

---

### Potomac State College of West Virginia University

**Acct. No. 315**

<table>
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<tbody>
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<tr>
<td>2 Current Expenses</td>
<td>69,500.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>43,225.00</td>
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<tr>
<td>4 Equipment</td>
<td>39,125.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$624,050.00</strong></td>
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### Marshall University

**Acct. No. 320**

<table>
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<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$3,208,634.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>292,056.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>109,521.00</td>
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<tr>
<td>4 Equipment</td>
<td>146,028.00</td>
</tr>
<tr>
<td>5 Flood Wall Assessment</td>
<td>3,200.00</td>
</tr>
<tr>
<td>6 Experimental Projects in Teacher Education</td>
<td>31,261.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,790,700.00</strong></td>
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### 35—Fairmont State College

**Acct. No. 321**

<table>
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<tr>
<th>Description</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,042,500.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>96,900.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>49,400.00</td>
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<tr>
<td>4 Equipment</td>
<td>68,400.00</td>
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<td><strong>Total</strong></td>
<td><strong>$1,257,200.00</strong></td>
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### 36—Glenville State College

**Acct. No. 322**

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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$655,049.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>77,246.00</td>
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<td>3 Repairs and Alterations</td>
<td>45,340.00</td>
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<td>4 Equipment</td>
<td>39,365.00</td>
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<tr>
<td>5 Community Development and Research</td>
<td>15,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$832,000.00</strong></td>
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### 37—West Liberty State College

**Acct. No. 323**

<table>
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<tbody>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>97,425.00</td>
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<td>3 Repairs and Alterations</td>
<td>68,000.00</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
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### 38—Shepherd College

**Acct. No. 324**

<table>
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<tr>
<th>Description</th>
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<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>84,712.00</td>
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<td>3 Repairs and Alterations</td>
<td>36,815.00</td>
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<td>4 Equipment</td>
<td>53,700.00</td>
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<tr>
<td>5 Community Development and Research</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$838,900.00</strong></td>
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7 Out of the above appropriation for equipment, the sum of $2,500.00 may be used for fire protection.
### 39—Concord College

**Acct. No. 325**

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>124,531.00</td>
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<td>3 Repairs and Alterations</td>
<td>34,758.00</td>
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<td>4 Equipment</td>
<td>74,849.00</td>
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<td>5 Center for Economic Action</td>
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<td><strong>Total</strong></td>
<td><strong>$1,385,200.00</strong></td>
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### 40—West Virginia Institute of Technology

**Acct. No. 327**

<table>
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<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>94,559.00</td>
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<tr>
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<td>57,600.00</td>
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<td>4 Equipment</td>
<td>98,956.00</td>
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<td><strong>Total</strong></td>
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### 41—West Virginia State College

**Acct. No. 328**

<table>
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<tr>
<th>Item</th>
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<tbody>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>169,100.00</td>
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<td>3 Repairs and Alterations</td>
<td>89,484.00</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
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### 42—Bluefield State College

**Acct. No. 329**

<table>
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<th>Item</th>
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<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>67,096.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
<td><strong>$652,600.00</strong></td>
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### 43—West Virginia State College—4-H Camp

**Acct. No. 330**

<table>
<thead>
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<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<tr>
<td>2 Current Expenses</td>
<td>$5,270.00</td>
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<td>3 Repairs and Alterations</td>
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<td>4 Equipment</td>
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<td><strong>$26,290.00</strong></td>
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### 44—West Virginia Schools for the Deaf and Blind

**Acct. No. 333**

<table>
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<tr>
<th>Description</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>3 Repairs and Alterations</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
<td><strong>$867,900.00</strong></td>
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### 45—State FFA-FHA Camp and Conference Center

**Acct. No. 336**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
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<td>2 Current Expenses</td>
<td>$8,200.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
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<td><strong>Total</strong></td>
<td><strong>$59,830.00</strong></td>
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### 46—Department of Archives and History

**Acct. No. 340**

<table>
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### Appropriations

#### 47—West Virginia Library Commission

**Acct. No. 350**

<table>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>$5,000.00</td>
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<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
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<tr>
<td>4 Books and Periodicals</td>
<td>$43,500.00</td>
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<tr>
<td>5 Library Services for the Blind</td>
<td>$7,000.00</td>
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6 **Total**                                          $174,500.00

### Charities and Correction

#### 48—West Virginia Industrial School for Boys

**Acct. No. 370**

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>$153,960.00</td>
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<td>3 Repairs and Alterations</td>
<td>$44,400.00</td>
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<td>4 Equipment</td>
<td>$22,250.00</td>
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</table>

5 **Total**                                          $537,707.00

#### 49—Forestry Camp for Boys

**Acct. No. 371**

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<td>2 Current Expenses</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$10,900.00</td>
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<td>4 Equipment</td>
<td>$13,650.00</td>
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5 **Total**                                          $201,020.00

#### 50—West Virginia Industrial Home for Girls

**Acct. No. 372**

<table>
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<th>Item</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
<td>$82,700.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$15,000.00</td>
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<tr>
<td>4 Equipment</td>
<td>$13,550.00</td>
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<tr>
<td>5 Vocational Training</td>
<td>$5,000.00</td>
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6 **Total**                                          $272,860.00
### Ch. 11] Appropriations 51—West Virginia State Prison for Women

#### Acct. No. 374

<table>
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<tr>
<th>Description</th>
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<td>3 Repairs and Alterations</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
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### 52—West Virginia Penitentiary

#### Acct. No. 375

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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>$38,600.00</td>
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<td>4 Equipment</td>
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### 53—Medium Security Prison

#### Acct. No. 376

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<tr>
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<td>2 Current Expenses</td>
<td>$184,920.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$25,400.00</td>
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<tr>
<td>4 Equipment</td>
<td>$30,900.00</td>
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<td><strong>Total</strong></td>
<td><strong>$667,300.00</strong></td>
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### 54—West Virginia Children's Home

#### Acct. No. 380

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<tr>
<td>1 Personal Services</td>
<td>$55,684.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$43,980.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$7,000.00</td>
</tr>
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<td>4 Equipment</td>
<td>$6,750.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$113,414.00</strong></td>
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### 55—Andrew S. Rowan Memorial Home

#### Acct. No. 384

<table>
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<tr>
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<tbody>
<tr>
<td>1 Personal Services</td>
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<td>$175,000.00</td>
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### Appropriations [Ch. 11]

<table>
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</thead>
<tbody>
<tr>
<td>3 Repairs and Alterations</td>
<td>35,200.00</td>
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<tr>
<td>4 Equipment</td>
<td>9,750.00</td>
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<td><strong>Total</strong></td>
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#### Health and Welfare

56—State Health Department

<table>
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<td>1 Personal Services</td>
<td>$400,887.00</td>
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<td>2 Current Expenses</td>
<td>134,174.00</td>
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<tr>
<td>3 Equipment</td>
<td>25,248.00</td>
</tr>
<tr>
<td>4 Cancer Control and Treatment</td>
<td>150,000.00</td>
</tr>
<tr>
<td>5 Tuberculosis Field Clinic and Nursing Service</td>
<td>10,580.00</td>
</tr>
<tr>
<td>6 Out-Patient Pneumothorax Treatment</td>
<td>20,000.00</td>
</tr>
<tr>
<td>7 Local Health Services</td>
<td>550,000.00</td>
</tr>
<tr>
<td>8 Dental Clinics</td>
<td>45,520.00</td>
</tr>
<tr>
<td>9 Heart Disease Control</td>
<td>25,000.00</td>
</tr>
<tr>
<td>10 Maternal and Child Health-Hospital Medical Examination Clinic</td>
<td>30,000.00</td>
</tr>
<tr>
<td>11 Radiological Health</td>
<td>18,800.00</td>
</tr>
<tr>
<td>12 Mobile Chest X-Ray</td>
<td>77,500.00</td>
</tr>
<tr>
<td>13 Hospital and Medical Facilities Construction</td>
<td>17,501.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$1,505,210.00</strong></td>
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57—Department of Veterans Affairs

<table>
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<tr>
<th>Account No. 404</th>
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<tr>
<td>2 Current Expenses</td>
<td>46,950.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>5,786.00</td>
</tr>
<tr>
<td>4 To provide Educational Opportunities for Children of War Veterans as provided by Chapter thirty-nine, Acts of the Legislature, 1943</td>
<td>15,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$248,260.00</strong></td>
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</tbody>
</table>

9 Any unexpended balance remaining in the appropriation “To Provide Educational Opportunities for Children of War Veterans”
12 at the close of the fiscal year 1964-65 is
13 hereby reappropriated for expenditure dur-
14 ing the fiscal year 1965-66.

58—Department of Welfare

<table>
<thead>
<tr>
<th>Acct. No. 405</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>2 Current Expenses</td>
</tr>
<tr>
<td>3 Equipment</td>
</tr>
<tr>
<td>4 Public Assistance Grants (Classified Aid)</td>
</tr>
<tr>
<td>5 Aid to Crippled Children</td>
</tr>
<tr>
<td>6 Medical Services and M.A.A.</td>
</tr>
<tr>
<td>7 Conservation of Vision and Prevention of Blindness</td>
</tr>
<tr>
<td>8 Child Welfare Services</td>
</tr>
<tr>
<td>9 General Relief and Boarding Care</td>
</tr>
<tr>
<td>10 Social Security Matching Fund</td>
</tr>
<tr>
<td>11 Total</td>
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</tbody>
</table>

59—State Agency on Aging

<table>
<thead>
<tr>
<th>Acct. No. 406</th>
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</thead>
<tbody>
<tr>
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60—Department of Mental Health

<table>
<thead>
<tr>
<th>Acct. No. 410</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>2 Current Expenses</td>
</tr>
<tr>
<td>3 Equipment</td>
</tr>
<tr>
<td>4 Research and Training</td>
</tr>
<tr>
<td>5 Civil Service Costs</td>
</tr>
<tr>
<td>6 Division of Alcoholism</td>
</tr>
<tr>
<td>7 Total</td>
</tr>
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</table>

61—Commission on Mental Retardation

<table>
<thead>
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<th>Acct. No. 411</th>
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### Appropriations

**62—West Virginia Training School**

Acct. No. 419

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$1,139,874.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$329,950.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$53,000.00</td>
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<tr>
<td>Equipment</td>
<td>$25,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$1,547,824.00</strong></td>
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**63—Weston State Hospital**

Acct. No. 420

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$1,867,973.00</td>
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<tr>
<td>Current Expenses</td>
<td>$927,605.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$140,000.00</td>
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<td>Equipment</td>
<td>$50,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$2,985,578.00</strong></td>
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</table>

**64—Spencer State Hospital**

Acct. No. 421

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$897,580.00</td>
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<tr>
<td>Current Expenses</td>
<td>$441,250.00</td>
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<td>Repairs and Alterations</td>
<td>$50,000.00</td>
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<td>Equipment</td>
<td>$23,900.00</td>
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<td><strong>Total</strong></td>
<td><strong>$1,412,730.00</strong></td>
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</table>

**65—Huntington State Hospital**

Acct. No. 422

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$1,412,680.00</td>
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<tr>
<td>Current Expenses</td>
<td>$692,730.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$75,000.00</td>
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<td>Equipment</td>
<td>$37,100.00</td>
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<td><strong>Total</strong></td>
<td><strong>$2,217,510.00</strong></td>
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### 66—Lakin State Hospital

**Acct. No. 423**

<table>
<thead>
<tr>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$666,140.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$251,650.00</td>
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<td>3 Repairs and Alterations</td>
<td>$60,000.00</td>
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<td>4 Equipment</td>
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<td><strong>Total</strong></td>
<td><strong>$1,024,790.00</strong></td>
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</table>

### 67—Barboursville State Hospital

**Acct. No. 424**

<table>
<thead>
<tr>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$369,080.00</td>
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<tr>
<td>2 Current Expenses</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$34,800.00</td>
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<td>4 Equipment</td>
<td>$15,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$574,306.00</strong></td>
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### 68—Fairmont Emergency Hospital

**Acct. No. 425**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$151,540.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$85,000.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$12,250.00</td>
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<td>4 Equipment</td>
<td>$8,900.00</td>
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<td><strong>Total</strong></td>
<td><strong>$257,690.00</strong></td>
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### 69—Welch Emergency Hospital

**Acct. No. 426**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$201,060.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$157,300.00</td>
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<td>3 Repairs and Alterations</td>
<td>$55,000.00</td>
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<td>4 Equipment</td>
<td>$17,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$430,360.00</strong></td>
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</table>
### 70—Hopemont Sanitarium

Acct. No. 430

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$463,060.00</td>
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<tr>
<td>Current Expenses</td>
<td>$313,540.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$23,000.00</td>
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<tr>
<td>Equipment</td>
<td>$12,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$811,600.00</strong></td>
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### 71—Pinecrest Sanitarium

Acct. No. 431

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$770,050.00</td>
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<td>Current Expenses</td>
<td>$560,105.00</td>
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<td>Repairs and Alterations</td>
<td>$31,600.00</td>
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<td>Equipment</td>
<td>$37,485.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$1,399,240.00</strong></td>
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### 72—Denmar State Hospital

Acct. No. 432

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>$554,270.00</td>
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<td>Current Expenses</td>
<td>$245,000.00</td>
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<td>Repairs and Alterations</td>
<td>$38,730.00</td>
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<td>Equipment</td>
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<td><strong>Total</strong></td>
<td><strong>$858,000.00</strong></td>
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### 73—Berkeley Springs Sanitarium

Acct. No. 436

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$36,675.00</td>
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<tr>
<td>Current Expenses</td>
<td>$7,860.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$9,700.00</td>
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<tr>
<td>Equipment</td>
<td>$3,700.00</td>
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<td><strong>Total</strong></td>
<td><strong>$57,935.00</strong></td>
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</table>
74—State Board of Education—Rehabilitation Division

Acct. No. 440

1 Personal Services...................................................... $ 317,530.00
2 Current Expenses...................................................... 43,541.00
3 Rehabilitation Center.................................................. 373,929.00
4 Case Services.......................................................... 360,000.00
5 Supervisory Services for Vending Stand Program for the Blind 20,000.00
6 Training and Special Projects........................................ 35,000.00
7 Social Security Matching Fund........................................ 20,000.00

9 Total ........................................................................ $ 1,170,000.00

BUSINESS AND INDUSTRIAL RELATIONS

75—Bureau of Labor and Department of Weights and Measures

Acct. No. 450

1 Personal Services...................................................... $ 396,500.00
2 Current Expenses...................................................... 114,325.00
3 Equipment........................................................................ 10,500.00

4 Total ........................................................................ $ 521,325.00

76—Department of Mines

Acct. No. 460

1 Personal Services...................................................... $ 821,850.00
2 Current Expenses...................................................... 188,650.00
3 Equipment........................................................................ 38,500.00

4 Total ........................................................................ $ 1,049,000.00

77—Department of Commerce

Acct. No. 465

1 Personal Services...................................................... $ 440,505.00
2 Current Expenses...................................................... 334,930.00
3 Equipment........................................................................ 21,500.00
<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Mt. State Forest Festival</td>
<td>15,000.00</td>
</tr>
<tr>
<td>Governor's Conference on Wood Utilization</td>
<td>3,000.00</td>
</tr>
<tr>
<td>West Virginia Historical Drama Association</td>
<td>35,000.00</td>
</tr>
<tr>
<td>Industrial Development Revolving Fund</td>
<td>500,000.00</td>
</tr>
<tr>
<td>West Virginia Pavilion—New York World's Fair</td>
<td>115,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,464,935.00</strong></td>
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</table>

The above appropriation West Virginia Pavilion—New York World's Fair is to be transferred to special revenue fund, Acct. No. 8574, and expended in accordance with Senate Bill No. 189, 1965 Regular Legislature.

Special Revenue Account be created and outstanding loans in Urban Planning Revolving Fund be deposited into Special Revenue Account instead of General Revenue Fund.

Industrial Development Revolving Fund may be transferred to Special Revenue.

78—State Commission on Manpower, Technology and Training

<table>
<thead>
<tr>
<th>Acct. No. 470</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
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</tbody>
</table>

79—Southern Interstate Nuclear Board

<table>
<thead>
<tr>
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<td><strong>Total</strong></td>
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</tbody>
</table>

80—Commission on Interstate Cooperation

<table>
<thead>
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<th>Acct. No. 472</th>
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</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

Out of the above appropriation the sum of $7,500.00 may be made available for West Virginia's membership in The Council of State Governments.
81—Interstate Commission on Potomac River Basin
Acct. No. 473
1 West Virginia’s contribution to Interstate Com-
2 mission on Potomac River Basin ............................. $ 3,600.00

82—Ohio River Valley Water Sanitation Commission
Acct. No. 474
1 West Virginia’s contribution to the Ohio River
2 Valley Water Sanitation Commission ...................... $ 14,755.00

83—Southern Regional Education Board
Acct. No. 475
1 West Virginia’s contribution to Southern Re-
2 gional Education Board ........................................ $ 33,000.00
3 To be expended upon requisition of the Gov-
4 ernor.

84—West Virginia Air Pollution Commission
Acct. No. 476
1 Personal Services ........................................... $ 52,900.00
2 Current Expenses ............................................ 22,720.00
3 Repairs and Alterations .................................... 400.00
4 Equipment ..................................................... 30,330.00
5 Total ................................................................ $ 106,350.00

85—West Virginia Historic Commission
Acct. No. 477
1 Personal Services .............................................. $ 800.00
2 Current Expenses .............................................. 16,700.00
3 Total ................................................................ $ 17,500.00

86—Department of Banking
Acct. No. 480
1 Personal Services .............................................. $ 112,200.00
2 Current Expenses ................................................ 47,280.00
3 Equipment ........................................................ 4,100.00
4 Total ................................................................ $ 163,580.00
## Appropriations

### 87—West Virginia State Aeronautics Commission

Acct. No. 485

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$20,516.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,380.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Aerial Markers</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>5 Civil Air Patrol Expenses</td>
<td>$8,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$46,896.00</strong></td>
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</table>

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

Acct. No. 490

<table>
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<th>Item</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$149,460.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$59,350.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$210,310.00</strong></td>
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### 89—West Virginia Racing Commission

Acct. No. 495

<table>
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<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$77,575.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$29,420.00</td>
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<tr>
<td>3 Equipment</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$107,495.00</strong></td>
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## Agriculture

### 90—Department of Agriculture

Acct. No. 510

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$17,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$225,060.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$89,275.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$23,000.00</td>
</tr>
<tr>
<td>5 Eradication and Control of White Pine Blister</td>
<td>$17,000.00</td>
</tr>
<tr>
<td>6 Eradication and Prevention of Livestock Diseases</td>
<td>$188,985.00</td>
</tr>
<tr>
<td>7 and other plant pests</td>
<td>$17,000.00</td>
</tr>
<tr>
<td>Appropriation</td>
<td>Amount</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Aid to Dairy Development Program</td>
<td>90,000.00</td>
</tr>
<tr>
<td>Eradication and Control of Oak Wilt</td>
<td>94,000.00</td>
</tr>
<tr>
<td>Plant Pest Control</td>
<td>28,000.00</td>
</tr>
<tr>
<td>Laboratory Operation</td>
<td>30,000.00</td>
</tr>
<tr>
<td>Slaughterhouse and Meat Packing Inspection</td>
<td>43,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$862,720.00</td>
</tr>
</tbody>
</table>

16 The appropriation “Eradication and Control of Oak Wilt” may be transferred to Special Revenue Funds for the purpose of matching Federal Funds.

20 Any balance remaining in the appropriation “Slaughterhouse and Meat Packing Inspection” at the close of the fiscal year 1964-65 is hereby reappropriated for expenditure during the fiscal year 1965-66.

**91—Department of Agriculture—Soil Conservation Committee**

Acct. No. 512

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
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<td>Current Expenses</td>
<td>39,200.00</td>
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<td><strong>Total</strong></td>
<td>$119,995.00</td>
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</table>

**92—Department of Agriculture—Marketing and Research**

Acct. No. 513

1 For cooperation with the Federal Government in a program of marketing and research... $150,000.00

3 Any part or all of this appropriation may be transferred to Special Revenue Fund for the purpose of matching Federal Funds for the above named program.

**93—Department of Agriculture—Agricultural Awards**

Acct. No. 515

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>West Virginia State Fair</td>
<td>$25,000.00</td>
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<tr>
<td>Agricultural Awards</td>
<td>43,000.00</td>
</tr>
<tr>
<td>Walnut Festival</td>
<td>3,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$71,500.00</td>
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</table>
CONSERVATION AND DEVELOPMENT

94—Geological and Economic Survey Commission

Acct. No. 520

1 Personal Services ........................................... $ 152,500.00
2 Current Expenses ........................................... 49,770.00
3 Equipment .................................................. 7,000.00
4 Cooperative Mapping Program .............................. 60,000.00

5 Total ......................................................... $ 269,270.00

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

7 Of the above appropriation for Cooperative Mapping Program the sum of $10,000.00 may be used for preparation of accurate geographic and political maps of West Virginia.

95—Department of Veterans Affairs

Acct. No. 564

1 In aid of Veterans Day Patriotic Exercises .......... $ 3,000.00

2 To be expended subject to the approval of the Department of Veterans Affairs upon presentation of satisfactory plans by the Grafton G.A.R. Post, American Legion, Veterans of Foreign Wars and Sons of Veterans.

96—Department of Natural Resources

Acct. No. 565

1 Personal Services ........................................... $ 1,204,865.00
2 Current Expenses ........................................... 500,000.00
3 Repairs and Alterations ................................... 100,000.00
4 Equipment .................................................. 125,000.00
5 Clarke-McNary—Fire Prevention .......................... 120,000.00
6 Area Redevelopment Administration .................... 120,000.00
Ch. 11] Appropriations

7 Water Resources Board .......................... 2,000.00
8 Rhododendron River Boat ......................... 55,000.00
9 Rabies Control .................................... 30,000.00

10 Total ........................................... $ 2,256,865.00

11 Out of the above appropriation for Current
12 Expenses, subsistence for conservation offi-
13 cers shall be paid at the rate of two dollars
14 and fifty cents per calendar day to the chief
15 conservation officer and to each full-time
16 uniformed conservation officer, under his
17 direct supervision, whose primary duties
18 and responsibilities are law enforcement.
19
20 Any unexpended balance remaining in the
21 appropriation “Clarke-McNary Fire Preven-
22 tion” at the close of the fiscal year 1964-65
23 is hereby reappropriated for expenditure
24 during the fiscal year 1965-66.
25 Any unexpended balance remaining in the
26 1962-63 appropriation “For planning, im-
27 provements and construction on Natural Re-
28 sources properties and facilities; land requi-
29 sition and impoundments” at the close of
30 the fiscal year 1962-63, reappropriated for
31 fiscal year 1963-64, reappropriated for fiscal
32 year 1964-65 and is hereby reappropriated
33 for expenditure during the fiscal year
34 1965-66 and out of this amount there was
35 and still is appropriated $100,000.00 for ac-
36 quisition of land and development of new or
37 existing natural resource facilities in Pen-
38 dleton county.

PROTECTION

97—Department of Public Safety

Acct. No. 570

1 Personal Services ................................ $ 1,958,936.00
2 Current Expenses ............................... 996,347.00
3 Repairs and Alterations ....................... 56,940.00
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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<tbody>
<tr>
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**98—Adjutant General—State Militia**

<table>
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<th>Acct. No. 580</th>
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<th>$47,768.00</th>
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<td>Repairs and Alterations</td>
<td>$7,100.00</td>
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<td></td>
<td>Equipment</td>
<td>$6,300.00</td>
</tr>
<tr>
<td></td>
<td>Compensation of Commanding Officers, Clerical Allowances and Uniform Allowances</td>
<td>$66,900.00</td>
</tr>
<tr>
<td></td>
<td>Property Maintenance</td>
<td>$41,245.00</td>
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<tr>
<td></td>
<td>State Armory Board</td>
<td>$828,588.00</td>
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<tr>
<td><strong>Total</strong></td>
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<td><strong>$1,101,666.00</strong></td>
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</table>

**99—Department of Civil and Defense Mobilization**

<table>
<thead>
<tr>
<th>Acct. No. 581</th>
<th>Personal Services</th>
<th>$36,040.00</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$11,045.00</td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$4,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$51,385.00</strong></td>
</tr>
</tbody>
</table>

**100—Auditor’s Office—Social Security**

<table>
<thead>
<tr>
<th>Acct. No. 582</th>
<th>To match contributions of state employees for social security</th>
<th><strong>$1,240,000.00</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The above appropriation is intended to cover the state’s share of social security costs for those spending units operating from General Revenue Fund and General School Fund Appropriations. The State Road Commission, Department of Motor Vehicles, Workmen’s Compensation Commission, Public Service Commission, and other departments operating from Special Rev-</td>
<td></td>
</tr>
</tbody>
</table>
Ch. 11] APPROPRIATIONS

12 Revenue Funds and/or Federal Funds shall pay their proportionate share of the social security cost for their respective divisions.
15 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1964-65 is hereby reappropriated for expenditure during the fiscal year 1965-66.

101—State Board of Education—Insurance
    Acct. No. 584
    1 Boiler Insurance Premium ........ $ 15,000.00
    2 Insure Contents of Building ......... 10,000.00
    3 Total ........................................ $ 25,000.00

102—Public Institutions—Insurance
    Acct. No. 585
    1 Boiler Insurance Premium ........ $ 10,000.00

103—West Virginia Board of Examiners for Practical Nurses
    Acct. No. 587
    1 To pay the per diem of members and other general expenses .... $ 16,000.00
    3 From Collections ......................... 16,000.00

104—State Board of Examiners for Registered Nurses
    Acct. No. 588
    1 To pay the per diem of members and other general expenses .... $ 38,000.00
    3 From Collections ......................... 38,000.00

105—State Board of Dental Examiners
    Acct. No. 589
    1 To pay the per diem of members and other general expenses .... $ 5,500.00
    3 From Collections ......................... 5,500.00
106—State Board of Professional Foresters
Acct. No. 5895
1 To pay the per diem of members and other
2 general expenses .......................................... $ 2,000.00
3 From Collections ........................................... 2,000.00

107—State Board of Pharmacy
Acct. No. 590
1 To pay the per diem of members and other
2 general expenses .......................................... $ 10,500.00
3 From Collections ............................................ 10,500.00

108—State Board of Osteopathy
Acct. No. 591
1 To pay the per diem of members and other
2 general expenses .......................................... $ 1,610.00
3 From Collections ............................................ 1,610.00

109—State Board of Optometry
Acct. No. 592
1 To pay the per diem of members and other
2 general expenses .......................................... $ 2,500.00
3 From Collections ............................................ 2,500.00

110—State Board of Embalmers and Funeral Directors
Acct. No. 593
1 To pay the per diem of members and other
2 general expenses .......................................... $ 10,000.00
3 From Collections ............................................ 10,000.00

111—State Board of Registration for Professional Engineers
Acct. No. 594
1 To pay the per diem of members and other
2 general expenses .......................................... $ 28,000.00
3 From Collections ............................................ 28,000.00
112—State Board of Architects
Acct. No. 595
1 To pay the per diem of members and other general expenses ........................................ 4,000.00
2 From Collections ..................................................................................................................... 4,000.00

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

114—State Board of Law Examiners
Acct. No. 597
1 To pay the per diem of members and other general expenses ........................................ $ 3,000.00

115—Human Rights Commission
Acct. No. 598
1 Personal Services ................................................................................................................. $ 22,500.00
2 Current Expenses .................................................................................................................. 11,900.00
3 Equipment ............................................................................................................................ 600.00
4 Total ......................................................................................................................................... $ 35,000.00

116—West Virginia State Board of Sanitarians
Acct. No. 599
1 To pay the per diem of members and other general expenses ........................................ $ 800.00
2 From Collections ..................................................................................................................... 800.00

117—West Virginia Public Employees Retirement Board
Acct. No. 614
1 Employers Accumulation Fund ................................................................................................ $ 750,000.00
2 Expense Fund .......................................................................................................................... 25,000.00
3 Total ......................................................................................................................................... $ 775,000.00
4 The above appropriation is intended to cover
5 the state's share of the West Virginia Public
6 Employees' Retirement cost in accordance
7 with Senate Bill No. 22, (1961 Legislature) for those departments operating
8 from General Revenue Fund and General
9 School Fund appropriations. The State
10 Road Commission, Department of Motor
11 Vehicles, State Tax Commissioner—Gasoline
12 Tax Division, Workmen's Compensation
13 Commission, Public Service Commission,
14 and other departments operating from
15 Special Revenue Funds and/or Federal
16 Funds shall pay their proportionate share
17 of the retirement costs for their respective
18 divisions. When specific appropriations are
19 not made such payments may be made from
20 the balances in the various Special Revenue
21 Funds in excess of specific appropriations.

118—State Road Commission
Acct. No. 641

12 Total ........................................... $ 6,345,000.00

2 The purpose of the above appropriation is to
3 aid in payment of interest and principal on
4 outstanding road bonds and may be trans-
5ferred to the state road fund upon the re-
6quisition of the Governor.

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 one hundred thirty-two, acts of the Legislature, regular
5 session, one thousand nine hundred sixty-one, the fol-
6lowing amounts, as itemized, for expenditure during the
7 fiscal year one thousand nine hundred sixty-six.

119—State Road Commission
Acct. No. 670
TO BE PAID FROM STATE ROAD FUND

1 Federal-Aid Construction—Interstate Pro-
2 gram ................................................. $ 67,200,500.00
<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Federal-Aid Construction—ABC Program</td>
<td>$27,142,000</td>
</tr>
<tr>
<td>4 Interstate Maintenance</td>
<td>$853,000</td>
</tr>
<tr>
<td>5 Special Maintenance and State Construction—Primary</td>
<td>$9,723,000</td>
</tr>
<tr>
<td>6 Special Maintenance and State Construction—Secondary</td>
<td>$11,186,000</td>
</tr>
<tr>
<td>7 Routine Maintenance—Primary</td>
<td>$6,576,000</td>
</tr>
<tr>
<td>8 Routine Maintenance—Secondary</td>
<td>$6,576,000</td>
</tr>
<tr>
<td>9 Emergency Operations—Snow and Ice Control—Flood and Slides</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>10 General Operations</td>
<td>$24,151,000</td>
</tr>
<tr>
<td>11 Equipment Purchases</td>
<td>$1,250,000</td>
</tr>
<tr>
<td>12 Debt Service</td>
<td>$10,376,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$168,033,500</strong></td>
</tr>
</tbody>
</table>

It is the intent to appropriate and make available for expenditure, the balances and all revenues and income of the state road fund, including the proceeds from the sale of bonds, for the maintenance, construction and reconstruction of state roads and for other purposes, in accordance with the provisions of chapter seventeen, code of West Virginia, one thousand nine hundred thirty-one, as amended.

There is hereby appropriated, in addition to the foregoing appropriations, revenue and total resources of the state road fund in excess of the total of the foregoing appropriations: Provided, however, That such excess shall be recommended by the state road commissioner for distribution among the foregoing appropriations and the Board of Public Works shall distribute such excess in accordance therewith.

Notwithstanding any provisions to the contrary in this act or any other section of law which may be in conflict, the following provisions shall prevail and shall govern and control the administration of the foregoing appropriations:
1. Transfers of amounts between the foregoing appropriations may be recommended by the state road commissioner and upon such recommendation the Board of Public Works may order and make the recommended transfers.

2. The state road commissioner shall have the authority to transfer charges, including charges for personal services, between the foregoing appropriations in order to comply with requirements of the United States Government to qualify for federal-aid.

3. The state road commissioner shall have the authority to operate revolving funds within the state road fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories of materials and supplies: Provided, however, That the operation of such revolving funds shall not cause expenditures in excess of the foregoing appropriations.

4. The state road commissioner is hereby authorized to omit the filing of quarterly expenditure schedules as required by chapter five-a, article two of the official code of West Virginia, one thousand nine hundred thirty-one, as amended.

5. The state road commissioner shall have the authority to transfer road funds to the toll bridge funds when the tolls collected from the use of such bridges are not sufficient to pay for the operation, maintenance, renewal and repairs of the bridges and for principal and interest on toll bridge bonds.

6. Subsistence for employees designated by the state road commissioner may be paid at the rate of three dollars and fifty cents ($3.50) per calendar day in lieu of actual expenses.
There is hereby appropriated, within the above line items, sufficient moneys for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with chapter fourteen, article two, sections seven and eight, code of West Virginia, one thousand nine hundred thirty-one, as amended.

120—Department of Motor Vehicles
Acct. No. 671
TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$895,700.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$403,912.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$42,040.00</td>
</tr>
<tr>
<td>4</td>
<td>Purchase of License Plates</td>
<td>$240,200.00</td>
</tr>
<tr>
<td>5</td>
<td>Social Security Matching Fund</td>
<td>$32,237.00</td>
</tr>
<tr>
<td>6</td>
<td>Employees Retirement Matching Fund</td>
<td>$44,595.00</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$1,658,684.00</td>
</tr>
</tbody>
</table>

121—State Tax Commissioner—Gasoline Tax Division
Acct. No. 672
TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$190,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$78,575.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Social Security Matching Fund</td>
<td>$7,365.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$279,940.00</td>
</tr>
</tbody>
</table>

122—State Board of Education
Acct. No. 700
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$42,100.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$15,100.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$1,050.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$58,250.00</td>
</tr>
</tbody>
</table>
123—State Board of Education—Vocational Division
Acct. No. 701

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$58,517.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$9,800.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$3,450.00</td>
</tr>
<tr>
<td>4 Vocational Aid</td>
<td>$410,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$481,767.00</strong></td>
</tr>
</tbody>
</table>

124—Department of Education—Veterans Education
Acct. No. 702

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,260.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,968.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,228.00</strong></td>
</tr>
</tbody>
</table>

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

7 Federal funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the State Superintendent of Schools and approval of the Board of Public Works for any emergency which might arise in the operation of this Division during the Fiscal year.

125—Department of Education
Acct. No. 703

TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Superintendent</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$362,580.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$92,285.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$5,950.00</td>
</tr>
<tr>
<td>5 National Defense Education Act</td>
<td>$145,000.00</td>
</tr>
</tbody>
</table>

6 Statewide Testing Program .................................. 176,000.00
7 Experimental Projects ....................................... 16,480.00

8 Total .................................................................. $ 816,295.00

9 Any part or all of the appropriation for
10 "National Defense Education Act" may be
11 transferred to a Special Revenue Fund for
12 the purpose of matching Federal Funds for
13 this program.

126—State Board of School Finance
    Acct. No. 704
    TO BE PAID FROM GENERAL SCHOOL FUND

1 Personal Services ............................................. $ 19,140.00
2 Current Expenses ............................................. 5,000.00

3 Total .................................................................. $ 24,140.00

127—Department of Education—School Lunch Program
    Acct. No. 705
    TO BE PAID FROM GENERAL SCHOOL FUND

1 Personal Services ............................................. $ 64,364.00
2 Current Expenses ............................................. 18,000.00
3 Aid to Counties—Includes hot lunches and
4 canning for hot lunches ...................................... 300,000.00

5 Total .................................................................. $ 382,364.00

128—Department of Education
    Acct. No. 706
    TO BE PAID FROM GENERAL SCHOOL FUND

1 Salaries of County Superintendents ..................... $ 63,000.00

129—Department of Education
    Acct. No. 707
    TO BE PAID FROM GENERAL SCHOOL FUND

1 State Aid to Children's Home ............................ $ 25,000.00
<table>
<thead>
<tr>
<th>Appropriations</th>
<th>[Ch. 11]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>130—State Tax Commissioner—Store and General Licenses Division</strong></td>
<td></td>
</tr>
<tr>
<td>Acct. No. 712</td>
<td></td>
</tr>
<tr>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$37,360.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$42,860.00</strong></td>
</tr>
<tr>
<td><strong>131—State Tax Commissioner—Enforcement of Cigarette Tax</strong></td>
<td></td>
</tr>
<tr>
<td>Acct. No. 713</td>
<td></td>
</tr>
<tr>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$12,900.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$7,100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$20,000.00</strong></td>
</tr>
<tr>
<td><strong>132—Department of Education</strong></td>
<td></td>
</tr>
<tr>
<td>Acct. No. 715</td>
<td></td>
</tr>
<tr>
<td><strong>TO BE PAID FROM GENERAL SCHOOL FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1 Scholarships for Teacher Training</td>
<td>$100,000.00</td>
</tr>
<tr>
<td><strong>133—Real Estate Commission</strong></td>
<td></td>
</tr>
<tr>
<td>Acct. No. 801</td>
<td></td>
</tr>
<tr>
<td><strong>TO BE PAID FROM SPECIAL REVENUE FUND</strong></td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td>$30,120.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$18,404.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$885.00</td>
</tr>
<tr>
<td>4 Public Employees Retirement Matching Fund</td>
<td>$1,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$50,809.00</strong></td>
</tr>
</tbody>
</table>

6 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of license fees as provided by law.
134—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.

135—Auditor’s Office—Land Department
Operating Fund
Acct. No. 812
TO BE PAID FROM SPECIAL REVENUE FUND
1 Current Expenses ........................................... $ 15,000.00
2 The total amount of this appropriation shall
3 be paid from Special Revenue Fund out of
4 fees and collections as provided by law.
5 Special funds in excess of the amount herein
6 appropriated may be made available by
7 budget amendments upon request of the
8 State Auditor and the approval of the
9 Board of Public Works.

136—Department of Finance and Administration
Division of Purchases—Revolving Fund
Acct. No. 814
TO BE PAID FROM SPECIAL REVENUE FUND
1 Personal Services ........................................... $ 85,180.00
2 Current Expenses ......................................... $ 14,200.00
3 Equipment .................................................. 8,000.00
4 Social Security Matching Fund ....................... 3,100.00
5 Public Employees Retirement Matching Fund .... 4,300.00
6 Total ......................................................... $ 114,780.00
7 The total amount of this appropriation shall be paid from Special Revenue Fund as provided by Chapter one hundred thirty-two, Acts of the Legislature, regular session, one thousand nine hundred sixty-one.

12 The above appropriation includes salaries and operating expenses.

14 There is hereby appropriated from this fund, in addition to the above appropriation, the necessary amount for the purchase of supplies for resale.

137—Department of Agriculture
Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$167,960.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$40,700.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$5,200.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$7,750.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$229,610.00</strong></td>
</tr>
</tbody>
</table>

7 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections made by the Department of Agriculture as provided by law. It is the intention that special funds in excess of the amounts hereby appropriated shall be made available by budget amendments upon request of the Commissioner of Agriculture.

138—State Committee of Barbers and Beauticians
Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$32,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,450.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$600.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$960.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$1,535.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$51,545.00</strong></td>
</tr>
</tbody>
</table>
7 The total amount of this appropriation shall be 8 paid from Special Revenue Fund out of 9 collections made by the State Committee of 10 Barbers and Beauticians as provided by law.

139—Insurance Commissioner  
Acct. No. 826
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$159,200.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>25,610.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>3,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>6,200.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>8,500.00</td>
</tr>
</tbody>
</table>

6 Total .................................. $ 202,510.00

7 The total amount of this appropriation shall be 8 paid from Special Revenue Fund out of col- 9 lections for license and report fees as pro- 10 vided by law.

140—Insurance Commissioner—Fire Marshal  
Acct. No. 827
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$125,600.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>31,595.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>2,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>5,580.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>4,500.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>6,300.00</td>
</tr>
</tbody>
</table>

7 Total .................................. $ 175,575.00

8 The total amount of this appropriation shall be 9 paid from Special Revenue Fund out of col- 10 lections of the special tax of one-half of one 11 per cent premium receipts of fire insurance 12 companies as provided by law.
13 This account shall be supplemented by a trans- 14 fer from the balance in the Insurance Com- 15 missioner's Account No. 826, to meet any 16 deficit in this account.
### 141—Public Service Commission

**Acct. No. 828**

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$392,432.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$53,828.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$8,440.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$9,800.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$18,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$525,000.00</strong></td>
</tr>
</tbody>
</table>

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

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

**Acct. No. 829**

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$214,360.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$57,990.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,860.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$6,500.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$10,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$294,210.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as authorized by law.
### Appropriations

#### 143—Department of Natural Resources

**Acct. No. 830**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$1,017,655.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$338,660.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$71,975.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$172,980.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$1,601,270.00</td>
</tr>
</tbody>
</table>

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

#### 144—Department of Public Safety—Inspection Fees

**Acct. No. 835**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$115,152.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$71,600.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$7,100.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Social Security Matching Fund</td>
<td>$633.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$212,485.00</td>
</tr>
</tbody>
</table>

7. The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected for inspection stickers as provided by law.
11 Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Public Safety and approval of the Board of Public Works for the purpose of repairs to, or construction of police barracks, not to exceed one hundred thousand dollars in any one fiscal year.

145—West Virginia Alcohol Beverage Control

Acct. No. 837

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$14,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$3,208,740.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$863,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$35,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Social Security Matching Fund</td>
<td>$132,740.00</td>
</tr>
<tr>
<td>7</td>
<td>Public Employees Retirement Matching Fund</td>
<td>$166,000.00</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td>$4,479,480.00</td>
</tr>
</tbody>
</table>

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

12 The above appropriation includes the salaries of store personnel, store inspectors, store operating expenses and equipment; and salaries, expenses and equipment of administration offices.

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

146—West Virginia Civil Service System

Acct. No. 840

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$121,320.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$31,435.00</td>
</tr>
</tbody>
</table>
3 Social Security Matching Fund .................................. 5,302.00
4 Public Employees Retirement Matching Fund .................. 6,918.00

5 Total ........................................................................ $ 164,975.00

6 The total amount of this appropriation shall
7 be paid from Special Revenue Fund sup-
8 ported by participating agencies as provided
9 by law.

10 The Board of Public Works is hereby au-
11 thorized to make available by budget
12 amendment, upon request of the Civil
13 Service Commission, funds in excess of the
14 amounts hereby appropriated that may be-
15 come available as a result of Acts of the
16 Legislature—1961 Regular Session.

147—West Virginia University—Special Capital
    Improvement Fund

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service ............................................................. $ 665,000.00
2 Chemistry Building .................................................... 950,000.00
3 Property Acquisition .................................................. 100,000.00
4 Miscellaneous Small Projects ....................................... 50,000.00
5 Potomac State Auditorium ........................................... 100,000.00

6 Total ........................................................................ $1,865,000.00

7 The total amount of this appropriation shall
8 be paid from the non-revolving Capital Im-
9 provement Fund created by the 1959 Legis-
10 lature, amended by the 1963 Legislature.

11 Any unexpended balance remaining in this
12 appropriation at the close of the fiscal year
13 1964-65 is hereby reappropriated for ex-
14 penditure during the fiscal year 1965-66.
148—State Board of Education—Special Capital Improvement Fund

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1 Payment of Principal and Interest on Bonds $ 1,096,800.00
2 Marshall University
3 Land (Urban Renewal Development Land) 225,000.00
4 Marshall University
5 Additional Amount for Maintenance Building 100,000.00
6 Shepherd College
7 Renovation—Administration Building 360,000.00
8 Glenville State College
9 Dormitory Furniture 150,000.00
10 Shepherd College
11 Dormitory Furniture 200,000.00
12 West Virginia Institute of Technology
13 Dormitory Furniture 270,000.00
14 Glenville State College
15 Addition to 1964 Appropriation for Library 177,223.00
16 West Liberty State College
17 Renovation of Hazel-Atlas Building 164,316.00
18 Fairmont State College
19 Dormitory Furniture 56,000.00
20 West Virginia Institute of Technology
21 Land 50,000.00

23 As required by law, the above projects are listed in a stated order of priority and are to be paid on a cash basis. It is intended that only complete and useable units or projects be constructed and then only in the listed order of priority.

29 The total amount of this appropriation shall be paid from the non-revolving Capital Improvement Fund created by the 1959 Legislature, amended by the 1963 Legislature.

34 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1964-65 is hereby reappropriated for ex-
penditure during the fiscal year 1965-66, and  
from the unexpended balance the above ap-
propriations to Glenville State College for  
Dormitory Furniture, $150,000.00, and West  
Virginia Institute of Technology for Land,  
$50,000.00, be made available from the pas-
sage date of this act.

149—Workmen’s Compensation Commission  
Acct. No. 900  
TO BE PAID FROM WORKMEN’S COMPENSATION FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$852,120.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$294,537.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$16,689.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$30,744.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$43,170.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,237,260.00</strong></td>
</tr>
</tbody>
</table>

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

Sec. 3. Supplemental and Deficiency Appropriation.—  
From the State Fund, General Revenue, except as other-
wise provided, there are hereby appropriated the following  
amounts, as itemized, for expenditure during the fiscal  
year one thousand nine hundred sixty-five to supplement  
the 1964-65 appropriations, and to be available for ex-
penditure upon date of passage.

150—Governor’s Office  
Acct. No. 120

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Contingent Fund</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>2 Appalachian &amp; Economic Opportunity Act and Headstart Program</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>3 Mansion Refurbishing</td>
<td>$20,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$155,500.00</strong></td>
</tr>
</tbody>
</table>
151—Department of Finance and Administration
Acct. No. 210

1 Personal Services ........................................... $ 35,000.00
2 Record Management ........................................... $ 30,000.00

3 Total .......................................................... $ 65,000.00

4 Any balance in the above appropriation for
5 "Record Management," shall be reappropriated for the 1965-66 fiscal year.

152—State Board of School Finance
Acct. No. 295

1 To supplement State Aid to Schools .............. $ 500,000.00

153—Department of Education—Exceptional Children
Acct. No. 296

1 Out of State Aid to Exceptional Children .......... $ 21,190.00

154—State Health Department
Acct. No. 400

1 Hospital and Medical Facilities Construction
2 Program ....................................................... $ 10,362.00
3 Dental Service for State Institutions ............... $ 4,120.00
4 X-Ray equipment for Mingo County ................. $ 9,000.00

5 Total .......................................................... $ 23,482.00

155—Department of Welfare
Acct. No. 405

1 Public Assistance Grants ................................ $ 203,711.00
2 Medical Service Fund ..................................... $ 1,550,000.00
3 Food Stamp Program ....................................... $ 96,289.00

4 Total .......................................................... $ 1,850,000.00

156—Department of Mental Health
Acct. No. 410

1 Operational Expense—Day Care Centers .......... $ 3,000.00
### 157—West Virginia Training School

**Acct. No. 419**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$27,360.00</td>
</tr>
<tr>
<td>2 Equipment</td>
<td>$48,285.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$75,645.00</strong></td>
</tr>
</tbody>
</table>

### 158—Weston State Hospital

**Acct. No. 420**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$75,000.00</td>
</tr>
</tbody>
</table>

### 159—Spencer State Hospital

**Acct. No. 421**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

### 160—Lakin State Hospital

**Acct. No. 423**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$28,000.00</td>
</tr>
<tr>
<td>2 Repairs and Alterations</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$38,000.00</strong></td>
</tr>
</tbody>
</table>

### 161—Board of Education—Division of Vocational Rehabilitation

**Acct. No. 440**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Rehabilitation Center-Sheltered Workshop</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>2 To be transferred to special revenue and</td>
<td></td>
</tr>
<tr>
<td>3 expended in accordance with House Bill No.</td>
<td></td>
</tr>
<tr>
<td>4 913, 1965 Regular Legislature.</td>
<td></td>
</tr>
</tbody>
</table>

### 162—Department of Commerce

**Acct. No. 465**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 West Virginia Pavilion—New York World's Fair</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2 To be transferred to special revenue fund,</td>
<td></td>
</tr>
<tr>
<td>3 Acct. No. 8574 and expended in accordance</td>
<td></td>
</tr>
</tbody>
</table>
with Senate Bill No. 189, 1965 Regular Legislature.

163—Southern Interstate Nuclear Board
Acct. No. 471

| Sec. 4. Awards for Claims Against the State.—From the funds designated there are hereby appropriated for the remainder of the fiscal year 1964-65, and to remain in effect until June 30, 1966, for payment of claims against the state, the following amounts as itemized: |
| Claims versus the Department of Commerce TO BE PAID FROM THE GENERAL REVENUE FUND |
| 1 Westinghouse Electric Corporation | $81.50 |
| 2 Ball Brothers Company | 4,164.00 |
| 3 Cantor Bros. Glass Corp. | 2,362.00 |
| 4 Gardner, Robinson, Stierheim & Weis, Inc. | 70,000.00 |
| 5 Bruhm Brothers, Inc. | 78.00 |
| 6 Brooks, Maizel & Company | 7,544.50 |
| 7 Seaboard Pools, Inc. | 1,865.90 |
| 8 Dave Ellies, Industrial Design, Inc. | 4,670.00 |
| 9 Cecil C. Broom, dba, Greentree Garden Center of St. Albans, W. Va. | 5,700.00 |
| 10 Arthur Venneri Company | 92,500.00 |
| 11 James E. Tawney, dba, Custom Electronics | 955.08 |
| 12 Walter & Walter Chocolate Co. | 6,000.00 |
| 13 Safford’s Professional Photography | 1,000.00 |
| 14 N. Y. World’s Fair Corp. | 5,000.00 |
| 15 N. Y. World’s Fair Corp. | 732.60 |
| 16 N. Y. World’s Fair Corp. | 73.90 |
| 17 N. Y. World’s Fair Corp. | 229.43 |
| 18 N. Y. World’s Fair Corp. | 5,009.24 |
| 19 Campo & Roberts, Inc. | 950.00 |
| 20 Palmer Rye, dba, P & R Partition Co., Inc. | 1,103.00 |
| 21 Decorta Brothers, Inc. | 143.98 |
| 22 Allied World’s Fair Service Corp. | 1,444.52 |
| 23 Anthony Bitel | 40.00 |
| 24 Mouldagraph Corporation | 193.80 |
### Claims versus the State Board of Education—Division of Vocational Rehabilitation

**TO BE PAID FROM GENERAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bradshaw-Diehl Co.</td>
<td>$146.62</td>
</tr>
<tr>
<td>2 C. &amp; O. Railway Co.</td>
<td>$11.50</td>
</tr>
</tbody>
</table>

### Claims versus the Department of Public Institutions

**TO BE PAID FROM GENERAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Gordon Auto Parts</td>
<td>$1,247.06</td>
</tr>
<tr>
<td>2 Howard D. Stern</td>
<td>$7,600.00</td>
</tr>
<tr>
<td>3 Wilma Jean Johnson</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>4 Edward B. Carroll</td>
<td>$5,500.00</td>
</tr>
</tbody>
</table>

### Claims versus the Adjutant General

**TO BE PAID FROM GENERAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 City of Oak Hill, W. Va.</td>
<td>$2,911.65</td>
</tr>
</tbody>
</table>

### Claims versus the Department of Motor Vehicles

**TO BE PAID FROM STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Copco Papers, Inc.</td>
<td>$3,783.92</td>
</tr>
</tbody>
</table>

### Claims versus State Road Commission

**TO BE PAID FROM STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Edna Underwood Sorden</td>
<td>$500.00</td>
</tr>
<tr>
<td>2 George Pauley</td>
<td>$100.00</td>
</tr>
<tr>
<td>3 Vernon Meadows</td>
<td>$195.48</td>
</tr>
<tr>
<td>4 Gilbert J. and Mary Louise Keith</td>
<td>$1,028.00</td>
</tr>
</tbody>
</table>
86. Appropriations

5 Henry and Lucille Horton ........................................ 244.55
6 Adolphus Wallace .................................................... 28.33
7 David Hostutler ..................................................... 158.77
8 Floyd Plum and Gordon Weaver ................................. 1,200.00
9 John A. Davis .................................................... 2,000.00
10 Robert E. Keeney ................................................. 345.56
11 Luther and Alma Bailey ........................................... 300.00
12 Willie and Marie Gibbs .......................................... 3,000.00
13 Gary Allen Huff, an infant, by his father, ................. 3,047.00
14 Joseph S. Huff and next friend ................................ 205.00
15 Frank Palmer ...................................................... 908.50
16 George H. Matheny ................................................ 285.00
17 Louis B. Wiseman ................................................. 20.00
18 Allen B. Young .................................................... 120.00
19 Cecil E. Parsons .................................................. 400.00
20 Carl Shuck .......................................................... 1,722.03
21 Grand Lodge of W. Va., Independent Order of Odd Fellows ........................................ 205.00
22 of Odd Fellows ...................................................... 205.00
23 Arthur Queen ....................................................... 7,500.00
24 Ernest W. Moye, Administrator of the Estate of Ricky E. Moye ........................................ 484.53
25 Thomas M. Scarff ................................................... 1,515.68
26 Chesapeake & Ohio Railway Co. ................................ 794.20
27 Mike Vallo, dba, Hill Side Inn .................................. 846.39
28 Oakvale Stone Co. ................................................. 568.26
29 George A. Queen ................................................... 5,000.00
30 V. P. Stickley ...................................................... 1,000.00
31 George A. Queen ................................................... 1,500.00
32 C. B. Early & Co. .................................................. 5,000.00
33 A. & P. Mining Co. ................................................. 846.39
34 V. P. Stickley & J. M. Francesca .............................. 7,500.00
35 Madelyn M. Ayers .................................................. 75.00

Sec. 5. Reappropriations.—The date for expiring the unexpended balances, if any, in item 1, in the appropriations made by and under authority of Section 6 of the 1962 Budget Act and items IX, XV, XIX, XXVII, XXVIII, XXX, XXXI, XXXII, XXXIV, XXXVII, XXXVIII, XXXIX, and XL in the appropriations made by and under authority of Section 4 of the 1963 Budget Act and items 3, 13, 14, 15, 17, 19, 20, 25, 27, 29, 30, 31, 35, 39, and 42, in the appropriation made by and under authority of Section 6 of the 1964 Budget Act.
10 is extended to June 30, 1966 and such items are hereby
11 reappropriated from their respective dates of expiration to
13 Item 30—Bluefield State College as herein reappropri-
14 ated may be used to complete basement rooms of Mahood
15 Hall, girls dormitory.

Sec. 6. Appropriations from Surplus Revenues.—The fol-
2 lowing items are appropriated from the General Revenue
3 Fund, subject to the following terms and conditions:
4 (a). The following items are hereby appropriated and are
5 to be available for expenditures only out of the sur-
6 plus in the Treasury, subject to the approval of the
7 Board of Public Works.
8 (b). The Board of Public Works shall review the revenues
9 of the State from the date that appropriations here-
10 under are expected to be made available for expendi-
11 ture, and determine whether, in its opinion, revenues
12 then in prospect or on hand will be sufficient to meet
13 all appropriations under the 1964 Budget Act, and
14 make a finding with respect thereof. In the event that
15 such finding shall show sufficient revenues on hand
16 or in prospect to meet all other appropriations and
17 reappropriations made by the 1964 Budget Act and
18 subject to the foregoing conditions, any or all of the
19 following items may be released for expenditure by
20 the Board of Public Works from the date of passage
21 of this bill and such appropriation shall remain in
22 full force and effect until June 30, 1966.
23 Item I. State Tax Commissioner  $ 500,000.00
24 For Property Appraisal.
25 Item II. West Virginia State Aeronautics
26 Commission  $ 149,000.00
27 For Airport Construction,
28 Improvement of Existing
29 Facilities and Land Acquisi-
30 tion for Airport Construc-
31 tion and Facilities:
32 Mingo County $50,000.00
33 Summersville  69,000.00
34 Sutton  30,000.00
Any or all of the above appropriation may be used to match Federal Funds available for this purpose.

Item III. Governor's Office $1,500,000.00
To be used to implement the Appalachian Regional Development Program and/or Office of Economic Opportunity and Manpower Development.

Item IV. Department of Finance and Administration $196,372.00
Mansion Repairs $109,872.00
Air Conditioning Repairs to Capitol Building No. 3 $11,500.00
To Establish Motor Pool $75,000.00

Item V. Department of Agriculture—Marketing and Research $50,000.00
Construction of New Facilities and Repairs to Existing Markets.

Item VI. Glenville State College $80,500.00
Land Purchases $65,500.00
Paving $15,000.00

Item VII. Industrial School for Boys $70,200.00
Service System Repairs $60,700.00
Educational Equipment $9,500.00

Item VIII. Forestry Camp for Boys $50,000.00
To begin relocation of present Forestry Camp and/or preliminary plans for establishing a new camp.

Item IX. Industrial Home for Girls $17,000.00
Ground Improvements $7,000.00
Replace Dormitory Furniture $10,000.00
Ch. 11]  

**A P P R O P R I A T I O N S**

71 Item X. *Medium Security Prison* .................. $ 7,000.00
72 Boiler and Oven Repairs .................. $ 5,000.00
73 Pasteurization and Deep Freeze Repairs .................. 2,000.00
75 Item XI. *West Virginia Children's Home* .................. $ 17,500.00
76 New Beds and Mattresses.
77 Item XII. *Andrew S. Rowan Memorial Home* .................. $ 15,700.00
78 New Boiler.
79 Item XIII. *State Health Department* .................. $ 22,500.00
80 Central Air Conditioning System.
81 Item XIV. *Huntington State Hospital* .................. $ 50,000.00
82 Laundry Equipment .................. $30,000.00
83 Kitchen Equipment .................. 20,000.00
84 Item XV. *Department of Commerce* .................. $ 500,000.00
85 Industrial Development Authority Revolving Fund.
87 Item XVI. *Department of Agriculture*—
88 Soil Conservation Commission .................. $ 50,000.00
89 Watershed Program.
90 Item XVII. *Department of Natural Resources* .................. $ 1,250,000.00
92 For improvements to the state park, forest and recreation system.
95 Any or all of the above appropriation may be used to match federal funds available for this purpose.
99 Out of the above appropriations Item No. I, "State Tax Commissioner, For Property Appraisal,” shall be the first Item of Surplus released by the Board of Public Works. Item No. II shall be the second Item released by the Board of Public Works.
Sec. 7. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred sixty-six appropriations made by general law from special revenue which are not paid into the state fund as general revenue under the provisions of section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one: Provided, however, That none of the moneys so appropriated by this section shall be available for expenditure except in compliance with and in conformity to the provisions of articles two and three, of chapter twelve, code of West Virginia and chapter one hundred and thirty-two, acts of the Legislature, regular session, one thousand nine hundred sixty-one, 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. 8. 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, as amended.

Sec. 9. Appropriation 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. 10. Sinking Fund Deficiencies.—There is hereby appropriated to the Board of Public Works a sufficient
amount to meet a deficiency that may arise in the funds of
the State Sinking Fund Commission because of the failure
of state agency for either general obligation or rev-
enue bonds or any local taxing district for general obliga-
tion 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. 11. Appropriations from Taxes and License Fees.—
There is hereby appropriated from the cigarette tax for
administration and enforcement of the law relating to said
tax a sum not to exceed one and one-half per cent of the
tax collected or stamps sold. There is hereby appropri-
ated from the soft drink tax revenues for administration
and enforcement of the law relating to said tax, a sum not
to exceed two and one-half per cent of the total revenues
collected. All such salaries and expenses, authorized by
law as aforesaid, shall be paid by the Tax Commissioner
through the state treasurer out of gross collections.

Sec. 12. Appropriations to Pay Costs of Publication of
delinquent Corporations.—There is hereby appropriated
out of the state fund, general revenue, out of funds not
otherwise appropriated to be paid upon requisition of the
Auditor and/or the Governor, as the case may be, a sum
sufficient to pay the cost of publication of delinquent cor-
porations as provided by sections seventy-five and seventy-
seven of article twelve, chapter eleven, code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended.

Sec. 13. Appropriations for Local Governments.—There
is hereby appropriated for payment to counties, districts,
and municipal corporations such amounts as will be neces-
sary to pay taxes due county, district, and municipal cor-
porations and which have been paid into the treasury:
Sec. 14. Total Appropriations.—Where only a total sum is appropriated to a spending unit that total sum shall include personal services, current expenses, and capital outlay, except as otherwise provided in Title I, Section 3.

Sec. 15. General School Fund.—The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with section six, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section
1. Appropriations conditional.
2. Constitutionality.

Section 1. Appropriations Conditional.—The expenditure of the appropriations made by this act, except those appropriations 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 one hundred thirty-two, acts of the Legislature, regular session, one thousand nine hundred sixty-one.

Where former spending units have been absorbed by or combined with other spending units by acts of this legislature, it is the intent of this act that reappropriation shall be to the succeeding or later spending unit created unless otherwise indicated.

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 portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.
CHAPTER 12

(House Bill No. 983—By Mr. Boiarsky and Mr. Vickers)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section two, article five, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section one of said article, relating to the continuation and management of Pinecrest sanitarium.

Be it enacted by the Legislature of West Virginia:

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

Article 5. Pinecrest Sanitarium.

Section 1. Continuation; management; superintendent.

The tuberculosis sanitarium heretofore established at Beckley, for the care and treatment of persons afflicted with tuberculosis, shall be continued and shall be known as Pinecrest sanitarium, and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five and in section eight, article one, chapter sixteen of the code. The chief executive officer of such sanitarium shall be the superintendent, who shall be a legally qualified physician of at least six years' experience in the practice of his profession and who shall be a person of good executive ability.

CHAPTER 13

(House Bill No. 994—By Mr. Boiarsky and Mr. Vickers)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new article, designated article nine, relating to the establishment of Hopemont state hospital.

Be it enacted by the Legislature of West Virginia:

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

Article 9. Hopemont State Hospital.

Section 1. Legislative Purpose.-The purpose of this article is to effectuate the consolidation of certain services and facilities for the purpose of providing the most efficient and economical care and treatment of tubercular patients by means of the orderly transfer of such patients from Hopemont sanitarium to Pinecrest sanitarium; to authorize the commissioner of public institutions to effect the orderly and most convenient transfer of such patients, together with such equipment, records and supplies, in such manner and at such time or times, as the commissioner of public institutions may direct; and to utilize the facility at Hopemont as an additional institution for the care and treatment of the increasing number of both chronically ill and aged and infirm citizens of this state.

Sec. 2. Establishment; Name and Location; Management; Qualification and Appointment of Superintendent.-The state tuberculosis sanitarium heretofore known as Hopemont sanitarium, established at Hopemont, West Virginia, exclusively for persons afflicted with tuberculosis, shall be discontinued. There shall be established at the same location, under the name of Hopemont state hospital, a hospital for both chronically ill and aged and infirm, and, subject to the provisions of this article, persons afflicted
with tuberculosis, which hospital shall be managed, di­
rected and controlled as prescribed in article one, chap­
ter twenty-five of this code. The chief executive officer
thereof shall be the superintendent, who shall be a reg­
ularly qualified physician, shall be a person of good
executive ability and shall be appointed by the governor
by and with the advice and consent of the senate.

Sec. 3. Transfer of Tubercular Patients to Pinecrest Sanitarium.—The commissioner of public institutions is
hereby directed to transfer all tubercular patients from
Hopemont state hospital, heretofore known as Hopemont sanitarium, to Pinecrest sanitarium in as orderly and
convenient a manner as possible: Provided, That all such
patients shall be so transferred to Pinecrest sanitarium
prior to the first day of July, one thousand nine hundred
sixty-eight.

Sec. 4. Transfer of Certain Records, Equipment and
Supplies to Pinecrest Sanitarium.—The commissioner of
public institutions is hereby authorized to direct the trans­
fer from Hopemont state hospital to Pinecrest sanitarium
of such records, equipment and supplies, as may be neces­
sary to effectuate the purposes of this article.

Sec. 5. Eligibility for Admission of Patients.—All per­
sons meeting requirements for admission to Denmar state
hospital pursuant to the provisions of section two, article
six of this chapter, or requirements for admission to An­
drew S. Rowan memorial home, pursuant to the provi­
sions of section two, article three of this chapter, shall
be eligible for admission to Hopemont state hospital pur­
suant to such rules and regulations regarding admissions
as may be promulgated by the commissioner of public
institutions: Provided, That on and after the effective
date of this article, no person who is more than sixteen
years of age on the effective date of this article, and who
is afflicted with tuberculosis, shall be admitted to Hope­
mont state hospital except those persons admitted pur­
suant to section sixteen, article one, chapter twenty-five
and section five, article five-a, chapter twenty-six of
this code.
AN ACT to amend chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-a, relating to reporting certain physical abuse of children to the prosecuting attorney, the duties of the prosecuting attorney upon receiving such report, and the conferring of immunity upon physicians and surgeons and other professional personnel and institutions who report such physical abuse of children.

Be it enacted by the Legislature of West Virginia:

That chapter forty-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 six-a, to read as follows:

Article 6-a. Reports of Child Abuse by Physicians and Others.

Section 1. Declaration of Policy.

Section 2. Reports to prosecuting attorney; form and contents.

Section 3. Investigation and action by prosecuting attorney.

Section 4. Immunity of participants from liability.
lieve that a child under the age of eighteen years has had serious injury or injuries inflicted upon him or her as a result of abuse or neglect, shall report the matter promptly to the prosecuting attorney of the county in which the injury or abuse occurred or if the county in which the injury or abuse occurred be unknown, to the prosecuting attorney of the county in which such injury or abuse be discovered or reported: Provided, That when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution, such staff member shall immediately notify the superintendent, manager, or other person in charge of the institution, who shall immediately make the report to the prosecuting attorney. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as may be practicable thereafter and shall contain the names and addresses of the child and his or her parent or parents, or other person or persons responsible for his or her care, if known, the name of the person or persons delivering or accompanying the child for treatment, if known, the child's age, the nature and extent of the child's injury or injuries, including any evidence of previous injury or injuries, and any other information that the maker of the report believes to be helpful in establishing the cause of the injury and the identity of the person or persons responsible therefor, and such written report shall be immediately filed with the prosecuting attorney.

Sec. 3. Investigation and Action by Prosecuting Attorney.—The prosecuting attorney, to whom such report has been made, shall forthwith investigate, or cause to be investigated, such report in order to determine the cause of such injury and determine the person or persons responsible, if any. If it is found that any person wilfully inflicted such injury or abused such child, the prosecuting attorney shall immediately take, or cause to be taken, such action as may be necessary to prevent any further injury or abuse to such child, and to punish the person or persons responsible for such injury as provided by law.

Sec. 4. Immunity of Participants from Liability.—Any
person making a report pursuant to the provisions of this article, or participating in a judicial proceeding resulting therefrom, shall be presumed to be acting in good faith and if acting in good faith, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

CHAPTER 15
(Com. Sub. for House Bill No. 765—By Mr. Ghiz)

(Passed March 13, 1965; in effect from passage. Approved by the Governor.)

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.

Be it enacted by the Legislature of West Virginia:

Section 1. Finding and declaring certain claims against the department of commerce; department of motor vehicles; state road commissioner; state board of education, division of vocational rehabilitation; the department of public institutions and the adjutant general, to be moral obligations of the state, and directing payment thereof.

Section 1. Finding and Declaring Certain Claims against the Department of Commerce; Department of Motor Vehicles; State Road Commissioner; State Board of Education, Division of Vocational Rehabilitation; the Department of Public Institutions, and the Adjutant General, 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 Department of Commerce:

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<th>No.</th>
<th>Claimant</th>
<th>Amount</th>
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<tr>
<td>1</td>
<td>Westinghouse Electric Corporation</td>
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<td>2</td>
<td>Ball Brothers Company</td>
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<td>Cantor Brothers Glass Corporation</td>
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<td>Gardner, Robinson, Stierheim &amp; Weis, Incorporated</td>
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<td>Bruhn Brothers, Incorporated</td>
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<td>Brooks, Maizel &amp; Company</td>
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<td>Seaboard Pools, Incorporated</td>
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<td>8</td>
<td>Dave Ellies, Industrial Design, Incorporated</td>
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<td>Cecil C. Broom, dba, Greentree Garden Center of St. Albans, West Virginia</td>
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<td>Campo &amp; Roberts, Incorporated</td>
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<td>Hazel B. Waggy</td>
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<td>Allied World’s Fair Service Corporation</td>
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<td>Anthony Bitel</td>
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<td>Mouldagraph Corporation</td>
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<tr>
<td>31</td>
<td>International Business Machines Corporation</td>
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CLAIMS AGAINST THE STATE

(32) J. I. Hass, Co., Inc. ............................................. 1,214.93

(b) Claims versus the Department of Motor Vehicles:

(1) Copco Papers, Incorporated ..................................... 3,783.92

(c) Claims versus the State Road Commission:

(1) Edna Underwood Sorden ......................................... 500.00
(2) George Pauley .................................................... 100.00
(3) Vernon Meadows .................................................. 195.48
(4) Gilbert J. and Mary Louise Keith .......................... 1,028.00
(5) Henry and Lucille Horton ..................................... 244.55
(6) Adolphus Wallace ................................................ 28.33
(7) David Hostutler ................................................. 158.77
(8) Floyd Plum and Gordon Weaver ............................ 1,200.00
(9) John A. Davis ................................................... 2,000.00
(10) Robert E. Keeney ............................................... 345.56
(11) Luther and Alma Bailey ....................................... 300.00
(12) Willie and Marie Gibbs ....................................... 3,000.00
(13) Gary Allen Huff, an infant, by his father, Joseph S. Huff, and next friend 3,047.00
(14) Frank Palmer ..................................................... 178.05
(15) George H. Matheny .............................................. 285.00
(16) Louis B. Wiseman ............................................... 20.00
(17) Allen B. Young .................................................. 120.00
(18) Cecil E. Parsons ................................................ 400.00
(19) Carl Shuck ......................................................... 1,722.03
(20) Grand Lodge of West Virginia, Independent Order of Odd Fellows ... 205.00
(21) Arthur Queen ..................................................... 908.50
(22) Ernest W. M. Oye, Administrator of the Estate of Ricky E. M. Oye 7,500.00
(23) Chesapeake & Ohio Railway Company .................. 484.53
(24) Mike Vallo, dba Hill Side Inn ................................ 15.44
(25) Thomas M. Scarff ............................................... 400.00
(26) V. P. Stickley .................................................... 1,515.68
(27) New York Central Railroad Company ................ 794.27
(28) Oakvale Stone Company ...................................... 5,000.00
(29) George A. Queen ................................................ 1,000.00
(30) C. B. Early & Company ....................................... 846.39
(31) A. & P. Mining Company ..................................... 568.26
(32) Madelyn M. Ayres ............................................... 75.00
(33) V. P. Stickley and J. M. Francesca .................... 7,500.00
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**COMMISSIONS**

98 (d) Claims versus State Board of Education,
99 Division of Vocational Rehabilitation:
100 (1) Bradshaw-Diehl Company ....................... 146.62
101 (2) C. & O. Railway Company ....................... 11.50

102 (f) Claims versus the Department of Public Institutions:
104 (1) Gordon Auto Parts ......................... 1,247.06
105 (2) Howard D. Stern ......................... 7,600.00
106 (3) Wilma Jean Johnson ......................... 4,500.00
107 (4) Edward B. Carroll ......................... 5,500.00

108 (g) Claims versus the Adjutant General’s Office:
110 (1) City of Oak Hill, West Virginia .......... 2,911.65

111 The Legislature finds that the above moral obligations and the appropriations made in satisfaction thereof shall be the full compensation for all claimants, and that prior to the payment to any claimant provided for in this act, the attorney general shall receive a release from said claimant releasing any and all claims for moral obligations arising from the matters considered by the Legislature in the finding of the moral obligations and the making of the appropriations for said claimant. The attorney general shall deliver all releases obtained from claimants to the department which the claim was allowed against.

**CHAPTER 16**

(House Bill No. 941—By Mr. Boiarisky and Mr. Cann)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state office building commission, the members, chairman and secretary thereof.
Be it enacted by the Legislature of West Virginia:

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


Section 1. State office building commission created; members; chairman and secretary; members to be paid expenses.

1. State office building commission created; members; chairman and secretary; members to be paid expenses.

Section 1. State Office Building Commission Created; Members; Chairman and Secretary; Members to Be Paid Expenses.—There shall be and there hereby is created a commission to be known as “The State Office Building Commission of West Virginia,” and the same is hereby made a body corporate, but is declared to be an agency of the state of West Virginia. It shall consist of the governor, the attorney general, the president of the state senate, the speaker of the house of delegates, and the director of the budget of the state of West Virginia. The governor shall be chairman and the director of the budget shall be secretary of the commission. The members of the commission shall be paid or reimbursed for their necessary expenses incurred under this article, but shall receive no compensation for their services as members or officers of the commission. Such expenses shall be paid solely from funds provided under the authority of this article, and the commission shall not proceed to exercise or carry out any authority or power herein given it to bind said commission beyond the extent to which money has been provided under the authority of this article.

CHAPTER 17

(Senate Bill No. 245—By Mr. Carson, Mr. President, and Mr. Porter)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter five 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 establishment, powers and duties of the
state antiquities commission and providing penalties.

Be it enacted by the Legislature of West Virginia:

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


Section 1. Legislative determination and declaration of policy.

2. Creation; composition; appointment and terms of members ap­
pointed by governor; reimbursement of expenses; officers; meet­
ings; reports.

3. Powers and duties of the commission.

4. Protection of archaeological sites; penalties.

5. Special fund created.

Section 1. Legislative Determination and Declaration

of Policy.—It is hereby declared as a matter of legislative
determination:

(a) That the state of West Virginia, being richly en­
dowed with archaeological treasures and other sites of
antiquities, should explore by excavation and preserve
these prehistoric treasures and sites;

(b) That in the past, there has been no systematic and
planned development and preservation of antiquities of
historical and archaeological importance in the state of
West Virginia; and

(c) That this article contemplates the establishment
of a commission which shall be authorized and empowered
to recommend the acquisition, development and preserva­
tion of our state's sites of antiquities.

Sec. 2. Creation; Composition; Appointment and Terms

of Members Appointed by the Governor; Reimbursement

of Expenses; Officers; Meetings; Reports.—There is hereby
created the West Virginia antiquities commission, herein­
after referred to as the commission, to consist of six mem­
ers, one of whom shall be the chief of the division of
parks and recreation of the department of natural re­
resources, one of whom shall be the state historian and
archivist, one of whom shall be the director of the state
geological and economic survey, one of whom shall be the
state archaeologist, one of whom shall be the president
of the West Virginia archaeological society, and one of
whom shall be a professional archaeologist who is a member
of the West Virginia historical association of college and
university teachers who shall be appointed by the gov-
ernor, by and with the advice and consent of the senate.
The term of office for the member appointed by the gov-
ernor shall be four years. All the members of the com-
mission shall serve without pay, but shall be reimbursed
for any and all reasonable and necessary expenses in-
curred in the performance of their duties hereunder. The
members of the commission shall elect from their own
membership the officers of the commission.

The commission will meet at least twice during the
year, in May and in November, at a time and place to
be determined by the chairman.

The commission shall transmit an annual report of its
activities to the governor, the president of the senate,
and the speaker of the house of delegates on or before
the opening day of each regular session of the Legislature.

Sec. 3. Powers and Duties of the Commission.—The
commission shall be authorized and empowered to locate,
identify, and recommend for acquisition historic sites
worthy of preservation; to direct and supervise the exca-
vation, study, restoration and development of such sites;
and to conduct a survey and study throughout the state
to determine needs and priorities for the preservation,
restoration, and development of sites, buildings, and other
objects of archaeological or historic interest.

Sec. 4. Protection of Archaeological Sites; Penalties.—
Archaeological sites, identified as such by the commission,
on lands owned or leased by the state, or on private lands
where investigation and development rights have been
acquired by the state by lease or contract, shall not be
disturbed, developed, or destroyed except with permi-
sion of the commission.

Any person violating the provisions of this section will
be guilty of a misdemeanor and be punished by a fine not
exceeding five hundred dollars or imprisonment for a
CHAPTER 18

AN ACT calling a convention having the authority to alter the constitution of the state to convene on the twentieth day of July, one thousand nine hundred sixty-six, in the House of Delegates' chamber in the state capitol, Charleston, West Virginia, but providing that such convention shall not be held unless a majority of the votes cast at the special election of November one thousand nine hundred sixty-five, one thousand nine hundred sixty-six, in the House of Delegates, chamber in the state capitol, Charleston, West Virginia, for the purpose of taking the sense of the voters of the state as to whether or not such convention shall be held unless a majority of the votes cast at said election are in favor of such convention.

Such fund and shall be expended from such fund only for the purpose set out herein shall be deposited in the West Virginia antiquities fund created by the legislative appropriation therefor, for the purpose of carrying out the provisions of this article, not be used for any purpose other than the purpose for which said fund is created.

AN ACT calling a convention having the authority to alter the constitution of the state, to convene on the twentieth day of July, one thousand nine hundred sixty-six, in the House of Delegates' chamber in the state capitol, Charleston, West Virginia, but providing that such convention shall not be held unless a majority of the votes cast at the special election of November one thousand nine hundred sixty-five, one thousand nine hundred sixty-six, in the House of Delegates, chamber in the state capitol, Charleston, West Virginia, for the purpose of taking the sense of the voters of the state as to whether or not such convention shall be held unless a majority of the votes cast at said election are in favor of such convention.

Such fund and shall be expended from such fund only for the purpose set out herein shall be deposited in the West Virginia antiquities fund created by the legislative appropriation therefor, for the purpose of carrying out the provisions of this article, not be used for any purpose other than the purpose for which said fund is created.
election; providing for the ascertainment of the results of said election by the governor and for a proclamation of the results of said election by the governor; providing for publication of such proclamation; providing for a special nonpartisan election to be held on the twenty-ninth day of March, one thousand nine hundred sixty-six, to elect the members of the convention; providing for the publication of a notice of the special nonpartisan election to elect members of constitutional convention and prescribing the form of the notice; specifying the number of members of the convention to be elected and providing for the conduct of the special nonpartisan election for election of the members of the constitutional convention; specifying those persons entitled to membership in the convention; providing for certificates of announcement of candidacy for membership in the convention and for their disposition; providing for the certification and posting of candidates; providing for the publication and printing of sample ballots; providing for the printing of official ballots; making provision for candidates not certified; specifying the form and contents of the ballot for the election of members of the convention; providing for the arrangement of the candidates' names on the ballots and ballot labels; providing for certificates of results by election commissioners and poll clerks and their disposition; providing for certificates of results by boards of canvassers and their disposition; providing for ascertainment of results of the special nonpartisan election by the governor and for a proclamation of such results by the governor and the publication thereof; providing tie vote procedures; providing for publication of the names of the members of the convention; providing procedures for contests of the special nonpartisan election; making provision for the convening of the constitutional convention and its meeting place; providing for the term and oath of office of members of the convention; providing for expenses and mileage of the members of the convention; providing for the filling of vacancies among the membership of the convention; providing for the organization and expenses of the convention; providing for the framing of proposals of the convention; providing for
the filing of such proposals; providing for the submission of the proposals to the people; and providing for a special election for the ratification or rejection of the proposals of the convention.

Be it enacted by the Legislature of West Virginia:

Article
1. Calling a Constitutional Convention.
2. Election on Question of Calling a Constitutional Convention.
3. Election of the Members of the Constitutional Convention.
5. Proposals of the Convention.


Section
1. Calling a constitutional convention; convention not to be held unless majority of votes cast at state-wide polls are in favor.

Section 1. Calling a Constitutional Convention; Convention Not to Be Held unless Majority of Votes Cast at State-wide Polls Are in Favor.—A convention having the authority to alter the constitution of the state is hereby called to convene in the House of Delegates’ chamber in the state capitol, Charleston, West Virginia, at one o’clock p.m., eastern standard time, on the twentieth day of July, one thousand nine hundred sixty-six: Provided, That such convention shall not be held unless a majority of the votes cast at the polls provided for in article two of this act are in favor of calling the same.

Article 2. Election on Question of Calling a Constitutional Convention.

Section
1. Requiring polls to be open.
2. Publication of notice of election.
3. Conduct of election.
4. Form of ballot.
5. Certificates of election commissioners and poll clerks; procedures.
6. Recounts.
7. Certificates of boards of canvassers; procedures.
8. Proclamation of result of special election by governor; publication of proclamation in the event majority of votes cast oppose convention; nullification of succeeding articles of act in such event.

Section 1. Requiring Polls to Be Open.—The polls shall be opened throughout the state on the ninth day of November, one thousand nine hundred sixty-five, for the purpose of taking the sense of the voters on the question of calling a convention having the authority to alter the constitution of the state, such convention being some-
Sec. 2. Publication of Notice of Election.—The governor shall cause a notice of said election to be published one time at least three months before such election in some newspaper of general circulation published in each county of the state, but if no such newspaper is published in the county such notice shall be published in some newspaper of general circulation in the county. The price for publishing such notice shall be agreed upon in advance, in writing, and shall be paid out of the governor’s contingent fund.

The said notice shall be in the following form, or to the following effect:

"NOTICE OF SPECIAL ELECTION ON QUESTION OF CALLING A CONSTITUTIONAL CONVENTION

The polls shall be opened throughout the state on the ninth day of November, one thousand nine hundred sixty-five, for the purpose of taking the sense of the voters on the question of calling a convention having the authority to alter the constitution of the state.

The acts and ordinances of any such convention shall have no validity until they are ratified by the voters of the state.

'Given under my hand this ______ day of ______, one thousand nine hundred sixty-five.

Governor of the State of West Virginia."

Sec. 3. Conduct of Election.—Except to the extent otherwise provided by this article, the special election on the question of calling a constitutional convention shall be controlled and governed in all respects by the provisions of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, applicable to a special election in which voters pass upon a public question submitted to them. (Said code, as amended, will be hereinafter referred to as the code.)
In all other particulars, when no specific provision is made in this article for the control, conduct and government of any phase of said special election, resort shall be had to other provisions of chapter three of the code not specifically applicable to special elections on public questions but which may furnish guidance and be made controlling thereof.

Sec. 4. Form of Ballot.—For the purpose of enabling the voters of the state to vote on the question of calling a constitutional convention, at the special election to be held on the date specified in preceding section one of this article, the board of ballot commissioners of each county shall provide printed ballots, and cause to be printed thereon, the following:

“Ballot on Calling a Constitutional Convention.

☐ For Constitutional Convention

☐ Against Constitutional Convention.”

At least thirty days before the date of such special election, the board of ballot commissioners, in those counties not using voting machines, shall cause to be printed official ballots in a quantity of not more than one and one-fifth times the number of registered voters in the county. The printing of the ballots shall be contracted for with the lowest responsible bidder. Ballots other than those caused to be printed by the respective boards of ballot commissioners shall not be cast, received, or counted in said special election.

The ballots so printed shall be wrapped and tied in packages, one for each precinct in the county, containing ballots in a quantity of one and one-twentieth times the number of registered voters in such precinct. Each package of ballots shall be sealed with wax, and plainly marked with the number of ballots therein, the name of the magisterial district, and the number of the voting precinct therein, to which the package is to be sent. The names of the ballot commissioners shall also be endorsed thereon.

The preparation, printing and use of ballot labels for voting machines shall be governed by the provisions of article four, chapter three of the code.
Sec. 5. Certificates of Election Commissioners and Poll Clerks; Procedures.—As soon as the results of such special election are ascertained, the commissioners of election and poll clerks at each place of voting shall make out and sign four certificates thereof, in the following form, or to the following effect:

“We, the undersigned, who acted as commissioners and poll clerks of the special election held at precinct No. ........ in the district of ................. , and county of ................., on the .......... day of ................., one thousand nine hundred sixty-.........., upon the question of calling a constitutional convention, do certify that, having been first duly sworn, we have fairly and impartially held the said election according to law, and the result thereof is as follows:

For Constitutional Convention ........ votes.
Against Constitutional Convention ........ votes.
Given under our hands this .......... day of ................., one thousand nine hundred sixty-..........,

(Signature lines)"

The said four certificates shall correspond with each other in all respects, shall contain complete returns of the polls taken at such place of voting, and shall be disposed of by the precinct commissioners as follows: One certificate shall be returned, under seal, to the clerk of the county court; one shall be delivered, under seal, to the clerk of the circuit court of the county; one shall be sent, under seal, by registered mail to the secretary of state; and one shall be posted on the outside of the front door of the polling place in each precinct.

When the certificates are signed, the ballots shall be enclosed by the commissioners in an envelope which they shall seal up, and write their names in ink across the place or places where the envelope is sealed, and endorse in ink on the outside of the envelope as follows: “Ballots of the special election held at Precinct No. ........ in the district of ................., and county of .................,
the __________ day of ________________________, one thousand nine
hundred sixty-__________________ .”

One of the commissioners of the election shall, within
twelve hours after the completion of the count, tabulation
and declaration of the result, deliver the ballots so sealed
up, one set of the poll books and tally sheets, one of such
certificates, under seal, the registration book and the bal-
lot box or boxes, to the clerk of the county court, and one
certificate, under seal, and set of poll books and tally
sheets, to the clerk of the circuit court, all of which shall
be preserved in the respective offices of said clerks as pro-
vided for in chapter three of the code.

In counties using voting machines, the form of the re-
turn sheets, and the duties of the election officials with
respect to the closing of the polls, the counting and re-
porting of the returns, and the duties of and the proce-
dures to be followed by the election officials shall be gov-
erned by the provisions of article four, chapter three of
the code, as augmented by other provisions of chapter
three of the code applying to general, primary, and spe-
cial elections.

Sec. 6. Recounts.—After canvassing the returns of the
special election, the board of ballot commissioners shall,
upon the demand of any person who voted in such elec-
tion in the county, open and examine any one or more of
the sealed packages of ballots, and recount the same. Ev-
eery such person who demands such recount shall be re-
quired to furnish bond in a reasonable amount with good
sufficient surety to guarantee payment of the costs and ex-
spenses of such recount in the event the result of the spe-
cial election be not changed by such recount; but the
amount of such bond shall in no case exceed three hun-
dred dollars. If the result of the special election in such
county be not changed by such recount, the costs and ex-
spenses of such recount shall be paid by the person or per-
sons at whose instance the same was made.

Sec. 7. Certificates of Boards of Canvassers; Pro-
cedures.—The board of canvassers of each county, or a
majority of them, under the regulations prescribed by
section nine, article six, chapter three of the code, shall
carefully and impartially ascertain the result of the spe-
cial election in their county and in each district thereof,
and shall record the same, in duplicate, in the following
form, or to the following effect:

"The board of canvassers of the county of _______________, having carefully and impartially ex-
amined the returns of the special election held in
said county, in each district thereof, on the ____________
day of _________________, one thousand nine hundred
sixty-____________, do hereby certify that the result of the
special election in said county, on the question of call-
ing a constitutional convention, is as follows:

For Constitutional Convention ___________ votes.
Against Constitutional Convention ___________ votes.

Given under our hands this __________ day of ________________
_____________, one thousand nine hundred sixty-

(Signature lines)"

One of said certificates shall be filed in the office of the
clerk of the county court, and the other shall be trans-
mitted, not later than twenty-five days following the spe-
cial election, to the secretary of state, who shall file and
preserve the same until the day on which the result of
said election in the state is to be ascertained, as herein-
after stated.

In counties using voting machines, the canvass of the
returns by the board of canvassers and recounts shall
be governed by the provisions of article four, chapter
three of the code, as augmented by the provisions of chap-
ter three of the code applying to general, primary, and
special elections: Provided, That (1) a recount may be
demanded by any person who voted in such special elec-
tion in the county under the relevant conditions set forth
in section six of this article, in section twenty-six, article
four, chapter three of the code, and in section nine, article
six, chapter three of the code; and (2) the board of can-
vassers shall prepare and transmit to the clerk of the
county court and to the secretary of state the certificate
of election results provided for in this section and within
the time limits herein set forth.
Sec. 8. Proclamation of Result of Special Election by Governor; Publication of Proclamation in the Event Majority of Votes Cast Oppose Convention; Nullification of Succeeding Articles of Act in Such Event.—On the thirtieth day after the special election of the ninth day of November, one thousand nine hundred sixty-five, is held, or as soon thereafter as practicable, but in no event later than forty days after said election, the certificates of the board of canvassers of each county transmitted to the secretary of state shall be laid before the governor, whose duty it shall be to immediately ascertain therefrom the result of said election in the state, and to immediately declare the same by proclamation. In no event shall the governor's proclamation of the result of said election be issued later than the thirty-first day of December, one thousand nine hundred sixty-five.

If a majority of the votes cast at said special election are opposed to the calling of a constitutional convention, the governor shall cause the proclamation declaring the result of such election to be published one time in one or more newspapers printed in the seat of government. The price for publishing such notice shall be agreed upon in advance, in writing, and shall be paid out of the governor's contingent fund.

If a majority of the votes cast at said special election are opposed to the calling of a constitutional convention, a constitutional convention shall not be held and the succeeding articles and sections of this act shall thereupon be null and void.

Article 3. Election of the Members of the Constitutional Convention.

Section
1. Publication of proclamation of result of special election in event majority of votes cast favor convention; publication of notice of election to elect members.
2. Time and places of holding special election for election of members of constitutional convention.
3. Number of members to be elected; apportionment.
4. Notice of special nonpartisan election to elect members of constitutional convention.
5. Conduct of special election for election of members of the constitutional convention.
6. Persons entitled to membership in convention.
7. Candidates for membership from a county in the constitutional convention.
8. Filing fees and their disposition.
9. Publication and printing of sample official ballots.
10. Printing of official ballots; number.
11. Candidates not certified.
12. Form and contents of ballot.
13. Certificates of election commissioners and poll clerks; procedures.
14. Certificates of boards of canvassers; procedures.
15. Proclamation of result of special nonpartisan election by governor.
16. Tie vote procedures.
17. Publication of proclamation of results of special nonpartisan election.
18. Publication of results of special nonpartisan election.
19. Contest of elections; notices and procedures.
20. Depositions; subpoenas; time; tie vote decision.
21. Correction of returns; extent.
22. Costs in election contests.

Section 1. Publication of Proclamation of Results of Special Election in Event Majority of Votes Cast Favor Convention; Publication of Notice of Election to Elect Members.—If a majority of the votes cast at the special election provided for in the immediately preceding article of this act are in favor of the calling of a constitutional convention, the governor shall cause his proclamation declaring the result of such election, together with the notice outlined in section four of this article, to be published one time, within thirty days of the issuance of such proclamation, in some newspaper published and of general circulation in each county of the state, but if no such newspaper is published in the county, such proclamation and notice shall be published in some newspaper of general circulation in the county. The price of such publication shall be agreed upon in advance, in writing, and shall be paid out of the governor's contingent fund.

Sec. 2. Time and Places of Holding Special Election for Election of Members of Constitutional Convention.—If a majority of the votes cast at the special election provided for in the immediately preceding article of this act are in favor of the calling of a constitutional convention, a special nonpartisan election shall be held at the voting place in each of the voting precincts in the state on the twenty-ninth day of March, one thousand nine hundred sixty-six, for the purpose of electing members of the constitutional convention to be convened in the House of Delegates' chamber in the state capitol, Charleston, West Virginia, at one o'clock, p.m., eastern standard time, on
CONSTITUTIONAL CONVENTION

Ch. 18

To be convened in the House of Delegates’ chamber in

the twentieth day of July, one thousand nine hundred

sixty-six.

Sec. 3. Number of Members to Be Elected; Apportion-

ment.—The constitutional convention shall consist of one

hundred sixty-six members, who shall be apportioned

among the several counties as follows:

The counties of Barbour, Berkeley, Braxton, Calhoun,

Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire,

Hardy, Jackson, Jefferson, Lewis, Logan, Monongalia,

Mingo, Monroe, Morgan, Nicholas, Pendleton, Pleasants,

Pocahontas, Pocahontas, Preble, Randolph, Ritchie, Roane,

Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wet-

zel, and Wyoming shall each elect three members.

The counties of Cabell, Marshall, McDowell, Mercer, Ohio,

Putnam, and Raleigh shall each elect six members.

The counties of Boone, Brooke, Braxton, Cabell, and

Pendleton shall each elect two members.

The counties of Doddridge, Gilmer, Grant, Greenbrier, Hampshire,

Hancock, Jackson, Jefferson, Lewis, Logan, Monongalia,

Mingo, Monroe, Morgan, Nicholas, Pendleton, Pleasants,

Pocahontas, Pocahontas, Preble, Randolph, Ritchie, Roane,

Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wet-

zel, and Wyoming shall each elect one member.

The counties of Cabell, Marshall, McDowell, Mercer, Ohio,

Putnam, and Raleigh shall each elect three members.

The counties of Boone, Brooke, Braxton, Cabell, and

Pendleton shall each elect four members.

The counties of Barbour, Berkeley, Braxton, Calhoun,

Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire,

Hancock, Jackson, Jefferson, Lewis, Logan, Monongalia,

Mingo, Monroe, Morgan, Nicholas, Pendleton, Pleasants,

Pocahontas, Pocahontas, Preble, Randolph, Ritchie, Roane,

Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wet-

zel, and Wyoming shall each elect one member.

The counties of Cabell, Marshall, McDowell, Mercer, Ohio,

Putnam, and Raleigh shall each elect three members.

The counties of Boone, Brooke, Braxton, Cabell, and

Pendleton shall each elect two members.

Sec. 4. Notice of Special Nonpartisan Election to Elect

Members of Constitutional Convention.—The governor

shall cause a notice of the special nonpartisan election to

be held on the date specified in preceding section two of

this article to be published in accordance with the pro-

visions of preceding section one of this article.

The said notice shall be in the following form, or to

have the following effect:

NOTICE OF SPECIAL NONPARTISAN ELECTION

TO ELECT MEMBERS OF THE CONSTITUTIONAL

CONVENTION

A special nonpartisan election shall be held at the

voting place in each of the voting precincts in the

state on the twenty-ninth day of March, one thou-

sand nine hundred sixty-six, for the purpose of

electing members of the constitutional convention

to be convened in the House of Delegates’ chamber in

the twentieth day of July, one thousand nine hundred

sixty-six.

The said notice shall be in the following form, or to

have the following effect:

"NOTICE OF SPECIAL NONPARTISAN ELECTION

TO ELECT MEMBERS OF THE CONSTITUTIONAL

CONVENTION

A special nonpartisan election shall be held at the

voting place in each of the voting precincts in the

state on the twenty-ninth day of March, one thou-

sand nine hundred sixty-six, for the purpose of

electing members of the constitutional convention

to be convened in the House of Delegates’ chamber in

the twentieth day of July, one thousand nine hundred

sixty-six."
the state capitol, Charleston, West Virginia, at one o'clock, p.m., eastern standard time, on the twentieth day of July, one thousand nine hundred sixty-six.

The constitutional convention shall consist of one hundred and six members, who are to be apportioned among the several counties.

(Here state the county in which the notice is to be published and the number of members in the constitutional convention to which the county is entitled.)

Given under my hand this .......... day of ..........., one thousand nine hundred sixty-........

Governor of the State of West Virginia”

A copy of the above notice shall be mailed by the governor, within thirty days after he has issued his proclamation declaring the results of the special election on the question of whether there will be a constitutional convention, to the clerk of the circuit court of each county.

Sec. 5. Conduct of Special Election for Election of Members of the Constitutional Convention.—Except to the extent otherwise provided by this article, the special election to elect the members of the constitutional convention shall be governed and controlled in all respects by the provisions of chapter three of the code applicable to a special election.

In all other particulars, when no specific provision is made in this article for the control, conduct and government of any phase of said special election, resort shall be had to other provisions of chapter three of the code not specifically applicable to such special election but which may furnish guidance and be made controlling thereof.

Sec. 6. Persons Entitled to Membership in Convention.—Only persons who are entitled to vote in the special election of the twenty-ninth day of March, one thousand nine hundred sixty-six, in the county from which elected shall be eligible for membership in the constitutional convention.

Sec. 7. Candidates for Membership from a County in
the Constitutional Convention.—Any person who is eligible to hold membership in the constitutional convention as a representative of a county may file with the clerk of the circuit court of the county a certificate declaring himself a candidate for election as a member of the constitutional convention; which certificate shall be in form or effect as follows:

“I, ........................................ hereby certify that I am a candidate for nonpartisan election to membership in the constitutional convention to be convened on July 20, 1966, from ........................................ county, and desire my name printed on the official ballot to be voted in said county at the special nonpartisan election to be held on the 29th day of March, 1966; that I am a legally qualified voter of the county of ........................................, State of West Virginia; that the address of my residence in ........................................ county is ........................................; that I am eligible for such membership; and that I am a candidate therefor in good faith.

Candidate

Signed and acknowledged before me this ........................................ day of ........................................, 19 .........................................

Signature and official title of certifying officer”

Such announcement shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

Such certificate shall be filed with the clerk of the circuit court not earlier than the third day of January, one thousand nine hundred sixty-six, and not later than the seventeenth day of January, one thousand nine hundred sixty-six, and must be received by the clerk before midnight, eastern standard time, of the latter date, or, if mailed, shall be postmarked before that hour.

Sec. 8. Filing Fees and Their Disposition.—Every person who becomes a candidate for membership in the constitutional convention shall, at the time of filing the
certificate of announcement, as required in the preceding section of this article, pay a filing fee of twenty-five dollars to the clerk of the circuit court. No certificate of announcement shall be received until the filing fee is paid.

All filing fees received by such clerk from candidates for membership in the constitutional convention shall be credited to the general county fund.

Sec. 9. Publication and Printing of Sample Official Ballots.—Between the eighteenth day of January, one thousand nine hundred sixty-six, and the fifth day of February, one thousand nine hundred sixty-six, the ballot commissioners of each county shall prepare from the certificates of announcements, as provided in this article, a sample official ballot for the special election to be held on the twenty-ninth day of March, one thousand nine hundred sixty-six, placing thereon the names of all the candidates for membership in the constitutional convention as a representative of such county to be voted for at such special election.

Between the seventh day of February, one thousand nine hundred sixty-six, and the twenty-sixth day of February, one thousand nine hundred sixty-six, the ballot commissioners of each county shall publish such sample official election ballot in two successive issues of two newspapers of opposite politics published and of general circulation in such county if there be two such newspapers, and if there be only one such newspaper so published and circulated, then they shall publish such ballot in two successive issues of such newspaper published and of general circulation in such county. If there be no newspaper published and of general circulation in such county, the ballot commissioners shall publish such sample official special election ballot in two issues of a newspaper of general circulation in such county.

The sample official ballots shall be printed on colored paper and there shall be printed across the face of such sample ballot the words “sample ballot,” and no sample ballot shall be voted or counted in the special election.

Sec. 10. Printing of Official Ballots; Number.—At least thirty days before the date of such special election, the
board of ballot commissioners, in those counties not using voting machines, shall cause to be printed official ballots in a quantity of not more than one and one-fifth times the number of registered voters in the county. The printing of the ballots shall be contracted for with the lowest responsible bidder. Ballots other than those caused to be printed by the respective boards of ballot commissioners shall not be cast, received, or counted in said special election.

The ballots so printed shall be wrapped and tied in packages, one for each precinct in the county, containing ballots in a quantity of one and one-twentieth times the number of registered voters in such precinct. Each package of ballots shall be sealed with wax, and plainly marked with the number of ballots therein, the name of the magisterial district, and the number of the voting precinct therein, to which the package is to be sent. The names of the ballot commissioners shall also be endorsed thereon.

The preparation, printing and use of ballot labels for voting machines shall be governed by the provisions of article four, chapter three of the code.

Sec. 11. Candidates Not Certified.—If, by satisfactory evidence, it shall appear to the ballot commissioners of any county that announcements have been made in conformity with the provisions of this article and no certificate thereof has been received by them, they shall include such persons among the names of candidates to be printed upon the ballots, as in this article provided.

Sec. 12. Form and Contents of Ballot.—All ballots for the special nonpartisan election to be held on the twenty-ninth day of March, one thousand nine hundred sixty-six, shall be printed in black ink on number two white book paper sufficiently thick so that the printing cannot be distinguished from the back, and shall contain the names of every candidate for membership in the constitutional convention whose name has been certified and filed according to law, and no others.

The ballots, except the heading, which shall be in display type, shall be printed in eight-point type; the resi-
12 dence of the candidate in lower case letters; and the
13 name of the candidate shall be printed in capital letters.
14 The name and the residence of the candidate may be
15 printed in the same line. The name of each candidate
16 shall be printed in a space defined by ruled lines, and with
17 a black square on its left enclosed by heavy dark lines.
18 The arrangement of the front of the ballot shall con- 19 form as nearly as practicable to the plan here given:
   Nonpartisan Ballot for Election of
   Members of the Constitutional Convention
   to be Convened on the 20th day of July, 1966.
   For Member(s) of the Constitutional
   Convention from .......... County
   (Vote for ............ )

    |    |    
|---|---|---|
|   |   |   |
|   |   |   |
|   |   |   |
|   |   |   |

26 On the back of the ballot shall be printed or stamped 27 in black ink the words "Official Ballot for use in the spe- 28 cial nonpartisan election to be held on the .......... day of 29 ................., 19........," and underneath shall be two blank 30 lines followed by the words "Poll Clerks."
31 The clerk of the circuit court shall arrange the names 32 of the candidates to be printed on the ballot in alpha- 33 betical order, according to the surname.
34 In printing each set of ballots, the positions of the names 35 of the candidates shall be changed as many times as there 36 are candidates. As nearly as possible, an equal number 37 of ballots shall be printed after each change. In making 38 the change of position, the printer shall take the line of 39 type containing the first name and place it at the bottom 40 of the list of names and move up the column so that the
name that before was second shall be first after the change. After the ballots are printed, they shall be kept in separate piles, one pile for each change in position, and shall then be gathered by taking one from each pile. Sample ballots shall be in the same form as the official ballot, but the order of the names thereon need not be alternated.

The ballot shall be so printed so as to give each voter a clear opportunity to designate by crossmark, in a blank, enclosed space on the left, and before the name of each candidate, his choice of particular candidates.

In those counties using voting machines, the clerk of the county court shall place the ballot labels which have been printed and delivered to him in the ballot frames of the voting machines in such manner as will most nearly conform to the arrangement prescribed for paper ballots.

In those counties using voting machines, the clerk of the circuit court shall appoint a time, not later than the first day of February, one thousand nine hundred sixty-six, at which time all candidates for membership in the constitutional convention are to appear in his office for the purpose of drawing by lot to determine where their names will appear on the voting machine. The clerk shall give due notice of such time to each such candidate by registered or certified mail, return receipt requested. At the time appointed, all such candidates shall assemble in the office of such clerk and such candidates shall then proceed to draw by lot to determine where their names shall appear on the voting machines. The number so drawn by each such candidate shall determine where his or her name shall appear on the voting machines. In the event any candidate or candidates fail to appear at the time appointed, the clerk shall draw for such absent candidate or candidates in the presence of those candidates assembled, if any, and the number so drawn by the clerk shall determine where the name of any absent candidate or candidates shall appear on the voting machines.

Sec. 13. Certificates of Election Commissioners and Poll Clerks; Procedures.—As soon as the results of such non-partisan special election are ascertained, the commissioners of election and poll clerks at each place of voting shall
make out and sign four certificates thereof, in the following form, or to the following effect:

"We, the undersigned who acted as commissioners and poll clerks of the special nonpartisan election held at precinct No. ______________ in the district of ______________, and county of ______________, on the ______________ day of ______________, one thousand nine hundred sixty-____________, do certify that, having been first duly sworn, we have fairly and impartially held the said special election according to law, and the result thereof is as follows:

"For member(s) of the constitutional convention from ______________ county,
A.B. received ______________ votes,
C.D. received ______________ votes,
E.F. received ______________ votes,
(and so on throughout stating, according to the truth, the full name of every person voted for, and in words at length, and also in figures, the number of votes received.)
"Given under our hands this ______________ day of ______________, one thousand nine hundred sixty-_______.

(Signature lines)

Each such certificate shall be signed by each commissioner and poll clerk of the precinct.

The said four certificates shall correspond with each other in all respects, shall contain complete returns of the polls taken at such place of voting, and shall be disposed of by the precinct commissioners as follows: One certificate shall be returned, under seal, to the clerk of the county court; one shall be delivered, under seal, to the clerk of the circuit court of the county; one shall be sent, under seal, by registered mail, to the secretary of state; and one shall be posted on the outside front door of the polling place in each precinct.

When the certificates are signed, the ballots shall be enclosed by the commissioners in an envelope which
they shall seal up, and write their names in ink across
the place or places where it is sealed, and endorse in ink
on the outside of the envelope as follows: “Ballots of the
special election held at Precinct No. ____________, in the dis-

tRICT of ____________, and county of ____________, the
_______ day of ____________, one thousand nine hundred
sixty-_______.”

One of the commissioners of the election shall, within
twelve hours after the completion of the count, tabula-
tion and declaration of the results, deliver the ballots so
sealed up, one set of the poll books and tally sheets, one
of such certificates, under seal, the registration book, and
the ballot box or boxes, to the clerk of the county court,
and one certificate, under seal, and set of poll books and
tally sheets, to the clerk of the circuit court, all of which
shall be preserved in the respective offices of said clerks
as provided for in chapter three of the code.

In counties using voting machines, the form of the
return sheets, and the duties of the election officials with
respect to the closing of the polls, the counting and re-
porting of the returns, and the duties of and the proce-
dures to be followed by the election officials shall be
governed by the provisions of article four, chapter three
of the code, as augmented by other provisions of chapter
three of the code applying to general, primary, and spe-
cial elections.

Sec. 14. Certificates of Boards of Canvassers; Proce-
dures.—The board of canvassers of each county, or a
majority of them, under the regulations prescribed by
section nine, article six, chapter three of the code, shall
carefully and impartially ascertain the result of the spe-
cial nonpartisan election in their county and in each dis-

tRICT thereof, and shall record the same in duplicate, in
the following form, or to the following effect:

“The board of canvassers of the county of ____________,

having carefully and impartially ex-
amined the returns of the special nonpartisan elec-
tion held in said county, in each district thereof, on
the ____________ day of ____________,

one thousand nine hundred sixty-_______, do hereby
certify that the result of the special election in said county is as follows:

“For member(s) of the constitutional convention from ____________________________ county,

A.B. received ____________________________ votes,

C.D. received ____________________________ votes,

E.F. received ____________________________ votes,

(and so on throughout stating, according to the truth, the full name of every person voted for, and in words at length, and also in figures, the number of votes received.)

“Given under our hands this ____________________________ day of ____________________________ , one thousand nine hundred sixty-__________ .

(Signature lines)

One of said certificates shall be filed in the office of the clerk of the county court, and the other shall be transmitted, not later than twenty-five days following the special nonpartisan election to the secretary of state, who shall file and preserve the same until the day on which the result of said election in each county is to be ascertained, as hereinafter stated.

In counties using voting machines, the canvass of the returns by the board of canvassers and recounts shall be governed by the provisions of article four, chapter three of the code, as augmented by the provisions of chapter three of the code applying to general, primary and special elections: Provided, That (1) a recount may be demanded by any candidate voted for at such special election under the relevant conditions set forth in section twenty-six, article four, chapter three of the code, and in section nine, article six, chapter three of the code; and (2) the board of canvassers shall prepare and transmit to the clerk of the county court and to the secretary of state the certificate of election results provided for in this section and within the time limits herein set forth.

Sec. 15. Proclamation of Result of Special Nonpartisan Election by Governor.—On the thirtieth day after the
special nonpartisan election of the twenty-ninth day of March, one thousand nine hundred sixty-six, is held, or as soon thereafter as is practicable, but in no event later than forty days after said election, the certificates of the board of canvassers of each county transmitted to the secretary of state shall be laid before the governor, whose duty it shall be to immediately ascertain therefrom the result of said election in each county, and to immediately declare the same by proclamation.

The person or persons having the highest number of votes in the county in which he or they are candidates for membership in the constitutional convention shall be declared by the governor duly elected as members of the convention.

Sec. 16. Tie Vote Procedures.—Whenever it appears to the governor that two or more of the persons voted for for membership in the state constitutional convention as a representative of a county have received the highest and equal number of votes for membership in the convention as such representative, so that the election to membership is not decided by the returns, he, being required to declare the result of the election, shall decide the tie by the selection of one of such persons, and declare such person duly elected as a member of the convention.

Sec. 17. Publication of Proclamation of Results of Special Nonpartisan Election.—The governor shall cause his proclamation declaring the results of such special nonpartisan election in each county to be published one time, within thirty days of the issuance of such proclamation, in one or more newspapers printed in the seat of government. The price of such publication shall be agreed upon in advance, in writing, and shall be paid out of the governor’s contingent fund.

The proclamation shall be read by the governor, or by some person designated by him, to the members of the constitutional convention, immediately following the convening of such convention on the twentieth day of July, one thousand nine hundred sixty-six.
Sec. 18. Publication of Results of Special Nonpartisan Election.—The governor shall cause to be published in each county of the state the names of those persons declared by him to have been elected in the special nonpartisan election in which each county participated.

The said notice shall be in the following form, or to the following effect:

"MEMBERS OF CONSTITUTIONAL CONVENTION

The members of the constitutional convention from

.................................................. county are:

(State names and residences)

Given under my hand the .......... day of ................................,
one thousand nine hundred sixty-...........

Governor of the State
of West Virginia."

Said notice shall be published one time, within thirty days of the issuance of the governor's proclamation declaring the results of said special nonpartisan election, in some newspaper published and of general circulation in each county of the state, but if no such newspaper is published in the county, such proclamation and notice shall be published in some newspaper of general circulation in the county. The price of such publication shall be agreed upon in advance, in writing, and shall be paid out of the governor's contingent fund.

Sec. 19. Contest of Elections; Notices and Procedure.—Any person intending to contest the election of another as a member of the constitutional convention as a representative of a county, shall, within twenty-one days after the election, give him notice thereof in writing, and a list of the votes he will dispute, with the objections to each, and of the votes rejected for which he will contend. If the contestant objects to the legality of the election, or the qualification of the person returned, the notice shall set forth the facts on which such objection is founded. The person whose election as a member of the convention is contested, shall, within fourteen days after receiving such notice, deliver to the contestant a like list of the votes he will dispute and of the objection
to each, and of the rejected votes he will claim; and, if
he has any objection to the qualification of the contestant,
shall specify in such notice the facts on which the objec-
tion is founded. Each party shall append to the notice
an affidavit that the matters therein set forth, so far as
they are stated of his knowledge, are true, and that, so
far as they are stated on the information of others, he
believes them to be true. If new facts are discovered by
either party after he has given notice as aforesaid, he
may give an additional notice or notices to his adversary,
with specifications and affidavits as above prescribed.
The notice of contest shall be presented to the consti-
tutional convention within ten days after its convening.

Sec. 20. Depositions; Subpoenas; Time; Tie Vote De-
cision.—Either party may begin to take the depositions
in such contests for members in the constitutional con-
vention at any time after the delivery of the original
notice by the contestant. But reasonable notice of every
such deposition shall be given, and such notice shall
specify the names of the witnesses to be examined. The
depositions may be taken before a justice, notary, or any
officer authorized to take depositions in civil actions; and
the officer before whom they are taken shall certify and
seal the same, and endorse his name across the place
where they are sealed, and address and transmit the same,
by mail or otherwise, to the presiding officer of the con-
stitutional convention. When the contest is referred to a
committee, the presiding officer shall deliver the deposi-
tions to such committee for examination and report. The
parties shall finish taking depositions five days at least
before the convening of the constitutional convention.
Neither party shall have the benefit of any deposition
taken otherwise than as aforesaid, unless further time be
given by resolution of the constitutional convention.

Subpoenas for witnesses shall be issued by the clerk of
the circuit court, or by a justice, upon application of either
party; and witnesses shall be entitled to the same allow-
ances and privileges, and be subject to the same penalties,
as if summoned to attend before the circuit court in civil
actions.

If it be ascertained that an equal number of legal votes
was given for the contestant and the person returned, the constitutional convention shall declare which of them is elected.

There shall be no judicial review of the decisions of the constitutional convention in election contests involving membership in the convention.

Sec. 21. Correction of Returns; Extent.—Though illegal votes be received, or legal votes be rejected, at any place of voting, the returns of the votes taken at such place shall not be set aside for that cause, but it may be shown, by proper evidence before the constitutional convention, for whom such illegal votes or any of them were cast, or for whom the legal votes which were rejected would have been given, and the returns shall be corrected only to the extent that it is so shown.

Sec. 22. Costs in Election Contests.—The cost of every contested election for membership in the constitutional convention shall include only the expenses of serving notices, taking depositions and the allowances to witnesses; and shall be noted at the foot of every deposition or set of depositions, by the person taking the same. If the contestant fails in setting aside the election, there shall be awarded against him the amount of such costs incurred or expended by the person who was returned or declared elected. Otherwise, each party shall pay his own costs, unless it appears that the person returned or declared elected was guilty of fraud or malpractice in the election, or in procuring such return or declaration, in which case costs shall be awarded against him in favor of the contestant. Where costs are awarded in favor of either party, the amount thereof shall be ascertained under direction of the constitutional convention, and a certificate thereof, authenticated by the signature of the presiding officer, shall be delivered to the party in whose favor they are awarded, which certificate shall have the force of a judgment, and if such costs be not paid within ten days after the date thereof, the clerk of the circuit court of the county in which the party against whom the costs were awarded resides, may issue execution on such certificate, upon its delivery to such clerk, in like manner
as upon a judgment of the circuit court. But no person contesting the seat of another in the constitutional convention shall be entitled to pay or mileage if the contest fails.


Section 1. Convening of the Constitutional Convention; Meeting Place.—The constitutional convention to which the members were elected in the special non-partisan election held on the twenty-ninth day of March, one thousand nine hundred sixty-six, shall convene in the House of Delegates’ chamber in the state capitol, Charleston, West Virginia, at one o’clock, p.m., eastern standard time, on the twentieth day of July, one thousand nine hundred sixty-six. The convention, by a vote of the majority of the members elected thereto, may, after convening, move the site of the convention to any other location in the state.

Sec. 2. Term of Office.—The term of office of members of the constitutional convention shall commence on the day of the convening of the convention and shall continue until the final adjournment of the convention to which they are elected.

Sec. 3. Oath of Office.—Every person elected to membership in the constitutional convention, before entering upon the duties of his office, shall take the oath or affirmation prescribed by section five, article four of the state constitution.

Sec. 4. Members of Convention Not to Be Compensated; Expenses; Mileage.—The members of the constitutional convention shall not be compensated for their services as members of the convention. Each seated member of the convention shall be reimbursed for actual and necessary expenses, not exceeding twenty-five dollars per day, in-
curred in attending meetings of the convention or of a committee thereof, and in engaging in any business of the convention for which the president of the convention has authorized reimbursement for expenses. Each seated member of the convention shall also be entitled to receive ten cents per mile and no more for one round trip each month during which the constitutional convention is in session between his place of residence and the site of the constitutional convention, the mileage to be measured by the most direct route.

Reimbursement for expenses and the mileage of the members of the constitutional convention shall be paid monthly out of the appropriations made for the expenses of the convention by the state treasurer upon warrants of the auditor prepared from vouchers submitted by the secretary of the convention.

Sec. 5. Vacancy; Creation; Filling.—An office of member of the constitutional convention shall become vacant on the happening of any of the following events before the expiration of the term of the office:

The death of the member; his resignation; his removal from office; his ceasing to be a resident of the county from which he was elected; the decision of the constitutional convention declaring void his election or appointment; his expulsion as a member of the convention; the refusal of the convention to seat him; or his refusal or neglect to take and subscribe to the oath of his office.

Any person duly elected to membership in the constitutional convention may resign by filing a written notice containing the effective date of the resignation with the president of the convention, who shall forthwith transmit the same to the governor. In case of a vacancy by death, resignation, or otherwise of any member of the convention, such vacancy shall be filled by appointment by the governor of a qualified resident of the same county.

Sec. 6. Organization of the Convention.—The governor shall open the convention and preside at its first session and until permanent officers are selected. So long as he presides, he may cast the deciding vote in the event of a tie. The convention shall be the judge of the qualification
of its members, their election or appointment. It shall have the power by a majority of votes of the members elected to the convention to choose a president and secretary and all other appropriate officers, to prescribe their functions, powers, and duties, to employ a staff of assistants, and to make rules and regulations for the conduct of its business.

Sec. 7. Expenses of the Convention.—The convention shall have the power, within the limits of appropriations, to incur such expenses as may be necessary in order to exercise the powers conferred and to perform the duties imposed by this act.

Article 5. Proposals of the Convention.

Section 1. Framing and submission of proposals to the people.

Section 1. Framing and Submission of Proposals to the People.—The constitutional convention may submit to the people (1) a new constitution for ratification or rejection; or (2) a new constitution, together with an alternative part or parts thereof, so that the people may ratify or reject the new constitution in its entirety or may ratify or reject a new constitution and ratify as a substitute for a part or parts thereof an alternative part or parts; or (3) one or more amendments or partial revisions of the existing constitution so that the people may ratify or reject all such amendments or partial revisions or ratify or reject any one or more such amendments or partial revisions; or (4) one or more amendments or partial revisions of the existing constitution, together with one or more alternative amendments or partial revisions thereof, so that the people may ratify or reject one, part, or all of such amendments or partial revisions and ratify as a substitute for any one or more of such amendments or partial revisions thereof an alternative amendment, amendments, partial revision or revisions.

It is not the intention of the Legislature in this section to limit the convention in the manner in which it may frame its proposals for submission to the people. The convention is to have plenary power in this regard, and
the foregoing alternatives are to be construed as suggestions and not as prohibiting other alternatives or variations in the suggested alternatives.

Sec. 2. Proposals Filed.—When the convention by a majority of the votes of the members elected to the convention shall have agreed upon its proposals, and the manner of their submission to the people, as aforesaid, an original and two true copies thereof shall be prepared, and signed by the president and secretary of the convention and delivered to the governor who shall cause the original copy to be filed in the office of the secretary of state.

Sufficient printed copies of the proposals of the convention shall be printed at the expense of the convention for distribution by the governor to persons and organizations requesting the same.

Sec. 3. Election on Proposals.—The proposals of the convention, as framed by the convention, shall be submitted to the people at a special election held on a day separate from the date of any primary or general election, the date of which election shall be designated by the convention: Provided, That such special election shall be held within eight months of the adjournment of the convention.

The special election for the ratification or rejection of the proposals of the convention shall, except to the extent otherwise directed by the convention, be controlled and governed in all respects by the provisions of chapter three of the code applicable to a special election in which voters pass upon a public question submitted to them. In all other particulars, when no specific direction is given by the constitutional convention for the control, conduct and government of any phase of said special election to ratify or reject the proposals of the convention, resort shall be had to other provisions of chapter three of the code not specifically applicable to special elections on public questions but which may furnish guidance and be made controlling thereof.
AN ACT to amend and reenact section six, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, specifying the information to be contained in an agreement of incorporation to be filed with the secretary of state and authorizing the reservation of a corporate name by the incorporators for a period of sixty days prior to the formal filing of an application for incorporation.

Be it enacted by the Legislature of West Virginia:

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


Section 6. Agreement of Incorporation.—The persons desiring to form a corporation as provided in section four hereof, shall sign, acknowledge and file with the secretary of state an agreement, in the general form prescribed by the secretary of state, in which shall be set forth:

(a) The name of the corporation, which name shall contain one of the words “association,” “company,” “corporation,” “club,” “incorporated,” “society,” “union,” or “syndicate,” or one of the abbreviations, “co.” or “inc.”; but no name shall be assumed already in use by another existing corporation of this state, or by a foreign corporation lawfully doing business in this state, or so similar thereto, in the opinion of the secretary of state, as to lead to confusion. The name desired by the incorporators may be reserved for a period of sixty days prior to the formal filing of an application for incorporation. In no case shall the period of reservation exceed sixty days.
(b) The address, including the street name and street number, if any, and the city, town or village, of its principal office or place of business and the location of its chief works, if any.

(c) The object or objects for which the corporation is formed.

(d) If the corporation is to be authorized to issue only one class of stock, the total number of shares of stock which the corporation shall have authority to issue and (1) the par value of each of such shares, or (2) a statement that all such shares are to be without par value; or, if the corporation is to be authorized to issue more than one class of stock, the total number of shares of all classes of stock which the corporation shall have authority to issue and (1) the number of the shares of each class thereof that are to have a par value and the par value of each share of each such class, and/or (2) the number of such shares that are to be without par value, and (3) a statement of all or any of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, which are permitted by the provisions of section twenty-two of this article in respect of any class or classes of stock of the corporation and the fixing of which by the agreement of incorporation is desired, and an express grant of such authority as it may then be desired to grant to the board of directors to fix by resolution or resolutions any thereof that may be desired but which shall not be fixed by such agreement. In each case the agreement of incorporation shall also set forth the minimum amount of capital with which the corporation will commence business, which shall not be less than one thousand dollars. The provisions of this subdivision (d) shall not apply to corporations which are not organized for profit and which are not to have authority to issue capital stock. In the case of such corporations, the fact that they are not to have authority to issue capital stock shall be stated in the agreement of incorporation, and the conditions of membership shall be stated therein.

(e) The full names and addresses, including street and street numbers, if any, and the city, town or village,
of the incorporators, and, if a stock corporation, the number of shares subscribed by each.

(f) Whether or not the corporation is to have perpetual existence. If not, the time when its existence is to commence and the time its existence is to cease.

(g) The agreement may also contain any provision which the incorporators may choose to insert for the management of the business and for the conduct of the affairs of the corporation, and any provisions creating, defining, limiting and regulating the powers of the corporation, the directors and the stockholders, or any class of the stockholders, or, in the case of a corporation which is to have no capital stock, of the members of such corporation: Provided, That such provisions are not contrary to the laws of this state.

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

"Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, any court of equitable jurisdiction within the state of West Virginia may, on the application in a summary way of this corporation or of any creditor or stockholder thereof, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the laws of the state of West Virginia, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing three fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such reorganization shall, if sanctioned by the court to which such application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class
of stockholders of this corporation, as the case may be, and also on this corporation."

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

(j) The agreement may also contain provisions requiring for any corporate action the vote of a larger proportion of the stock or any class thereof than is required by this chapter.

The agreement of incorporation shall be acknowledged by the incorporators before a notary public and transmitted with the proper fees to, and shall be filed with, the secretary of state.

CHAPTER 20

(House Bill No. 652—By Mr. Speaker, Mr. White)

[Passed February 22, 1965; in effect ninety days from passage. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

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


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

Section 79. Foreign Corporations; Conditions for Doing Business in This State.—Any corporation duly incorporated by the laws of any other state or territory of
the United States, the District of Columbia, or of any foreign country, may, unless it be otherwise expressly provided, hold property and transact business in this state, upon complying with the provisions of this section and not otherwise. Such corporations so complying shall have the rights, powers and privileges, and be subject to the same regulations, restrictions and liabilities conferred and imposed on corporations chartered under the laws of this state. Every such corporation shall file with the secretary of state a copy of its articles of association or certificate of incorporation, with all amendments thereto, certified by the officer of the state of incorporation with whom the articles of association or certificate of incorporation are on file, or shall file with the secretary of state a copy certified as hereinbefore in this section provided of its restated articles of incorporation or composite charters: Provided, That such restated articles of incorporation or composite charters shall contain the same facts which the original charter would disclose, if presented, including the date of the original incorporation. The secretary of state shall thereupon issue to such corporation a certificate of the fact of its having done so, which certificate, together with a copy of its articles of association or certificate of incorporation and all amendments shall be recorded in the office of the clerk of the county court of the county, or one of the counties, in which its business is to be conducted: Provided, however, That any church, religious sect or denomination incorporated by the laws of any other state or territory of the United States, the District of Columbia or of any foreign country, shall not be qualified to do business in this state in a corporate capacity.

Every railroad corporation now or hereafter engaged in business in this state under the provisions of this section, or under a charter granted by laws passed by the state of Virginia before the formation of this state, or of this state, is hereby declared to be, as to its works, property, operations, acts and business in this state, a domestic corporation, and shall be so held and treated in all suits and legal proceedings which may be commenced or carried on by or against any such railroad corporation, as well as in all other matters relating to
corporations, except as to the right to sue in, or remove actions into, the courts of the United States, but such corporation shall not be required to file a copy of its charter or any writing with the secretary of state as provided in this section.

No corporation chartered under the laws of any other state or jurisdiction shall hold any property or transact any business or bring or maintain any action, suit or proceeding in this state without having complied with the requirements hereinbefore stated, and, in addition thereto, having filed in the office of the secretary of state a writing duly executed under its corporate seal, accepting the provisions of this section and agreeing to be governed thereby and by the laws of this state with respect to corporations chartered under the laws of the state for similar purposes; and its failure so to do may be pleaded in abatement of any action, suit or proceeding instituted by it; but nothing herein contained shall be construed to lessen the liability of any corporation which may not have complied with the requirements of this section upon any contract or for any wrong. No such corporation shall hold any property or transact any business, or bring or maintain any action, suit or proceeding in this state, where the cause of action arises out of the holding of property or doing business therein, without first complying with the provisions hereof. Every corporation which shall hold property or do business in this state without having complied with the provisions hereinabove stated shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars for each month its failure so to comply shall continue, and prosecutions hereunder shall be in the county in which the seat of government is.

A copy of every amendment, certified as hereinabove provided, made to such articles of agreement or certificate of incorporation and becoming effective subsequent to the filing of such articles of association or certificate of incorporation in the office of the secretary of state of this state, shall also be filed with the secretary of state of this state who shall issue to such corporation a certifi-
cate showing the filing of such amendment and collect a fee of five dollars for such certificate. Such certificate together with a copy of the amendment, shall be recorded in the office of the clerk of the county court of the county, or one of the counties, in which its business is to be conducted. A failure to comply with the provisions of this paragraph within six months from the date of such amendment shall subject such corporation to a fine of not more than one thousand dollars.

CHAPTER 21
(House Bill No. 651—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighty-two-a, requiring proof of payment of or non-liability for all business and occupation, transportation privilege and license taxes and any employment security payments before a certificate of dissolution, withdrawal or consolidation or merger of a corporation may be issued by the secretary of state; relating to expiration of domestic corporations; providing that domestic corporations shall not expire on the date of expiration or thereafter until a certificate of expiration has been issued by the secretary of state; and providing that such certificate of expiration shall not be issued until proof of the payment of or non-liability for the aforementioned taxes and payments has been furnished.

Be it enacted by the Legislature of West Virginia:

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

82-a. Prerequisite for issuance of certificate of dissolution, withdrawal or consolidation or merger of corporation; certificate of expiration required.

Section 82-a. Prerequisite for Issuance of Certificate of Dissolution, Withdrawal or Consolidation or Merger of Corporation; Certificate of Expiration Required.—(a) Supplementing the provisions of section ten-c, article twelve-a and section fifteen, article thirteen, chapter eleven of this code and section eighty-four of this article, the secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal, or certificate of consolidation or merger in the case where the new or surviving corporation will be a foreign corporation which has not qualified to do business or hold property in this state, until the receipt of a notice from the tax commissioner, state auditor and department of employment security to the effect that all business and occupation, transportation privilege and license taxes and any employment security payments levied or assessed against the corporation seeking to withdraw, dissolve, consolidate or merge have been paid or provided for, if any such corporation is a taxpayer under this code, or until the secretary of state receives a notice from the tax commissioner, auditor or department of employment security, as the case may be, stating that the corporation in question is not subject to pay the taxes or make the payments.

(b) A domestic corporation chartered for a limited period of time and thus having a specific date of expiration, and a domestic corporation having perpetual existence which amends its charter so as to establish a specific date of expiration, shall not expire on the stated date of expiration or thereafter but shall continue in existence with like effect as if such expiration date had not arrived, unless and until the secretary of state issues a certificate of expiration in accordance with the provisions of this section. Under no circumstances shall such certificate of expiration be issued until the notice specified in subsection (a) of this section has been received from the tax commissioner, auditor and department of employment security, stating that the taxes and payments specified
in subsection (a) of this section and levied or assessed
against the corporation involved have been paid or pro-
vided for, or made or that such corporation is not subject
to pay such taxes or make such payments. Upon receipt
of such notice the secretary of state shall issue such cer-
tificate of expiration and upon issuance thereof, the cor-
poration shall expire as of the date of the issuance of such
certificate, subject to the provisions of section eighty-
three of this article.

CHAPTER 22

(House Bill No. 990—By Mr. Frazer)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section six-b, article four, chap-
ter thirty-one of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the sale
of capital notes or debentures by banking institutions.

Be it enacted by the Legislature of West Virginia:
That section six-b, 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 6-b. Sale of capital notes or debentures.

Section 6-b. Sale of Capital Notes or Debentures.—
1 With the approval of the state banking commissioner any
2 banking institution may at any time through action of its
3 board of directors and without requiring any action of its
4 stockholders issue and sell its capital notes or debentures.
5 Such capital notes or debentures shall be subordinate
6 and subject to the claims of depositors and may be sub-
7 ordinated and subjected to the claims of other creditors.
8 The term “capital” as used in the laws of this state
9 relating to banking shall be construed to embrace the
amount of outstanding capital notes and debentures legally issued by any banking institution. The capital stock of any such banking institution may be deemed to be unimpaired when the amount of such capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the state banking commissioner. Before any such capital notes or debentures are retired or paid by the bank any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank.

Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such institution, and shall not be held liable for assessments to restore impairments in the capital of such institution.

CHAPTER 23

(Com. Sub. for House Bill No. 984—By Mr. Ours)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, designated sections three-j, three-k and three-l; to amend and reenact sections five, five-(thirteen), five-(twenty) and five-(twenty-four), article one, chapter seven of said code; and to amend and reenact sections two-(six), two-(twelve), two-(twenty-nine), two-(fifty-two), three-(six), three-(twelve), three-(fifty-two), six-(six), six-(twelve), six-(twenty), six-(twenty-seven) and six-(thirty-one), article seven, chapter seven of said code, all relating to duties of certain county officers and the salaries of certain county officers and their assistants.
Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated sections three-j, three-k and three-l; that sections five, five-(thirteen), five-(twenty) and five-(twenty-four), article one, chapter seven of said code be amended and reenacted; that sections two-(six), two-(twelve), two-(twenty-nine), two-(fifty-two), three-(two), three-(six), three-(twelve), three-(fifty-two), six-(six), six-(twelve), six-(twenty), six-(twenty-seven) and six-(thirty-one), article seven, chapter seven of said code be amended and reenacted, all to read as follows:

**Article 1. County Courts Generally.**

Section

3-j. Authority to establish county coordinating council; powers and duties of council; duties of county clerk.

3-k. Authority to establish county law libraries; control of circuit clerk; rules and regulations.

3-l. Authority to establish county appraisal-assessment board; functions and duties of board; duties of assessor.

5. Duties of county commissioners and payment for services other than services in court.

5-(13). Compensation of county commissioners—Greenbrier county.

5-(20). Same; Kanawha county.

5-(24). Same; Marion county.

Section 3-j. Authority to Establish County Coordinating Council; Powers and Duties of Council; Duties of County Clerk.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to establish a county coordinating council for the purpose of coordinating county improvement programs with state and federal programs designed for this purpose. The council hereby created shall gather necessary facts and data and formulate needed local programs. The council shall submit the foregoing facts, data and plans to the county court for its guidance. The council shall act only in an advisory capacity. The county clerk is hereby designated the secretary of the council. The clerk shall attend all meetings of the council. He shall keep a record of all proceedings and shall transmit a copy of all such proceedings to the county court. The clerk shall
also perform such other reasonable duties as may be re-
quired of him by the council.

Sec. 3-k. Authority to Establish County Law Libraries; 
Control of Circuit Clerk; Rules and Regulations.—In addi-
tion to all other powers and duties now conferred by law 
upon county courts, such courts are hereby authorized and 
empowered to establish county law libraries which shall 
be wholly under the control and management of the circuit 
clerk under rules and regulations promulgated by the 
judge of the local judicial circuit. The county court may 
expend funds for the purchase of books or other expenses 
necessary to the operation of the county law library.

Sec. 3-l. Authority to Establish County Appraisal-Ass-
essment Board; Functions and Duties of Board; Duties 
of Assessor.—In addition to all other powers and duties 
now conferred by law upon county courts, such courts are 
hereby authorized and empowered to establish a county 
appraisal-assessment advisory board. The purpose for 
which this board is created is to enable the county court, 
acting as the board of review and equalization, to better 
perform its duties in reviewing property assessments and 
to better inform the public with regard to assessments gen-
erally. The board is hereby authorized to review all apprais-
als made by the state tax commissioner under the provi-
sions of section four, article nine-a, chapter eighteen of the 
code and all assessments made by the assessor and to sub-
mit to the county court all pertinent data and information 
gathered by the appraisal-assessment advisory board. The 
county assessor is hereby designated the secretary of the 
board. The assessor shall attend all meetings of the 
board. He shall keep record of all proceedings and shall 
transmit a copy of all such proceedings to the county 
court. The assessor shall also perform such other reason-
able duties as may be required of him by the board.

Sec. 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 pris-
oners therein, and to investigate the conditions of the poor within their county, not housed within such institutions, to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control; to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance and operation of airport or airports owned and/or operated by the county court; and to supervise and control the purchase, erection and maintenance of airport facilities; to supervise and control the purchase of furniture, fixtures and equipment, and janitors’ and other supplies, for their county; to attend the annual meeting of county assessors, and such district meetings as may 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 assessors; 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 further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect public parks, playgrounds and recreational facilities, to purchase, lease or rent equipment therefor, and to employ qualified recreational directors and personnel; to construct new four-H camps on county property; to operate stone quarries and sand deposits on county-owned or leased property; to construct buildings
for or aid in constructing and/or equipping civilian defense buildings on sites approved by state office of civilian defense; and to operate dog pounds for county-municipalities; and to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets and to purchase, rent or lease equipment therefor, and to employ qualified personnel to operate such public markets; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain, and erect county mental health clinics and engage in any program designed for the betterment of the mental and physical well-being of the residents of their county, and to cooperate with any public or private agency for these purposes.

Compensation shall be allowed and paid out of the county treasury, in the same manner as salaries are paid, to each county commissioner of each county (except as otherwise provided by law for the county of Ohio), for services performed for such county concerning the visiting of the poor, inspection of jails, bridges and bridge approaches, and for visiting detention homes for children; and for providing for and supervising the repair and maintenance of the county courthouse, jails, houses for the poor and other county property; for supervising and controlling the maintenance and operation of airport or airports owned and/or operated by the county court, and supervising and controlling the purchase, erection and maintenance of airport facilities; and for supervising and controlling the purchase of furniture, fixtures and equipment and janitors' and other supplies of their county; and for attending the annual meeting of assessors and such district meetings as may be called by the state tax commissioner, on matters pertaining to the work of assessors and county courts as boards of review and equalization; for reviewing and equalizing the assessments made by the assessors; for inspecting and reviewing the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes, and for pointing 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;
for calling 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; and for duties of the county
commissioners in cooperating with the county public as-
sistance council; for purchasing, leasing, renting, control-
ling, supervising, inspecting, maintaining and erecting
public parks, playgrounds and recreational facilities, and
the purchasing, leasing or renting the equipment there-
for, and employing qualified recreational directors and
personnel therefor; for constructing new four-H camps on
county property; operating stone quarries and sand de-
posits on county-owned or leased property; constructing
buildings for or aiding in construction and/or equipping
civilian defense buildings on sites approved by state of-
office of civilian defense; operating dog pounds for county-
municipalities; and to purchase, lease, rent, control, su-
pervise, inspect, maintain and erect public markets and
to purchase, rent or lease equipment therefor, and to em-
ploy qualified personnel to operate such public markets;
for constructing fall-out shelters and aiding individuals
to construct fall-out shelters through furnishing avail-
able information; for purchasing, leasing, renting, con-
trolling, supervising, inspecting, maintaining and/or
erecting county mental health clinics and/or engaging in
programs for the betterment of the mental and/or physi-
cal well-being of the residents of their county; for con-
ducting a survey of all abandoned and dilapidated build-
ings or structures within the county and to prepare an
inventory thereof which inventory shall be made avail-
able to any agency of state or federal government or to
local governmental agencies upon request; and for super-
vising the general management of the fiscal affairs and
business of each county, within their counties, and other
business by such commissioners, in addition to compen-
sation for services in court, the sums of money herein-
after provided in the following sections five-(one) to five-
(fifty-four), inclusive.
Sec. 5-(13). Compensation of County Commissioners—
2 Greenbrier County.—For the county of Greenbrier, one
3 hundred fifty dollars per month.

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

Sec. 5-(24). Same; Marion County.—For the county
2 of Marion, four hundred sixty dollars per month.

Article 7. Salaries; Deputies and Assistants and Their Sal-
aries.

Section

2-(6). Salary of county clerk—Cabell county.

2-(12). Same; Greenbrier county.

2-(29). Same; Monongalia county.

2-(52). Same; Wyoming county.

3-(2). Salary of circuit clerk—Berkeley county.

3-(6). Same; Cabell county.

3-(12). Same; Greenbrier county.

3-(52). Same; Wyoming county.

6-(6). Salaries of assistants and stenographers to prosecuting attor-
neys—Cabell county.

6-(12). Same; Grant county.

6-(20). Same; Kanawha county.

6-(27). Same; McDowell county.

6-(31). Same; Monongalia county.

Section 2-(6). Salary of County Clerk—Cabell County.
2 —For the county of Cabell, nine thousand dollars.

Sec. 2-(12). Same; Greenbrier County.—For the county
2 of Greenbrier, six thousand dollars.

Sec. 2-(29). Same; Monongalia County.—For the
2 county of Monongalia, eight thousand five hundred dol-
3 lars.

Sec. 2-(52). Same; Wyoming County.—For the county
2 of Wyoming, seven thousand two hundred dollars.

Sec. 3-(2). Salary of Circuit Clerk—Berkeley County.—
2 For the county of Berkeley, five thousand six hundred
3 dollars.

Sec. 3-(6). Same; Cabell County.—For the county of
2 Cabell, nine thousand six hundred dollars.

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

Sec. 3-(52). Same; Wyoming County.—For the county
2 of Wyoming, seven thousand two hundred dollars.
Sec. 6-(6). Salaries of Assistants and Stenographers to Prosecuting Attorneys—Cabell County.—For the county of Cabell, three assistant attorneys, not more than seven thousand two hundred dollars each; two stenographers, not more than four thousand dollars each.

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

Sec. 6-(20). Same; Kanawha County.—For the county of Kanawha, first assistant attorney, not less than six thousand nor more than twelve thousand five hundred dollars, three assistant attorneys, not less than six thousand nor more than twelve thousand dollars each, and stenographers and clerks at a salary to be fixed by the county court payable out of the county treasury of said county of Kanawha.

Sec. 6-(27). Same; McDowell County.—For the county of McDowell, first assistant attorney, not less than three thousand nor more than five thousand four hundred dollars; second assistant attorney, not less than three thousand nor more than five thousand dollars; one stenographer, not less than three thousand three hundred nor more than four thousand two hundred dollars.

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

CHAPTER 24

(House Bill No. 783—By Mr. Black and Mr. Bailey)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article three, chapter seven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, to provide that a county court of every county having a population in excess of two hundred thousand may provide at the county seat or elsewhere in the county, as the county court shall determine, a suitable jail or jails.

Be it enacted by the Legislature of West Virginia:

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

Article 3. County Property.

Section

2. Courthouse, jail and offices.

Section 2. Courthouse, Jail and Offices.—The county court of every county, at the expense of the county, shall provide at the county seat thereof a suitable courthouse and jail, together with suitable offices for the judge of the circuit court and judges of courts of limited jurisdiction, clerks of such courts and of the county court, assessor, sheriff, prosecuting attorney, county superintendent of schools, and surveyor, and such other offices as are or may be required by law: Provided, That the county court of every county having a population in excess of two hundred thousand may provide at the county seat or elsewhere in the county, as the county court shall determine, a suitable jail or jails. The county court shall keep the courthouse, jail and such other offices in constant and adequate repair, and supplied with the necessary heat, light, furniture, record books, and janitor service, and, except as to the office for the judge of the circuit court, with the necessary stationery and postage, and such other things as shall be necessary; but all of the public records, books and papers belonging or pertaining to the county surveyor's office shall be delivered to the clerk of the county court and retained by him in his official possession and under his control and shall constitute a part of the public records, books and papers of his office. Such courthouses, jails and offices hereafter erected shall be built of stone and brick, or stone or brick, or other equally fireproof materials, and such offi-
ces shall be fireproof or be furnished with fireproof vaults
or safes. The jails shall be well secured, and sufficient
for the convenient accommodation of those who may be
carried within, and so that the convicts may be in
apartments separate from each other, and from the other
prisoners; every apartment shall be so constructed that
it can be kept comfortable. The county court may also
provide other necessary offices and buildings, and may,
by purchase or otherwise, acquire so much land as may
be requisite or desirable for county purposes, and may
suitably inclose, improve and embellish the lands so
acquired.

Subject to the conditions hereinabove set forth with
respect to the site of the courthouse, jail, and other offices,
the court may, from time to time, as may seem to it
proper, provide, at the expense of the county, a new or
other building or buildings to be used for the courthouse
and jail, or for either, together with suitable offices, as
aforesaid, and for that purpose may acquire, by purchase
or otherwise, and hold any lands, or lands and buildings,
which may be necessary, and may inclose, improve and
embellish the same. When such new or other building
or buildings shall be ready for occupancy, the county
court shall make an order declaring that, on a day to be
therein named, such new or other building or buildings
shall become the courthouse and/or jail of the county,
and shall cause copies of the order to be posted at the
front door of the new as well as of the old courthouse,
at least twenty days before the day named in the order;
and on and after the day so named such new or other
building or buildings shall be and become, respectively,
the courthouse and/or jail of such county in all respects
and for all purposes. After such change shall have been
made the county court may sell or otherwise dispose of,
as may seem to it proper, the building or buildings pre-
viously used as a courthouse and jail, or either, and the
land on which the same are, or either is, situated, and
of the interest of the county therein.
AN ACT to amend and reenact sections fourteen, fifteen, sixteen and seventeen, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article three by adding thereto a new section, designated section fourteen-a, relating to the authority of a county court to acquire, own, etc., hospitals, clinics, long-term care facilities and other related facilities; defining the terms "hospital," "clinic" and "long-term care facility" as such terms are used in said article three; authorizing a county court to acquire by purchase or construction and to thereafter own, equip, furnish, operate, lease, improve and extend a clinic, long-term care facility and other related facilities; authorizing a county court to lease a hospital; empowering a county court, upon acquiring a hospital, clinic, long-term care facility or other related facility, to lease the same to others for such rentals and upon such terms and conditions as the county court may deem advisable; authorizing the issuance of revenue bonds to be serviced and paid out of the revenue of such clinic, long-term care facility or other related facility; investing the administration and management of any such clinic, long-term care facility or other related facility in a board of trustees and specifying the powers of such board.

Be it enacted by the Legislature of West Virginia: That sections fourteen, fifteen, sixteen and seventeen, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article three be further amended by adding thereto a new section, designated section fourteen-a, all to read as follows:

Article 3. County Property.

Section 14. Authority to acquire and operate hospitals, clinics, long-term care facilities and other related facilities; financing.
Section 14. Authority to Acquire and Operate Hospitals, Clinics, Long-term Care Facilities and Other Related Facilities; Financing.—The county court of any county is hereby authorized and empowered to acquire by purchase or construction and to thereafter own, equip, furnish, operate, lease, improve and extend a public hospital, clinic, long-term care facility and other related facilities, with all appurtenances, including the necessary real estate as a site therefor. Any such county public hospital acquired pursuant hereto may include a nurses home and nurses training school. The county court is further authorized and empowered, upon acquiring a hospital, clinic, long-term care facility or other related facility, to lease to others any or all such facilities for such rentals and upon such terms and conditions as the county court may deem advisable. For the purpose of paying all or any part of the costs, not otherwise provided, of acquiring, completing, equipping, furnishing, improving or extending such hospital, clinic, long-term care facility or other related facility, the county court is hereby authorized and empowered by order duly entered of record, to issue and sell the negotiable revenue bonds of such county, which shall be payable solely and only from all or such part of the net revenues from the operation of such county public hospital, clinic, long-term care facility or other related facility as may be provided by said order; and each such revenue bond so issued shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by the revenues pledged therefor, and that such bond does not constitute an indebtedness of such county or the county court thereof within the meaning of any constitutional or statutory limitation or provision. Such revenue bonds may bear such date or dates, may mature at such time or times not exceeding thirty-four years from their respective dates, may bear interest at such rate or rates not exceeding five per cent per annum, may be of such denomination or denominations, may be in such form, may carry
such registration privileges, may be made subject to such
terms of redemption with or without premium, and may
contain such other terms and covenants not inconsistent
with this article as may be provided in such order. Such
revenue bonds shall be exempt from taxation by the state
of West Virginia and the other taxing bodies of the state.
In determining the amount of revenue bonds to be issued,
there may be included any expenses in connection with
and incidental to the issuance and sale of bonds and for
the preparation of plans, specifications, surveys and esti-
mates, interest during the estimated construction period
and for six months thereafter, and a reasonable amount
for working capital and prepaid insurance. Such bonds
may be sold in such manner, at such times and upon such
terms as may be determined by the county court to be for
the best interests of the county: Provided, That no bonds
may be sold upon terms which will result in the net
interest cost of more than six per cent per annum com-
puted to maturity of the bonds according to standard
tables of bond values. There may be included in any such
order authorizing the issuance of revenue bonds such
covenants, stipulations and conditions as may be deemed
necessary with respect to the expenditure of the bond
proceeds, the operation and maintenance of the county
public hospital, clinic, long-term care facility or other
related facility, and the custody and application of the
revenues from such operation. The holder of any bond or
bonds may, by mandamus or other appropriate proceed-
ings, require and compel performance of any duties im-
posed by law in connection with the hospital, clinic, long-
term care facility or other related facility, or any cove-
nant, stipulation or condition that may have been ex-
pressed in such bond order.

Sec. 14-a. "Hospital," "Clinic" and "Long-term Care
Facility" Defined.—The following terms whenever used
in this article shall have the following meanings:
(a) The term "hospital" shall mean any general hos-
pital, chronic disease hospital, mental hospital and other
related facilities.
(b) The term "clinic" shall mean any community
(c) The term “long-term care facility” shall mean any nursing home, rest home, housing facility for aged citizens and other related facilities.

**Sec. 15. Board of Trustees for Hospital, Clinic or Long-term Care Facility.**—The administration and management of any county public hospital, clinic, long-term care facility or other related facility acquired, equipped, furnished, improved or extended under section fourteen of this article shall be vested in a board of trustees, consisting of not less than five members appointed by the county court. Prior to the issuance of any bonds under the provisions of section fourteen of this article, the county court shall appoint two of such trustees for a term of two years, two trustees for a term of four years, and one trustee for a term of six years from the first day of the month during which appointed. Upon the expiration of such initial appointments, the term of each new appointee shall be six years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any trustee shall be eligible for reappointment upon the expiration of his term. The trustees shall receive no compensation for their services, but shall be reimbursed for any expenses incurred in the performance of their duties. Any trustee may be removed by the county court for incompetency, neglect of duty or malfeasance in office after an opportunity to be heard at a public hearing before the court. At the first meeting of the board of trustees, and annually thereafter, it shall organize by designating one of its members as chairman and by appointing a secretary who may, but need not, be a trustee. The sheriff of the county shall be ex officio treasurer of the board.

Such board of trustees shall provide for the employment of and shall fix the compensation for and remove at pleasure all professional, technical and other employees, skilled or unskilled, as it may deem necessary for the operation and maintenance of the hospital, clinic, long-term care
facility or other related facility; and disbursement of
funds in such operation and maintenance shall be made
only upon order and approval of such board. The board of
trustees shall make all rules and regulations governing its
meetings and the operation of the hospital, clinic, long-
term care facility or other related facility.

Sec. 16. Operation with Bonds Outstanding.—So long as
any revenue bonds remain outstanding under the provi-
sions of section fourteen of this article, the hospital, clinic,
long-term care facility or other related facility and all
appurtenances shall be operated and maintained on a
revenue-producing and self-sustaining basis; and the
board of trustees shall charge, collect and account for
revenues therefrom which will be sufficient to pay the
interest on such bonds as the same becomes due, to create
and maintain a sinking fund to pay and retire the princi-
pal at or before maturity, and to pay the costs of operating
and maintaining the hospital, clinic, long-term care fa-
cility or other related facility. The order authorizing such
bonds shall definitely fix and determine the amount of the
revenues which shall be necessary and set apart in a
special fund to pay such interest and to pay and retire
such principal; and all or such portion of the balance of
such revenues as may be necessary shall be set apart in a
special fund to pay the costs of operation and maintenance
of the hospital, clinic, long-term care facility or other re-
lated facility.

Sec. 17. Construction.—The provisions of sections four-
ten, fifteen and sixteen of this article shall be construed
as conferring separate and additional powers as herein
set forth and shall be deemed full authority for the ac-
quision, improvement, extension, maintenance and op-
eration of the hospital, clinic, long-term care facility or
other related facility and for the issuance and sale of the
bonds by this article authorized: Provided, That all perti-
nent functions, powers and duties of the state department
of health shall remain in effect.
CHAPTER 26
(Senate Bill No. 252—By Mr. Martin)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

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 nineteen, relating to payments to sheriffs, assessors and their deputies for mileage in driving their personally-owned cars in the discharge of their official duties.

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 nineteen, to read as follows:

Article 5. Fiscal Affairs.

Section 19. Allowance for mileage of sheriffs, assessors, and their deputies.

Section 19. Allowance for Mileage of Sheriffs, Assessors, and Their Deputies.—Notwithstanding the provisions of section twelve, article seven, chapter seven, and section ten, article two, chapter eleven of this code, or any other provisions of law to the contrary, the county court of each county may allow the sheriff, assessor, and each deputy of the sheriff and assessor, when engaged in the discharge of his official duties, not less than seven cents nor more than ten cents per mile for each mile each sheriff, assessor, and each deputy of the sheriff and assessor is required to drive his personally-owned car. Each sheriff and assessor shall file monthly, under oath, a full and accurate account of all the actual mileage driven by him and his deputies in the discharge of their official duties, supported by verified accounts before payment thereof shall be allowed by the county court.
CHAPTER 27
(House Bill No. 787—By Mr. Speaker, Mr. White, and Mr. Beall)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the establishment in county depositories of demand deposit accounts and time deposit accounts; authorizing the county treasurer, with the written approval of the various fiscal bodies, to deposit or transfer public funds in or to time deposit accounts; relating to the payment of interest by county depositories on such time deposit accounts, reports by county depositories to the clerk of the county court and county treasurer and the allocation of interest between the various fiscal bodies; and requiring the treasurer to report the allocation of interest to the various fiscal bodies.

Be it enacted by the Legislature of West Virginia:

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

Article 6. County Depositories.

Section 5. Interest on deposits.

Section 5. Interest on Deposits.—The county treasurer is authorized to establish with such depositories two accounts, one to be designated "demand deposit account" and the other to be designated "time deposit account."

When it appears to the treasurer that funds on deposit in the demand deposit account exceed the current requirements or demands, or that funds should be deposited in the time deposit account, and that a transfer or deposit of such funds or a portion thereof to or in the time deposit account would earn interest thereon, he may, with the approval in writing of each fiscal body whose funds are involved, transfer or deposit such funds or a portion of such funds to said time deposit account.
The depositories shall pay interest on public funds deposited therein in time deposit accounts at a rate of interest equal to but not more than that paid by such depositories on private funds deposited in similar time deposit accounts. Nothing herein contained shall be construed as requiring the transfer or deposit of any portion of public funds to time deposit accounts. When interest is credited to any such time deposit account, the depository shall report in writing the amount thereof to the clerk of the county court and the treasurer, each separately, before noon of the next business day. All of such interest shall be allocated by the treasurer to each fiscal body whose funds were on deposit in such time deposit account, such allocation to be made on the basis of the amount of funds of each fiscal body in such time deposit account and the length of time each body's funds were in such account. Within ten days after receipt of the depository's report showing that interest has been credited to such time deposit account, the treasurer shall make the foregoing allocation of interest and report the same to each of the fiscal bodies whose funds are involved.

CHAPTER 28

(Senate Bill No. 277—By Mr. Tompos)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section six-(fifteen), article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries of the assistant prosecuting attorney and of the stenographer for the prosecuting attorney of Hancock county.

Be it enacted by the Legislature of West Virginia:

That section six-(fifteen), article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
Article 7. Salaries; Deputies and Assistants and Their Salaries.
Section
6-(15). Same—Hancock county.

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

CHAPTER 29
(Senate Bill No. 254—By Mr. Jackson)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to deputies and assistants of sheriffs and clerks of the courts.

Be it enacted by the Legislature of West Virginia:

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

Article 7. Salaries; Deputies and Assistants and Their Salaries.
Section
7. Deputies and assistants of sheriffs and clerks of the courts; salaries; fiscal budget.

Section 7. Deputies and Assistants of Sheriffs and Clerks of the Courts; Salaries; Fiscal Budget.—The sheriff, clerk of the county court, clerk of the circuit court, clerk of the criminal, common pleas or intermediate courts, on or before March first of each year, shall file with the county court, or tribunal in lieu thereof, a detailed statement of the probable amount necessary to be expended for deputies, assistants, and other employees of their respective offices in the following fiscal year. If any such officer shall fail to file the statement hereby required, he shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not less than fifty nor more than one hun-
dred dollars, or imprisoned in the county jail not less
than thirty days nor more than six months, or both, in the
discretion of the court. The county court, or tribunal in
lieu thereof, shall not later than March twenty-eighth,
take up and consider the same and shall determine and
fix an aggregate sum to be expended for the period
covered by such statement for the compensation of all
such deputies, assistants, and other employees of the re-
spective officers, which shall be reasonable and proper,
regard being had to the amount of labor necessary to be
performed by those to receive the compensation, and shall
enter upon its court record a finding of its action.

The officers herein named shall appoint and employ
such deputies, assistants and other employees in the
manner provided by law, as may be necessary for their
respective offices and fix their compensation, and shall
file with the clerk of the county court, or other tribunal in
lieu thereof, a statement in writing showing such action
and setting forth the name of each deputy, assistant and
employee, the time for which employed and the monthly
compensation; but the compensation for all deputies, as-
sistants and other employees shall not exceed in the
aggregate, for each office, the amount so fixed for that
office as hereinbefore provided. The officers herein named
shall have authority to discharge any deputy, assistant or
other employee, by filing with the clerk of the county
court, or tribunal in lieu thereof, a statement in writing
showing such action. All statements required to be filed
by this section shall be verified by the affidavit of the per-
son making them, and among other things contained in
the affidavit shall be the statement that the amounts
shown therein were the amounts actually paid or intended
to be paid to the deputies, assistants, or other employees
without rebates, or any agreement, understanding and
expectation that any part thereof shall be repaid to him,
and that nothing has heretofore been paid or promised
him on that account, and that if he shall thereafter receive
any money, or thing of value, on account thereof, he will
account for and pay the same to the county. Until the
AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, specifying the public purpose for which the article is enacted; relating to encouragement and promotion of the creation of local community action program organizations and the operation thereof; providing for their official recognition by the governor and the standards of eligibility for such recognition; providing for the state's orderly participation in the federal Economic Opportunity Act of 1964 (Public Law 88-452); providing for the creation of a governor's economic opportunity advisory committee; authorizing and empowering county courts, county boards of education and municipal governments to participate in community action program organization projects and to contribute money, goods, property, personnel, resources and services to duly recognized community action program organizations; specifying that community action program organizations must be duly recognized public or private nonprofit agencies for the public purpose for which the article is enacted; authorizing and empowering county courts, county boards of education and municipal governments to enter into and perform contracts, leases, cooperative arrangements or other transactions as may assist in the performance of component projects of a community action program; providing for accounting by community action program organizations; providing for the employees of such organizations to be covered by workmen's compensa-
tion; relating to the assignment of federal enlistees in volunteers in service to America; authorizing the reimbursement of legitimate expenses incurred in the line of official duty by volunteers in service to America enlistees assigned to work under the supervision of various departments of state government; providing a severability clause; providing that the article shall be liberally construed to effect the public purpose for which the article is enacted; and specifying that the amendment of the federal Economic Opportunity Act of 1964 (Public Law 88-452), or any section thereof, shall not be construed as negating any authority conferred by the provisions of the article.

Be it enacted by the Legislature of West Virginia:

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

**Article 13. Economic Opportunity Programs.**

**Section**

1. Community action program organizations.
2. Recognition.
3. Economic opportunity advisory committee.
4. Eligibility.
5. Area encompassed in program.
6. Membership and participation in community action program organizations.
7. Status of community action program organizations.
8. Contributions by county courts, county boards of education and municipal governments.
10. Employees covered by workmen's compensation.
11. Volunteers in service to America.
12. Severability.
13. Liberal construction of article.

**Section 1. Community Action Program Organizations.—**

In order to stimulate the communities of West Virginia in mobilizing their resources and developing programs to effect a permanent decrease in the incidence of poverty and economic disadvantage, which is hereby declared to be a public purpose, it shall be the responsibility of the governor to encourage and promote the creation and operation of community action programs consistent with the provisions of Title II and other titles of the federal Economic Opportunity Act of 1964 (Public Law 88-452).
Sec. 2. Recognition.—In furtherance of this objective, the governor is authorized to extend official recognition to duly constituted community action program organizations which comply, or are in the process of complying with regulations as established by the federal office of economic opportunity or its delegate agencies.

Such official recognition shall be established by the governor notifying the president, chairman, administrator, or other chief executive officer of a community action program organization, in writing, of his acceptance of that body as an officially recognized community action program organization.

Sec. 3. Economic Opportunity Advisory Committee.—To assist in the promotion and development of community action program organizations, and other phases of the federal Economic Opportunity Act of 1964, the governor may consult with and request reports from a governor’s economic opportunity advisory committee, on which the governor, or his designated representative, shall sit as chairman.

The economic opportunity advisory committee shall consist of:

(a) The governor,
(b) The state superintendent of schools,
(c) The commissioner of agriculture,
(d) The commissioner of employment security,
(e) The commissioner of welfare,
(f) The commissioner of commerce,
(g) The commissioner of labor,
(h) The director of the department of natural resources,
(i) The state road commissioner,
(j) The director of mental health,
(k) The director of the department of health,
(l) The president of the senate of West Virginia,
(m) The speaker of the house of delegates of West Virginia,
(n) The director of the division of vocational rehabilitation,
(o) At least one representative from the state-supported colleges and universities of West Virginia, or
their designated representatives, temporary or permanent, and such other members as the governor may appoint or the committee may select by affirmative vote of a majority of the members present and voting.

The committee shall meet upon call of the chairman.

Sec. 4. Eligibility.—In determining whether a community action program organization shall be eligible for official recognition and participation under the provisions of Title II, and other titles of the federal Economic Opportunity Act of 1964, the governor shall direct his staff to report on the eligibility and composition of any such organization, or shall request the advice of the governor’s economic opportunity advisory committee.

Sec. 5. Area Encompassed in Program.—Community action programs shall encompass a county or multicounty unit, or regional or subregional unit comprising all or parts of counties. However, only one community action program organization shall be recognized in any single county, except under unusual circumstances, which the governor may determine. In any county where more than one community action program organization is recognized, each organization must be given such official recognition, in writing, by the governor.

Sec. 6. Membership and Participation in Community Action Program Organizations.—A county court, county board of education, or municipal government is hereby authorized and empowered to become associated with a community action program organization, and to participate in the development and implementation of component projects conceived and placed into operation by community action program organizations.

In so doing, a county court, county board of education, or municipal government may extend, without compensation, the use of its buildings, equipment, machinery, public lands, personnel, technical and other services, and other resources for the benefit of a community action program organization; may provide money, and real and other property, tangible or intangible, to a recognized community action program organization in the further-
ance of the objectives of the federal Economic Opportunity Act of 1964, and may cooperate and act in conjunction with other county courts, county boards of education, municipal governments, public bodies, and all agencies of federal, state and local governments in the promotion and advancement of the projects, in operation or in evolutionary stages, under the jurisdiction of a recognized community action program organization: Provided, That any such contribution, whether in cash or in kind, in goods or in services fairly evaluated, should, in all practical instances, constitute the whole or a portion of the matching share required by the federal office of economic opportunity from the community action program organization in the orderly implementation and conduct of community action programs.

Sec. 7. Status of Community Action Program Organizations.—In order to be a community action program organization under the provisions of this article, such organization must be a public governmental agency or a nonprofit corporation qualified to do business in West Virginia, other than a political party, and must be recognized by the governor, in accordance with the provisions of section two of this article, for the public purpose declared in section one of this article.

In no instance shall the state, any agency thereof, or a county court, county board of education, or municipal government provide or extend, under the provisions of this article, money, and real and other property, tangible or intangible, or financial assistance to other than a community action program organization recognized by the governor in accordance with the provisions of section two of this article.

Sec. 8. Contributions by County Courts, County Boards of Education and Municipal Governments.—A county court, county board of education, or municipal government shall be authorized and empowered to contribute to the costs of duly recognized community action program organizations by appropriating for such purposes money from its general funds not otherwise appropriated. A county court, county board of education, or municipal
government likewise is authorized and empowered to
transfer and convey to a duly recognized community
action program organization property, equipment and
machinery, and other goods: Provided, That such transfer
will further the conduct and implementation of compo-
ment projects of a community action program.

A county court, county board of education, or munici-
pal government is authorized and empowered to accept,
use and dispose of gifts of property, real, personal or
mixed, tangible or intangible, and to convey or otherwise
transfer the same to a recognized community action
program organization: Provided, however, That such
transfer will further the conduct and implementation of
component projects of a community action program.

A county court, county board of education, or munici-
pal government is authorized and empowered to enter
into and perform such contracts, leases, cooperative ar-
rangements, or other transactions as may assist in the
performance of component projects of a community ac-
tion program: Provided further, That no county court,
county board of education, or municipal government shall
enter into any such contract, lease or cooperative arrange-
ment unless it is requested to assist in such manner
through notification, in writing, by the chairman, presi-
dent, administrator or other chief executive officer of a
recognized community action program organization.

Sec. 9. Accountability of Funds.—As a condition to par-
ticipation in community action program organization
activities, as specified in section eight, a county court,
county board of education, or municipal government may
require a community action program organization to
render an accounting, at such intervals as the county
court, county board of education, or municipal govern-
ment may designate, of the use of money, property, goods,
and services made available to the community action
program organization by the county court, county board
of education, or municipal government, and to make
available at quarterly intervals an itemized statement of
receipts and disbursements, and its books, records and
accounts, during the preceding quarter, for audit and
Sec. 10. Employees Covered by Workmen's Compensation.—All employees of a community action program organization 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 organization, as required by law.

Sec. 11. Volunteers in Service to America.—Federal enlistees in Volunteers in Service to America, hereafter referred to as VISTA, as authorized under Title VI of the federal Economic Opportunity Act of 1964, may be assigned to the department of mental health, department of agriculture, department of natural resources and other agencies of the state government.

Notwithstanding any other provision of state law, while serving in such capacity, VISTA enlistees may, upon the presentation of authenticated statements of expenses incurred solely in the line of their assigned duties for and on behalf of the state of West Virginia, be reimbursed by the state for such expenses, including mileage, fares for public transportation, and meals and lodging when detailed to duty away from their assigned station: Provided, That this section is in no way designed to supply regular subsistence allowances to VISTA enlistees, as provided in federal regulations allowing for their maintenance and subsistence during the term of their enlistment.

VISTA enlistees, except for the reimbursement of expenses as provided in this section, shall in no way be considered to be employees of the state. They shall not be eligible for participation in the public employees retirement system of the state of West Virginia or to receive any other benefits from the state whatever.

Sec. 12. Severability.—If any provision of this article, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this article, and
the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 13. Liberal Construction of Article.—This article is enacted to assist with the reduction and elimination of the incidence and causes of poverty in West Virginia, hereinbefore declared to be a public purpose, and this article shall be liberally construed so as to give community action program organizations the full and complete power required to give maximum aid toward the accomplishment of such public purpose.

Sec. 14. Amendment of Federal Act.—The amendment of the federal Economic Opportunity Act of 1964 (Public Law 88-452), or any section thereof, shall not be construed as negating any authority conferred by the provisions of this article.

CHAPTER 31

(Senate Bill No. 159—By Mr. Parker)

[Passed February 26, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to duty of assessor to gather statistics.

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

Article 1. Department of Agriculture.
Section 6. Duty of assessor to gather statistics.

Section 6. Duty of Assessor to Gather Statistics.—Commencing on the first day of July of each year, the assessors shall proceed to gather such statistics as the commissioner of agriculture and the tax commissioner may require, and the printed books, forms, blanks, papers and reports when so completed shall be returned to the com-
missioner of agriculture, on or before the first day of
March next ensuing.

CHAPTER 32
(House Bill No. 511—By Mr. Edgar)

[Passed March 1, 1965; in effect from passage. Approved by the Governor.]

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

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

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

Section
1-h. Eighth circuit.
1-k. Eleventh circuit.

Section 1-h. Eighth Circuit.—For the county of McDowell, on the second Monday in March, June and September, and the first Monday in December.

Sec. 1-k. Eleventh Circuit.—For the county of Pocahontas, on the third Tuesday in March, the second Tuesday in June and the first Tuesday in October.

For the county of Greenbrier, on the third Tuesday in April, the fourth Tuesday in July and the second Tuesday in November.

For the county of Monroe, on the first Tuesday in April, the second Tuesday in July and the third Tuesday in October.

For the county of Summers, on the second Tuesday in January, the third Tuesday in May and the second Tuesday in September.
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 twenty-four-b, prohibiting the manufacture, sale, offer or advertisement for sale, possession, gift or transfer of any instrument, apparatus, equipment, or device or plans for instructions therefor, designed, adapted, used, or employed with the intent or for the purpose of obtaining telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities without the payment of charges therefor, or with the intent or for the purpose of concealing or assisting another to conceal the existence or places of origin or of destination of any message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities; providing criminal penalties; and authorizing the seizure of any such instrument, apparatus, equipment, device, plans or instructions, and, following conviction, the destruction thereof as contraband.

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 twenty-four-b, to read as follows:

Article 3. Crimes against Property.

Section 24-b. Making, selling, possessing, transferring or advertising for sale a device or plans for a device designed to obtain or use telephone or telegraph service or facilities by false or fraudulent means; penalty.

Section 24-b. Making, Selling, Possessing, Transferring or Advertising for Sale a Device or Plans for a Device Designed to Obtain or Use Telephone or Telegraph Service or Facilities by False or Fraudulent Means; Penalty.—
It shall be unlawful for any person knowingly to make, sell, offer or advertise for sale, possess, or give or otherwise transfer to another any instrument, apparatus, equipment, or device or plans or instructions for making or assembling any instrument, apparatus, equipment, or device which has been designed, adapted, used, or employed with the intent or for the purpose of (1) obtaining telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities without the payment of charges therefor, or (2) concealing or assisting another to conceal from any supplier of telephone or telegraph service or from any person charged with the responsibility of enforcing this section, the existence or place of origin or of destination of any message, signal, or other communication by telephone or telegraph, or over telephone or telegraph facilities.

Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding twelve months, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment at the discretion of the court. Any such instrument, apparatus, equipment, or device, or plans or instructions therefor, may be seized by court order or under the warrant of a justice; and, upon the conviction of any person owning same or having any interest therein for a violation of any provision of this section, which conviction has become final, such instrument, apparatus, equipment, device, plans or instructions shall be destroyed as contraband by the sheriff of the county in which such person was convicted.

CHAPTER 34

(An Act to Amend and Reenact Section Forty-seven, Article Three, Chapter Sixty-one of the Code of West Virginia, One [Passed March 11, 1965; in Effect from Passage. Approved by the Governor.]
thousand nine hundred thirty-one, as amended, relating to
dams or obstructions in watercourses and providing
penalties.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Crimes against Property.

Section 47. Dams or obstructions in watercourses; penalty.

Section 47. Dams or Obstructions in Watercourses; Pen-
alty.—No person shall fell any timber and permit the
same to remain in any navigable or floatable stream of
this state when to do so shall obstruct the passage of
boats, rafts, staves, ties or timber of any kind. No person
shall construct any dam or other obstruction more than
fifteen feet in height across any stream or watercourse
unless the design and proposed construction shall have
been declared to be safe by an order entered by the public
service commission after full investigation: Provided,
That no dam or other obstruction more than ten feet in
height shall be constructed across any stream or water-
course if such dam or other obstruction would create a
body of water covering ten or more acres, unless the
design and proposed construction of such dam or other
obstruction shall have been declared to be safe by an order
entered by the public service commission after full in-
vestigation. Except as may be provided by chapter twenty
of this code, no person shall construct or maintain any
dam or other structure in any stream or watercourse,
which shall in any way prevent or obstruct the free and
easy passage of fish up or down such stream or water-
course, without first providing as a part of such dam or
other structure a suitable fish ladder, way or flume, so con-
structed as to allow fish easily to ascend or descend the
same; which ladder, way or flume shall be constructed
only upon plans, in a manner, and at a place, satisfactory
to the natural resources commission: Provided, however,
That if the director of the department of natural resources
determines that there is no substantial fish life in such
stream or watercourse, or that the installation of a fish
ladder, way or flume would not facilitate the free and easy
passage of fish up or down a stream or watercourse, or that
an industrial development project requires the construc-
tion of such dam or other structure and the installation of
an operational fish ladder, way or flume is impracticable,
he may, in writing, permit the construction or mainte-
nance of a dam or other structure in a stream or water-
course without providing a suitable fish ladder, way or
flume; and in all navigable and floatable streams provi-
sions shall be made in such dam or structure for the pas-
sage of boats and other crafts, logs and other materials:

Provided further, That this section shall not relieve such
person from liability for damage to any riparian owner on
account of the construction or maintenance of such dam.

Any person who shall violate any of the provisions of
this section shall be guilty of a misdemeanor, and, upon
conviction thereof, shall be fined not exceeding one tho-
sand dollars, or imprisoned in the county jail not exceed-
ing one year, or both fined and imprisoned, and, whether
conviction be had under this section or not, such violation
shall be deemed a nuisance, which may be abated at the
suit of any citizen or taxpayer, the county court of the
county, or, as to fish ladders, at the suit of the natural
resources commission, and. if the same endangers county
roads, the county court may abate such nuisance peace-
ably without such suit.

CHAPTER 35

(Com. Sub. for Senate Bill No. 204—By Mr. Tompos)

[Passed March 12, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section sixteen, article eight,
chapter sixty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
the use of profanity, obscene, indecent or vulgar language
and the making of threats over the telephone, and providing penalties therefor.

Be it enacted by the Legislature of West Virginia:

That section sixteen, 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:

Article 8. Crimes against Chastity, Morality and Decency.

Section 16. Profanity, Obscene, Indecent or Vulgar Language, or Threats over Telephone; Penalty.

Section 16. Profanity, Obscene, Indecent or Vulgar Language, or Threats over Telephone; Penalty.—If any person shall profanely curse, swear at or abuse another, or use profane, obscene, indecent or vulgar language over any telephone wire or system in this state, or, being in this state, shall use such language while talking to another person or persons out of the state, or over a telephone shall threaten to commit a crime against any person, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

CHAPTER 36
(House Bill No. 508—By Mr. Vickes)

[Passed February 10, 1965; in effect ninety days from passage. Approved by the Governor]
the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 8. Crimes against Chastity, Morality and Decency.

Section 24. Cruelty to children.

Section 24. Cruelty to Children.—Any person who shall cruelly ill treat, abuse, or inflict unnecessarily cruel punishment upon, any infant or minor child, and any person, having the care, custody or control of any minor child, who shall wilfully abandon or neglect the same, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one thousand dollars, and, in the discretion of the court, may be imprisoned in the county jail not exceeding one year for each offense.

CHAPTER 37

(Senate Bill No. 178—By Mr. Carrigan)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section twenty, article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conducting marathon dances and like contests.

Be it enacted by the Legislature of West Virginia:

Article 10. Crimes against Public Policy.

Section 1. Repeal of statute relating to conducting marathon dances and like endurance tests.

Section 1. Repeal of Statute Relating to Conducting Marathon Dances and Like Endurance Tests.—Section twenty, article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, is hereby repealed.
AN ACT to repeal articles one and six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof new articles one and six; to repeal section eighteen, article two of said chapter sixty-two; to amend said chapter sixty-two by adding thereto three new articles designated articles one-a, one-b and one-c; to amend article eighteen, chapter fifty of said code by adding thereto a new section, designated section eleven-a; to amend article three of said chapter sixty-two by adding thereto a new section, designated section one-a; to amend and reenact sections two, three, four, six and ten, article eighteen of said chapter fifty; and to amend and reenact section fourteen, article two of said chapter sixty-two, relating to criminal procedure generally and specifically to complaints; the issuance, form, execution and return of arrest warrants; arrests without warrants; continuances generally; certain provisions with respect to appeals from justices of the peace in criminal cases; the construction of chapter fifty and chapter sixty-two of said code; the rights of defendant following arrest; offenses arising in another county; preliminary examinations; concurrent powers of officers and courts; the authority to issue search and seizure warrants and the grounds therefor; the definition of "property" which may be searched for and seized under a search and seizure warrant; the issuance, contents, execution and return of search and seizure warrants; the right to break into or out of and/or enter in execution of search and seizure warrants; motion for return of property and to suppress evidence obtained by an unlawful search and seizure and the grounds therefor; the disposition of property seized pursuant to search and seizure warrants; the scope of and legislative intent concerning said article one-a; discovery; requiring a bill
of particulars; motion for the production for examination, copying or photographing of statements or confessions of a defendant, the results or reports of examinations and tests or experiments, books, papers or tangible objects and the time for such motion; cases in which bail is mandatory; cases in which bail is discretionary; revocation of order admitting person to bail pending appeal from conviction in certain cases; review by summary petition of amount of or discretionary denial of bail; forms of bail permitted; receipt of bail; factors to be considered by court or justice in fixing amount of bail for one or more charges; the giving, execution, form and requirements of a recognizance; bail and indigent persons; holding of bail deposits and return of recognizance; the furnishing of reports by justices of the peace as to all cash deposited as bail and the disposition of all bail; the continuing in effect of bail; forfeiture of bail and the setting aside of such forfeiture; enforcement of forfeiture by judgment and execution; procedure for such enforcement; remission of penalty upon forfeiture; exoneration of surety on recognizance, release of bail and return of bail deposit; saving action or judgment for forfeiture in spite of failure to record declaration of forfeiture or defects in the form of bail; bailpieces; aid to surety on recognizance; bail for witnesses; guaranteed arrest bond certificates in lieu of cash or recognizance in certain cases; application to municipalities of provisions of said article one-c relating to justices of the peace; the direction and execution of process; guilty pleas in writing of persons under indictment; ascertaining that accused has received copy of indictment and understands charges against him before accepting guilty plea; advising accused of his right to counsel; offering to appoint counsel for indigent accused; form of writing entering guilty plea and, where counsel is waived, acknowledging such waiver; written guilty plea as prima facie evidence that accused was fully advised of his rights and that guilty plea was properly entered; effect of failure to have written guilty plea signed or witnessed; recognizance to keep the peace and the condition thereof; failure to give recognizance to keep the peace, the effect thereof and release from custody; recognizance for insane person or minor; witnesses in crim-
inal cases; failure of juror to attend inquest out of court and the effect thereof; proceedings for fines for contempt or disobedience of process; providing numerous severability clauses; providing general repealer provisions; and providing certain criminal penalties.

Be it enacted by the Legislature of West Virginia:

That articles one and six, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that new articles one and six be enacted in lieu thereof; that section eighteen, article two of said chapter sixty-two be repealed; that said chapter sixty-two be amended by adding thereto three new articles, designated articles one-a, one-b and one-c; that article eighteen, chapter fifty of said code be amended by adding thereto a new section, designated section eleven-a; that article three of said chapter sixty-two be amended by adding thereto a new section, designated section one-a; that sections two, three, four, six and ten, article eighteen of said chapter fifty be amended and reenacted; and that section fourteen, article two of said chapter sixty-two be amended and reenacted, all to read as follows:

Chapter 50. JUSTICES AND CONSTABLES.
62. CRIMINAL PROCEDURE.

CHAPTER 50. JUSTICES AND CONSTABLES.

Article 18. Criminal Jurisdiction and Procedure; Appeals.

Section
2. Warrant; when not required.
3. Direction and execution of warrant.
4. Procedure following issuance of warrant.
6. Trial; continuance; bail.
10. Appeals; criminal cases; bail; procedure in appellate court.
11-a. Provisions of this chapter construed to be consistent with certain provisions of chapter sixty-two.

Section 2. Warrant; When Not Required.—Proceedings before a justice shall be by warrant of arrest in the name of the state, except that when an offense of which the justice has jurisdiction is committed in his presence, or in that of a constable, either of them may forthwith apprehend the offender or cause him to be apprehended, and in such case the offender may be tried before the justice and dealt with according to law. Following such ar-
rest, the provisions of section five, article one, chapter sixty-two of this code shall apply with like effect as if set forth herein.

Sec. 3. Direction and Execution of Warrant.—If the justice have jurisdiction, the warrant of arrest may be directed to and executed by any officer authorized by law to arrest persons charged with offenses against the state: Provided, That a constable, sheriff or deputy sheriff of a particular county may execute the same anywhere within his county, or on any river or creek adjoining thereto. Such warrant may be directed to the officer by name or official designation.

Sec. 4. Procedure Following Issuance of Warrant.—Following issuance of the warrant of arrest, the provisions of article one, chapter sixty-two of this code shall apply with like effect as if set forth herein.

Sec. 6. Trial; Continuance; Bail.—Upon appearance of the accused, the justice may proceed to try the case. However, if a continuance is requested, the provisions of section nine, article one, chapter sixty-two of this code shall apply. When a continuance is granted at the instance of the accused and the justice determines not to release the accused from custody unless bail is furnished, the provisions of article one-c, chapter sixty-two of this code shall apply. In the event of such a continuance, and if the justice determines not to release the accused without bail and the same is not furnished, the justice may commit the accused to jail until the time appointed for trial, but such imprisonment shall not exceed five days. The justice may render judgment on bail taken by him pursuant to this section, in accordance with the provisions of said article one-c.

Sec. 10. Appeals; Criminal Cases; Bail; Procedure in Appellate Court.—Every person sentenced to imprisonment by the judgment of a justice, or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine of less than ten dollars be given by a justice if the defendant, his agent or attorney object thereto), shall be allowed an appeal to the court of the county hav-
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Sec. 11-a. Provisions of This Chapter Construed to Be Consistent with Certain Provisions of Chapter Sixty-two.

Any inconsistent provisions of this chapter shall be construed so as to conform to and be consistent with the pertinent provisions of articles one, one-a, one-b and one-c, chapter sixty-two of this code.

CHAPTER 62. CRIMINAL PROCEDURE

Article

1. Preliminary Procedure.
1-a. Search and Seizure.
1-b. Discovery.
1-c. Bail.
2. Presentments and Indictments.
3. Trial of Criminal Cases.


Section

1. Complaint.
2. Warrant; issuance.
3. Same; form and contents.
4. Same; execution; arrest by officer without warrant in possession; duplicate warrants.
5. Same; delivery of prisoner before justice; complaint and warrant for person arrested without warrant; return.
6. Informing defendant of nature of complaint and his rights; opportunity to confer with counsel and arrange bail.
7. Offense arising in other county.
8. Preliminary examination.
9. Continuance.
10. Concurrent powers.
11. Repeal.
12. Severability.
Section 1. Complaint.—The complaint is a written statement of the essential facts constituting the offense charged. It shall be made upon oath before a justice of the peace.

Sec. 2. Warrant; Issuance.—If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue to any officer authorized by law to arrest persons charged with offenses against the state. More than one warrant may issue on the same complaint.

Sec. 3. Same; Form and Contents.—The warrant shall be signed by the justice and shall contain the name of the defendant or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall describe the offense charged in the complaint. It shall command that the defendant be arrested and brought before a justice of the county in which the warrant is executed.

Sec. 4. Same; Execution; Arrest by Officer without Warrant in Possession; Duplicate Warrants.—The warrant shall be executed by the arrest of the defendant. It may be executed at any time or place within the state. The officer need not have the warrant in his possession at the time of the arrest, but upon request by the defendant, the officer shall show the warrant to him as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued. While the complaint is pending, a warrant returned unexecuted and not cancelled or a duplicate warrant may be delivered to the same or another authorized officer for execution.

Sec. 5. Same; Delivery of Prisoner before Justice; Complaint and Warrant for Person Arrested without Warrant; Return.—An officer making an arrest under a warrant issued upon a complaint, or any person making an arrest without a warrant for an offense committed in his presence, shall take the arrested person without unnecessary
delay before a justice of the county in which the arrest is made. When a person arrested without a warrant is brought before a justice, a complaint shall be filed and a warrant issued forthwith. The officer executing the warrant shall make return thereof to the justice before whom the defendant is brought.

Sec. 6. Informing Defendant of Nature of Complaint and His Rights; Opportunity to Confer with Counsel and Arrange Bail.—The justice shall in plain terms inform the defendant of the nature of the complaint against him, of his right to counsel, and, if the offense is to be presented for indictment, of his right to have a preliminary examination. He shall also inform the defendant that he is not required to make a statement and that any statement made by him may be used against him. He shall provide the defendant reasonable means to communicate with an attorney or with at least one relative or other person for the purpose of obtaining counsel or arranging bail. The defendant shall not be committed to jail or removed from the county of arrest until he has had a reasonable opportunity to confer with counsel or to arrange bail. He may be detained under such security measures as the circumstances warrant. If the defendant is unable to provide bail or if the offense is unbailable, he shall be committed to jail.

Sec. 7. Offense Arising in Other County.—If the warrant issued, or if the offense is alleged to have been committed, in a county other than the county of arrest, all papers in the proceeding shall be promptly transmitted to a justice of the county having jurisdiction of the offense for preliminary examination or trial. If the defendant is unable to provide bail in the county of arrest, he shall be committed to the custody of an officer who shall take him without unnecessary delay before a justice of the county wherein the examination or trial is to be held, there to be dealt with as provided by law.

Sec. 8. Preliminary Examination.—If the offense is to be presented for indictment, the preliminary examination shall be conducted by a justice of the county in which the offense was committed within a reasonable time after
the defendant is arrested, unless the defendant waives examination. The defendant shall not be called upon to plead. Witnesses shall be examined and evidence introduced for the state under the rules of evidence prevailing in criminal trials generally. The defendant or his attorney may cross-examine witnesses against him and may introduce evidence in his own behalf. On motion of either the state or the defendant, witnesses shall be separated and not permitted in the hearing room except when called to testify. If the defendant waives preliminary examination or if, after hearing, it appears from the evidence that there is probable cause to believe that an offense has been committed and that the defendant has committed it, the justice shall forthwith hold him to answer in the court having jurisdiction to try criminal cases. If the evidence does not establish probable cause, the defendant shall be discharged. After concluding the proceeding the justice shall transmit forthwith to the clerk of the court to which the defendant is held to answer all papers in the proceeding and any bail taken by him.

Sec. 9. Continuance.—The justice shall grant upon request of the defendant one continuance for a period not to exceed ten days. A continuance for a like period shall be granted on request of the state if the defendant has been admitted to bail. No other continuance shall be granted except for good cause or by mutual consent of the state and the defendant.

Sec. 10. Concurrent Powers.—A judge of a court having jurisdiction to try criminal offenses shall have the same power to issue warrants as conferred upon a justice of the peace by this article. A mayor or judge of a police court acting in the capacity of a justice of the peace shall have all the powers and duties conferred upon a justice by this article.

Sec. 11. Repeal.—All provisions of this code which are inconsistent with the provisions of this article are hereby repealed to the extent and only to the extent of such inconsistency: Provided, That under no circumstances shall the foregoing repealer provision or the provisions of this article be construed as repealing, limiting
or in any way altering the provisions of article nineteen, chapter seventeen-c of this code.

**Sec. 12. Severability.**—If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application, and to this end, the provisions of this article are declared to be severable.

**Article 1-a. Search and Seizure.**

**Section**

1. Authority to issue warrant.
2. Grounds for issuance; property definition.
3. Issuance and contents.
4. Execution and return with inventory.
5. Breaking and entering.
6. Motion for return of property and to suppress evidence.
7. Disposition of seized property.
8. Scope of article; legislative intent; construction of other provisions dealing with search warrant; repeal.

**Section 1. Authority to Issue Warrant.**—A search warrant authorized by this article may be issued by a judge of a court having jurisdiction to try criminal cases in the county, or by a justice of the county, or by the mayor or judge of the police court of the municipality, wherein the property sought is located.

**Sec. 2. Grounds for Issuance; Property Definition.**—A warrant may be issued under this article to search for and seize any property

(a) Stolen, embezzled or obtained by false pretenses;
(b) Designed or intended for use or which is or has been used as a means of committing a criminal offense; or
(c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended for use or which is or has been used, in violation of the criminal laws of this state heretofore or hereinafter enacted.

The term “property” shall include documents, books and papers and any other tangible objects.

**Sec. 3. Issuance and Contents.**—A warrant shall issue only upon complaint on oath or affirmation supported by
affidavit sworn to or affirmed before the judge or magistrate setting forth the facts establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that there is probable cause to believe that grounds therefor exist, he shall issue a warrant identifying the property and particularly describing the place, or naming or particularly describing the person, to be searched. The warrant shall be directed to the sheriff or any deputy sheriff or constable of the county, to any member of the department of public safety or to any police officer of the municipality wherein the property sought is located, or to any other officer authorized by law to execute search warrants. It shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. It shall command the officer to search forthwith the person or place named for the property specified, to seize such property and bring the same before the judge or magistrate issuing the warrant. Such warrant may be executed either in the day or night.

Sec. 4. Execution and Return with Inventory.—The warrant may be executed and returned only within ten days after its date. The officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken; or if the person from whose premises the property is taken is not present at the time, the officer shall leave the copy and receipt at the place from which the property is taken. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The judge or magistrate shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken.

Sec. 5. Breaking and Entering Premises.—The officer may break into a house, building or structure, or any part thereof, or anything therein, or any vehicle, vessel or other conveyance, to execute a search warrant, or commit such breaking as may be necessary to liberate himself or a person aiding him in the execution of the
warrant. If the place to be searched is a dwelling he shall not attempt a forcible entry until he shall have given notice of his authority and purpose and shall have been refused admittance.

Sec. 6. Motion for Return of Property and to Suppress Evidence.—A person aggrieved by an unlawful search and seizure may move for the return of the property and to suppress for use as evidence anything so seized on the ground that (1) the property was illegally seized without a warrant, or (2) the warrant is insufficient on its face, or (3) the property seized is not that described in the warrant, or (4) there was not probable cause for believing the existence of the grounds on which the warrant was issued, or (5) the warrant was illegally executed. If the offense giving rise to the issuance of the warrant be one which a magistrate has jurisdiction to hear and determine, the motion may be made to him. If the offense is cognizable only before a court of record the motion shall be made to the court having jurisdiction. The judge or magistrate shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be returned unless otherwise subject to lawful detention and it shall not be admissible in evidence at any hearing or trial. The motion may be made before trial or hearing upon three days' notice, or, the motion may be made or renewed at the trial or hearing.

Sec. 7. Disposition of Seized Property.—Property taken pursuant to the warrant shall be preserved as directed by the court or magistrate for use as evidence and thereafter shall be returned, destroyed or otherwise disposed of as the court or magistrate may direct.

Sec. 8. Scope of Article; Legislative Intent; Construction of Other Provisions Dealing with Search Warrant; Repeal.—It is intended that this article govern the issuance and execution of all search warrants, and no subsequent legislation shall be held to supersede or modify the provisions of this article except to the extent that such legislation shall do so specifically and expressly. It is recognized that throughout this code there are many pro-
9 visions dealing with the issuance and execution of search
10 warrants, and it is not possible at this time to amend and
11 reenact or to specifically repeal those provisions. Accord-
12 ingly, all such provisions shall be construed so as to con-
13 form to and be consistent with the pertinent provisions
14 of this article. In the event that there are provisions in
15 this code so inconsistent with the provisions of this article
16 as to preclude such construction, such other provisions are
17 hereby repealed to the extent of such inconsistency.

Sec. 9. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 1-b. Discovery.
Section
1. Bill of particulars.
2. Defendant's statements; reports of examinations and tests; defendant's books, papers and tangible objects.
3. Time of motion.
4. Severability.

Section 1. Bill of Particulars.—The court for cause
2 may direct the prosecuting attorney to file a bill of par-
3 ticulars. A bill of particulars may be amended at any
4 time subject to such conditions as justice requires.

Sec. 2. Defendant's Statements; Reports of Exami-
2 nations and Tests; Defendant's Books, Papers and Tan-
3 gible Objects.—Upon motion of a defendant the court
4 may order the prosecuting attorney to permit the def-
5endant to examine and copy or photograph any relevant
6 (1) written or recorded statements or confessions made
7 by the defendant, or copies thereof, which are known by
8 the prosecuting attorney to be within the possession, custo-
9dy or control of the state, (2) results or reports of
10 physical or mental examinations, and of scientific tests
11 or experiments made in connection with the particular
12 case, or copies thereof, which are known by the prose-
13cuting attorney to be within the possession, custody or
14 control of the state, and (3) books, papers or tangible
15 objects belonging to or seized from the defendant which
16 are known by the prosecuting attorney to be within the
17 possession, custody or control of the state.

Sec. 3. Time of Motion.—A motion under this article
2 may be made at any time not later than ten days before
3 trial, or at such reasonable later time as the court may
4 permit.

Sec. 4. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 1-c. Bail.

Section
1. Right to bail; review.
2. Bail defined; form; receipts.
3. Fixing of amount; covering two or more charges.
4. Recognizance; signing; requirements for signers or surety company;
   release upon own recognizance; indigent persons.
5. Recognizance and deposits subject to order of court or justice; re-
   port by justice.
6. Continuing bail.
7. Forfeiture; declaration.
8. Same; setting aside.
9. Same; enforcement; procedure.
10. Same; bail in excess of jurisdictional limit of justice or of particular
    court.
11. Same; remission.
12. Same; exoneration; return of deposit.
13. Same; defects in form.
15. Bail for witness.
17. Offenses against municipalities.
18. Repeal.

Section 1. Right to Bail; Review.—(a) A person
2 arrested for an offense not punishable by death or life
3 imprisonment shall be admitted to bail by the court or
4 justice. A person arrested for an offense punishable by
5 death or life imprisonment may, in the discretion of the
6 court that will have jurisdiction to try the offense, be ad-
7 mitted to bail.

(b) Bail may be allowed pending appeal from a con-
9 viction for an offense not punishable by death or life im-
prisonment. The court or judge allowing bail pending appeal may at any time revoke the order admitting the defendant to bail.

(c) The amount of bail or the discretionary denial of bail at any stage of the proceedings may be reviewed by summary petition first to the lower appellate court, if any, and thereafter by summary petition to the supreme court of appeals or any judge thereof.

Sec. 2. Bail Defined; Form; Receipts.—Bail is security for the appearance of a defendant to answer to a specific criminal charge before any court or justice at a specific time or at any time to which the case may be continued. It may take any of the following forms:

(a) The deposit by the defendant or by some other person for him of cash, provided, if cash totaling more than five hundred dollars for one or more offenses is tendered as bail to a justice by or on behalf of any defendant, the justice shall not receive same but shall direct that the sum be forthwith deposited with the clerk of the court having jurisdiction to try criminal cases.

(b) The written undertaking by one or more persons to forfeit a sum of money equal to the amount of the bail if the defendant is in default for appearance, which shall be known as a recognizance.

(c) Such other form as the judge of the court that will have jurisdiction to try the offense may determine.

All bail shall be received by the clerk of the court, or by the justice and, except in case of recognizance, receipts shall be given therefor by him.

Sec. 3. Fixing of Amount; Covering Two or More Charges.—The amount of bail shall be fixed by the court or justice with consideration given to the seriousness of the offense charged, the previous criminal record of the defendant, his financial ability, and the probability of his appearance. When two or more charges are filed or are pending against the same person at or about the same time, the bail given may be made to include all offenses charged against the defendant.

Sec. 4. Recognizance; Signing; Requirements for Signers or Surety Company; Release upon Own Recognizance;
Indigent Persons.—The recognizance shall be signed by the defendant. It shall also be signed by one or more adult persons owning real property in the state. The court or justice may require that justification of surety be furnished. The assessed value of the real property as shown on the county land books over and above all liens and encumbrances shall not be less than one half the amount of the bail. Or, the recognizance may be signed by the defendant and a surety company authorized to do business in this state. If the offense is a felony, the judge of the court that will have jurisdiction to try the offense may release the defendant on his own recognizance. If the offense is a misdemeanor, either the court or justice may release the defendant on his own recognizance. An indigent person who the court is satisfied will appear as required shall not be denied bail because of his inability to furnish recognizance.

Sec. 5. Recognizance and Deposits Subject to Order of Court or Justice; Report by Justice.—The recognizance shall be returnable to and all deposits shall be held by or subject to the order of the court or justice before whom the defendant is to appear initially, and upon the transfer of the case to any other court or justice shall be returnable to and transmitted to such other court or justice. Each justice of the peace shall during the first week of each month render under oath to the prosecuting attorney of his county a true and complete statement of all cash deposited as bail with such justice during the preceding calendar month and of all cash deposited as bail which is, on the date of the report, in his possession. Such statement shall also set forth the name of each defendant, the amount of the bail deposited during the preceding month and the disposition of the same. The failure to render such report complete in all respects as to the details required herein shall be deemed a breach of the justice's official duty.

Sec. 6. Continuing Bail.—The bail as initially given may continue in effect pending indictment, arraignment, continuance, trial and appeal after conviction, as the court may direct.
Sec. 7. Forfeiture; Declaration.—If there is a breach of condition of the bail, the court or justice shall declare the bail forfeited.

Sec. 8. Same; Setting Aside.—The court or justice may direct that a forfeiture be set aside, upon such conditions as may be imposed, if it appears that justice does not require the enforcement of the forfeiture.

Sec. 9. Same; Enforcement; Procedure.—When a forfeiture has not been set aside, the court or justice, upon motion of the state, shall enter a judgment of default and execution may issue thereon: Provided, That if the forfeiture is declared in a court of record, the order taking judgment shall be entered at the same term of court in which the forfeiture was declared: And provided further, That if the deposit for bail be by a person other than the defendant, or if the bail be in the form of recognizance, such person making the deposit or the surety on the recognizance shall be given ten days' notice by certified mail at his last known address to appear and show cause why a judgment of default should not be entered. Execution shall issue in the name of the state and shall proceed in the manner provided by law in civil actions. If the bail be in the form of bonds or stocks, the judgment order may direct that all or part thereof be sold through a state or national bank or through a brokers' exchange registered with the federal securities and exchange commission.

Sec. 10. Same; Bail in Excess of Jurisdictional Limit of Justice or of Particular Court.—Where the forfeiture has been declared by a justice or by a court of limited jurisdiction of bail in excess of the jurisdictional limit of justice or of the particular court, such forfeiture shall be certified to a court of the county having sufficient jurisdiction, which court shall thereupon proceed as if the forfeiture were originally declared in such court.

Sec. 11. Same; Remission.—After entry of such judgment, the court or justice may remit the penalty in whole or in part under the conditions applying to the setting aside of forfeiture in section eight of this article.
Sec. 12. Same; Exoneration; Return of Deposit.—When the condition of the bond has been satisfied or the forfeiture thereof has been set aside or remitted, the court or justice shall exonerate the surety and release any bail and, if the bail be in a form other than a recognizance, the deposit shall be returned to the person who made the same. The surety may be exonerated by a deposit of cash in the amount of the bail or by a timely surrender of the defendant into custody.

Sec. 13. Same; Defects in Form.—No action or judgment for forfeiture of bail shall be defeated or arrested by the neglect or omission to record the declaration of forfeiture or by reason of any defect in the form of the bail, if it appear to have been taken by a court or justice authorized to take it, and be substantially sufficient.

Sec. 14. Bailpiece.—A bailpiece is a certificate stating that the bail became such for the accused in a particular case and the amount thereof. Upon demand therefor, the court, justice or clerk shall issue to the surety a bailpiece. Any officer having authority to execute a warrant of arrest shall assist the surety holding such bailpiece to take the accused into custody and produce him before the court or justice. The surety may take the accused into custody and surrender him to the court or justice without such bailpiece.

Sec. 15. Bail for Witness.—The bail for a witness for or against the accused shall be conditioned upon his appearance at such time and place as the court or justice shall direct.

Sec. 16. Guaranteed Arrest Bond Certificate.—For a misdemeanor violation of any motor vehicle law of the state or any municipality, except reckless driving or driving while intoxicated, the guaranteed arrest bond certificate of any surety company licensed to do business by the insurance commissioner, when presented by the person whose signature appears thereon shall be accepted as bail in lieu of cash or recognizance in an amount not to exceed five hundred dollars. A “guaranteed arrest bond certificate” shall mean any printed card or certificate
11 issued by an automobile club or association to its mem-
12 bers in good standing bearing the signature of the mem-
13 ber and containing a printed statement that such club
14 or association and a surety company will guarantee the
15 payment of any fine or forfeiture imposed on the member
16 in an amount not to exceed five hundred dollars if the
17 member fails to appear in court as required.

Sec. 17. Offenses against Municipalities.—Bail for a per-
2 son accused of an offense against a municipality shall be
3 governed by the provisions of this article applicable to a
4 justice, except that the bail may be deposited with the
5 mayor or with such other officer of the municipality as
6 may be designated by the mayor or other chief executive
7 officer of the municipality, and proceedings for forfeiture
8 shall be prosecuted in the name and for the benefit of the
9 municipality.

Sec. 18. Repeal.—All provisions of this code which are
2 inconsistent with the provisions of this article are hereby
3 repealed to the extent and only to the extent of such in-
4 consistency.

Sec. 19. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or its application, and
6 to this end, the provisions of this article are declared to
7 be severable.

Article 2. Presentments and Indictments.

Section
14. Direction and execution of process; several writs.

Section 14. Direction and Execution of Process; Sev-
2 eral Writs.—The fifth and eleventh sections of article
3 three, chapter fifty-six of this code shall apply to process
4 in criminal as well as in civil cases. Any summons to
5 answer an indictment for a misdemeanor may be served
6 as a notice is served under the first section of article two,
7 chapter fifty-six of this code. The court may, in the same
8 case against the same person, award at the same time, or:
9 different times, several writs of summons or capias, directed to officers of different counties.

Article 3. Trial of Criminal Cases.

Section

1-a. Written guilty plea; form; right to counsel; effect of plea; failure of plea to be signed or witnessed.

Section 1-a. Written Guilty Plea; Form; Right to Counsel; Effect of Plea; Failure of Plea to Be Signed or Witnessed.—When a person under indictment for a crime indicates that he desires to plead guilty, he may be called upon to sign in open court a form acknowledging his plea to the indictment or to such count or counts thereof as he shall designate. Before accepting a plea of guilty, the court shall satisfy itself by interrogation of the defendant or his counsel that the defendant has received a copy of the indictment and understands the nature of the charges. If the defendant is without counsel, the court shall advise him of his constitutional right to the assistance of counsel before pleading to the indictment. If the defendant is an indigent, the court shall offer to appoint counsel for him. The plea when signed and witnessed shall become a part of the record of the case. The plea shall be sufficient if it is substantially in the following form:

A. If the defendant is represented by counsel:

STATE OF WEST VIRGINIA

vs. Indictment No. ........................................

(Defendant) ........................................

In the presence of , my counsel, who has fully explained the charges contained in the indictment against me and, having received a copy of the indictment before being called upon to plead, I hereby plead guilty to said indictment and each count thereof.

Date:......................

Witness: ..............

(Defendant)

(Counsel for Defendant)

B. If the defendant has waived counsel:
STATE OF WEST VIRGINIA
vs. 

(Defendant)

I certify that I have been advised of my constitutional right to the assistance of counsel; that I have no money to employ counsel; that I have been offered counsel at no cost to me; and that I have given up my right to have counsel provided to assist me.

I have received a copy of the indictment before being called upon to plead. It has been read or explained to me and I fully understand the nature of the charges against me, including the penalties that the court may impose.

I hereby plead guilty to said indictment and each count thereof.

Date: ....................................................... .
Witness:

(Defendant)

(Clerk)

The plea when signed and witnessed shall constitute prima facie evidence that the defendant was fully advised of his rights as herein provided, and that his plea was properly entered. The neglect or failure to cause a plea to be signed or witnessed shall not invalidate the plea or any judgment rendered thereon, provided the record otherwise discloses that the defendant was advised of his rights and that the plea was otherwise properly entered.


Section
1. Recognizance to keep the peace; condition.
2. Failure to give recognizance to keep the peace; commitment to jail; release.
3. Recognizance of insane person or minor.
4. Witnesses in criminal cases; forced attendance.
5. Failure of juror to attend inquest out of court.
6. Proceedings for fines for contempt or disobedience of process.
7. Severability.
Section 1. Recognizance to Keep the Peace; Condition.
Every recognizance to keep the peace shall be conditioned to the effect that the person of whom it is taken shall keep the peace and be of good behavior for such time, not exceeding one year, as the court or justice requiring it may direct; and if such court or justice directs, it may, when taken of a person charged with an offense, be with condition for so keeping the peace and being of good behavior, in addition to the other conditions of his recognizance imposed in accordance with the provisions of article one-c of this chapter.

Sec. 2. Failure to Give Recognizance to Keep the Peace; Commitment to Jail; Release.—A person not giving and for whom no other person gives, a recognizance to keep the peace shall be committed to jail. He shall be discharged therefrom when such recognizance is given before the court or justice, or when the period for which it was required has elapsed, or when the discharge of such person is directed by the court or justice having jurisdiction thereof.

Sec. 3. Recognizance of Insane Person or Minor.—A recognizance which would be taken of a person but for his being insane or a minor, may be taken of another person, and without further surety, if such other person be deemed sufficient.

Sec. 4. Witnesses in Criminal Cases; Forced Attendance.—In a criminal case, a summons for a witness may be issued by the prosecuting attorney. Sections one, four, five, six and eight, article five, chapter fifty-seven of this code shall, in other respects, apply to a criminal as well as a civil case, except that a witness in a criminal case shall be obliged to attend and may be proceeded against for failing to do so, although there may not previously have been any payment, or tender to him, of anything for attendance, mileage or tolls.

Sec. 5. Failure of Juror to Attend Inquest out of Court.—The name of any person summoned by an officer, in failing to attend as a juror upon an inquest out of court, shall be returned by such officer at the next term of the
5 circuit court of such officer's county. Such court shall fine 
6 such person, unless he have a reasonable excuse for his 
7 failure, ten dollars.

Sec. 6. Proceedings for Fines for Contempt or Disobedience of Process.—No court shall impose a fine upon a 
2 juror, witness or other person, for disobedience of its pro-
3 cess or any contempt, unless he be present in a court at 
5 the time, or shall have been served with a rule of the 
6 court, returnable to a time certain, requiring him to show 
7 cause why the fine should not be imposed, and shall have 
8 failed to appear and show cause.

Sec. 7. Severability.—If any provision of this article 
2 or the application thereof to any person or circumstance 
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given 
5 effect without the invalid provision or its application, and 
6 to this end, the provisions of this article are declared to 
7 be severable.

CHAPTER 39

(House Bill No. 507—By Mr. Speaker, Mr. White)

[Passed February 27, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section seven, article seven, 
chapter fifty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to 
transcripts to be furnished indigent persons under con-
viction for a criminal offense and specifying the time in 
which requests for such transcripts are to be presented 
and the method of payment therefor.

Be it enacted by the Legislature of West Virginia:

That section seven, article seven, 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 7. Transcripts to be furnished indigent persons under conviction upon timely request; payment therefor.

Section 7. Transcripts to Be Furnished Indigent Persons under Conviction upon Timely Request; Payment Therefor.—In any case wherein an indigent person has filed a notice of intent to seek an appeal or writ of error as specified in section four, article four, or section four, article five, chapter fifty-eight of this code, the court, or judge thereof in vacation, upon written request of such convicted person or his counsel, presented within sixty days after the entry of such judgment, shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the testimony and proceedings of the trial, or such part or parts thereof as such convicted person or his counsel shall have indicated in his request to be necessary, to the convicted person, without charge to him, for use in seeking his appeal or writ of error, and the cost of such transcript in the case of a misdemeanor conviction shall be certified by the judge of the court to the county court of the county wherein the accused person was convicted and shall be paid out of the county treasury thereof, and in cases of felony convictions the cost of such transcript shall be certified by the judge of the court to the auditor of the state and shall be paid out of the treasury of the state from the appropriation for criminal charges.

CHAPTER 40

(Com. Sub. for House Bill No. 517—By Mr. Barker and Mr. Holliday)

[Passed March 12, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section five, article three, and sections three, four, five and six, article seven, all of chapter sixty-two of the code of West Virginia, one thousand nine hundred
thirty-one, as amended; to amend and reenact section two, article one, sections two, fourteen-a and fifteen, article two and sections one and two, article eleven, all of chapter sixty-one of said code; and to amend and reenact sections six and fifteen, article three and section two, article eight, all of chapter sixty-two of said code, relating to the abolition of capital punishment; eliminating various references in said code to the death penalty in capital cases; altering the penalty provisions concerning kidnapping so as to refer to bodily harm instead of serious bodily harm; relating to the role of the court in sentencing persons who plead guilty to treason against the state, kidnapping, rape and murder; specifying the penalties for such offenses; providing that persons committed to life imprisonment for murder in the first degree, kidnapping and rape shall not be eligible for parole unless the jury in their discretion recommends mercy and unless the judge, in the event the accused pleads guilty, provides that such person shall be eligible for parole; and increasing the penalty for rape where mercy is recommended; and providing for life imprisonment and prohibiting parole of any person guilty of a killing or of an act from which death ensues in a penitentiary.

Be it enacted by the Legislature of West Virginia:

That section five, article three and sections three, four, five and six, article seven, all of chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two, article one, sections two, fourteen-a and fifteen, article two and sections one and two, article eleven, all of chapter sixty-one of said code be amended and reenacted; and that sections six and fifteen, article three and section two, article eight, all of chapter sixty-two of said code be amended and reenacted, all to read as follows:

Chapter
61. CRIMES AND THEIR PUNISHMENT
62. CRIMINAL PROCEDURE

CHAPTER 61. CRIMES AND THEIR PUNISHMENT

Article
1. Crimes against the Government.
2. Crimes against the Person.

Section 2. Punishment.

Section 2. Punishment.—Whoever is guilty of treason against the state shall be punished by confinement in the penitentiary for life, or, at the discretion of the jury, or the discretion of the court when there is a plea of guilty, by confinement in the penitentiary for not less than three nor more than ten years.

Article 2. Crimes against the Person.

Section 2. Penalty for Murder of First Degree.

14-a. Penalty for enticing away, or otherwise kidnapping any person; when kidnapped person returned alive and uninjured after ransom paid and without ransom paid; discretion of jury or court as to parole when life imprisonment imposed.

15. Rape; age of consent; carnal knowledge of male person; penalties.

Section 2. Penalty for Murder of First Degree.—Murder of the first degree shall be punished by confinement in the penitentiary for life.

Sec. 14-a. Penalty for Enticing Away, or Otherwise Kidnapping Any Person; When Kidnapped Person Returned Alive and Uninjured after Ransom Paid and without Ransom Paid; Discretion of Jury or Court as to Parole When Life Imprisonment Imposed.—If any person, by force, threat, duress, fraud or enticement take, confine, conceal, or decoy, inveigle or entice away, or transport into or out of this state or within this state, or otherwise kidnap any other person, for the purpose or with the intent of taking, receiving, demanding or extorting from such person, or from any other person or persons, any ransom, money or other thing, or any concession or advantage of any sort, or for the purpose or with the intent of shielding or protecting himself or others from bodily harm or of evading capture or arrest after he or they have committed a crime, he shall be guilty of a felony, and, upon conviction, shall be punished by confinement in the penitentiary for life, and he, notwithstanding the provisions of article twelve, chapter sixty-two of this code, shall not be eligible for parole:

Provided, That the jury may, in their discretion, recommend mercy, and if such recommendation is added to
their verdict, such person shall be eligible for parole in accordance with the provisions of said article twelve:  

Provided, however, That if the accused pleads guilty, the court may, in its discretion, provide that such person shall be eligible for parole in accordance with the provisions of said article twelve, and, if the court so provides, such person shall be eligible for parole in accordance with the provisions of said article twelve in the same manner and with like effect as if such person had been found guilty by the verdict of a jury and the jury had recommended mercy:  

Provided further, That in all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him, but after ransom, money or other thing, or any concession or advantage of any sort has been paid or yielded, the punishment shall be confinement in the penitentiary for any term of years not less than twenty:  

And provided further, That in all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him, but without ransom, money or other thing, or any concession or advantage of any sort having been paid or yielded, the punishment shall be confinement in the penitentiary for any term of years not less than ten.

Sec. 15. Rape; Age of Consent; Carnal Knowledge of Male Person; Penalties.—If any male person carnally knows a female person, not his wife, against her will by force, or if any male person over the age of sixteen years carnally knows a female person of previous chaste character, not his wife, under that age, or if any male person over the age of sixteen years carnally knows a female person, not his wife, under the age of ten years, he shall be guilty of a felony, and, upon conviction, shall be punished with confinement in the penitentiary for life, and he, notwithstanding the provisions of article twelve, chapter sixty-two of this code, shall not be eligible for parole:  

Provided, That the jury may, in their discretion, recommend mercy, and if such recommendation is added to their verdict, such person shall be punished with confinement in the penitentiary for not less than ten nor
more than twenty years: *Provided, however,* That if the accused pleads guilty, the court may, in its discretion, provide that such person shall be punished with confinement in the penitentiary for not less than ten nor more than twenty years.

This section shall not apply to any male person under sixteen years of age who carnally knows a female over twelve years of age with her free consent. Any female person over the age of sixteen years who shall carnally know any male person, not her husband, under that age shall be guilty of a misdemeanor, and, upon conviction, shall be confined in the county jail not less than two nor more than six months.

**Article 11. General Provisions Concerning Crimes.**

**Section 1. Classification of Offenses.—**Offenses are either felonies or misdemeanors. Such offenses as are punishable by confinement in the penitentiary are felonies; all other offenses are misdemeanors.

The word "penitentiary" as used in this section shall mean and include any and all institutions provided by the state for the confinement of persons sentenced to confinement in the penitentiary, notwithstanding that transfers of such persons from any one of such institutions to another may be authorized.

**Sec. 2. Capital Punishment Abolished.—**Capital punishment is hereby abolished for all offenses against the laws of the state of West Virginia, and no person here- tofore or hereafter convicted of any offense in violation of said laws shall be executed, irrespective of whether the crime was committed, the conviction had, or the sentence imposed, before or after the enactment of this section.

**CHAPTER 62. CRIMINAL PROCEDURE**

**Article 3. Trial of Criminal Cases.**

**Section 6. Custody of jury; expenses; no conversation with jurors.**

15. Verdict and sentence in murder cases.
Section 6. Custody of Jury; Expenses; No Conversation with Jurors.—After a jury in a case of felony is impaneled and sworn, the court, in its discretion, may order the jury to be placed in the custody of the sheriff or other officer or officers designated by the court until the jury agree upon a verdict or are discharged by the court. While a jury is in the custody of the sheriff or other officer or officers as herein provided, they shall be furnished with suitable board and lodgings by the sheriff or other officer. After a jury has been impaneled no sheriff or other officer shall converse with, or permit anyone else to converse with, a juror unless by leave of the court. When the court orders a jury to be placed in the custody of the sheriff or other officer or officers, the court shall, in its discretion, determine the manner in which such jury shall be kept in custody by the sheriff or other officer or officers until the jury agree upon a verdict or are discharged by the court.

Sec. 15. Verdict and Sentence in Murder Cases.—If a person indicted for murder be found by the jury guilty thereof, they shall in their verdict find whether he is guilty of murder of the first degree or second degree. If the person indicted for murder is found by the jury guilty thereof, and if the jury find in their verdict that he is guilty of murder of the first degree, or if a person indicted for murder pleads guilty of murder of the first degree, he shall be punished by confinement in the penitentiary for life, and he, notwithstanding the provisions of article twelve, chapter sixty-two of this code, shall not be eligible for parole: Provided, That the jury may, in their discretion, recommend mercy, and if such recommendation is added to their verdict, such person shall be eligible for parole in accordance with the provisions of said article twelve: Provided, however, That if the accused pleads guilty of murder of the first degree, the court may, in its discretion, provide that such person shall be eligible for parole in accordance with the provisions of said article twelve, and, if the court so provides, such person shall be eligible for parole in accordance with the provisions of said article twelve in the same manner and with like effect as if such person had been found guilty
24 by the verdict of a jury and the jury had recommended
25 mercy.

Section 2. Punishment of Convicts; No Discharge from Penitentiary While Prosecution is Pending.

Section 2. Punishment of Convicts; No Discharge from Penitentiary While Prosecution is Pending.—A convict guilty of such killing as is mentioned in the first section of this article, or any act mentioned therein, from which death ensues to such officer or guard, shall be punished by confinement in the penitentiary for life, and such person shall not be released from such confinement on parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code. If such person is already under a sentence of confinement for life, such person shall not be released from such confinement on parole, notwithstanding the provisions of article twelve, chapter sixty-two of this code. For any other offense mentioned in said section, a convict, unless he be under a sentence of confinement for life, shall be confined in the penitentiary not less than one nor more than five years after the end of the term for which he shall then be subject to confinement. A person prosecuted for an offense under this article shall not be discharged from the penitentiary while such prosecution is pending. And a person convicted of such offense shall not, by reason thereof, be sentenced under sections eighteen or nineteen, article eleven, chapter sixty-one of this code, except that, if a convict in the penitentiary shall commit any felony, other than is provided for in the first section of this article which is punishable by confinement therein, he shall suffer the same punishment as if he had been discharged before committing it.

CHAPTER 41
(Senate Bill No. 39—By Mr. Carrigan)
[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section five-a, article twelve, chapter sixty-two of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to probation officers of the second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and the circuit court of Wayne county, and the circuit court of Hancock 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 five-a. Probation officers of second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and of Hancock and Wayne counties; salary and expenses.

Section 5-a. Probation Officers of Second Judicial Circuit, Third Judicial Circuit, Fifth Judicial Circuit, Twelfth Judicial Circuit, Fourteenth Judicial Circuit, Twenty-third Judicial Circuit, Twenty-fifth Judicial Circuit, Twenty-ninth Judicial Circuit, and of Hancock and Wayne Counties; Salary and Expenses.—The judge of the circuit courts of the second judicial circuit, third judicial circuit, fifth judicial circuit, twelfth judicial circuit, fourteenth judicial circuit, twenty-third judicial circuit, twenty-fifth judicial circuit, twenty-ninth judicial circuit, and of the circuit court of Wayne county in the twenty-fourth judicial circuit and the circuit court of Hancock county in the first judicial circuit, each is authorized to appoint a court probation officer to serve during the pleasure of the appointing judge, without first obtaining approval of the county courts of the counties of said judicial circuits and of Hancock and Wayne counties, respectively, as provided in section five of this article: Provided, That the judge of the circuit court of the second judicial circuit is authorized to appoint an assistant probation officer in the same manner as probation officers are appointed. Such appointment shall be effective upon the entry of the appointment order in the court order book. A certified copy of said...
order shall be delivered to the county court of each of the counties concerned and said county courts, respectively, shall arrange for and appropriate funds for payment of, and shall pay the salary and expenses of such probation officers and clerical assistant in a manner consistent with contribution provisions of said section five. The probation officers so appointed shall have and may exercise all of the powers and perform all of the duties and services of probation officers as provided in this article.

CHAPTER 42
(Com. Sub. for House Bill No. 607—By Mr. Auvil)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, creating a division of correction within the office and under the authority, jurisdiction and control of the commissioner of public institutions; transferring to the office of the commissioner of public institutions, division of correction, as aforesaid, the administrative and supervisory functions of the board of probation and parole; and repealing all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:
That chapter sixty-two 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:

Article 13. Division of Correction.
Section
1. Construction and purpose of article.
2. Establishment of division; responsibility for correctional institutions; appointment of wardens; supervisor of probationers and parolees; final determinations remaining with board of probation and parole.
3. Appointment and qualifications of director.
4. Powers and duties of director generally; compensation and funds of inmates.
5. Commitments; transfers.
6. Compensation of director and employees; traveling and other expenses; payment of funds.
7. Repeal of inconsistent laws; transfer of certain functions of board of probation and parole to division of corrections.

Section 1. Construction and Purpose of Article.—This article shall be liberally construed, to the end that persons committed to institutions of the state for crime or delinquency shall be afforded individual and group treatment to re-establish their ability to live peaceably and, consistent with the protection of the community, to release such individuals at the earliest possible date, and to establish a just, humane and efficient program, and to avoid duplication and waste of effort and money on the part of public and private agencies.

Sec. 2. Establishment of Division; Responsibility for Correctional Institutions; Appointment of Wardens; Supervisor of Probationers and Parolees; Final Determinations Remaining with Board of Probation and Parole.—The commissioner of public institutions is hereby directed to establish within his department a separate division of correction, which shall consist of a director of correction, such deputy directors as herein provided, and the officers, employees and institutions of such division.

a. The director of the division of correction shall be directly responsible to the commissioner of public institutions for the custody and care of all persons committed for conviction of a felony and such other persons as may be committed to the commissioner of public institutions or penal or correctional institutions under his jurisdiction and control including the following institutions, and such other institutions as now or may hereafter be established by law:

- West Virginia penitentiary at Moundsville, West Virginia;
- West Virginia state prison for women at Pence Springs, West Virginia;
- West Virginia medium security prison, Huttonsville, West Virginia;
- West Virginia industrial home for girls, Salem, West Virginia;
West Virginia industrial home for boys, Grafton, West Virginia;

West Virginia forestry camp for boys, Davis, West Virginia.

The warden or superintendent of each of the aforementioned institutions shall be appointed by the governor by and with the advice and consent of the senate.

b. The director of the division of correction shall also be charged with the duty of supervising all persons released on probation and placed in the charge of a state probation and parole officer, and all persons released on parole under any law of this state. He shall also be charged with the duty of supervising all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision. The director of the division of correction shall prescribe rules and regulations for the supervision of probationers and parolees under its supervision and control. The director of the division of correction shall succeed to all administrative and supervisory powers of the board of probation and parole and the authority of said board of probation and parole in such matters only.

c. The director of the division of correction, with the approval and consent of the commissioner of public institutions, shall administer all other laws affecting the custody, control, treatment and employment of persons sentenced or committed to institutions under the supervision of the commissioner of public institutions, or affecting the operation and administration of institutions or functions of the division of correction or activities therein.

d. The final determination regarding the release of inmates from penal institutions and the final determination regarding the revocation of paroles from such institutions pursuant to the provisions of article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, shall remain within the exclusive jurisdiction of the board of probation and parole.
Sec. 3. Appointment and Qualifications of Director.—
2 The commissioner of public institutions shall appoint the
3 director of the division of correction who shall be duly
4 qualified by education and experience, with a degree in
5 sociology, psychology, social science or some related field,
6 and with a minimum of three years' experience in the
7 field of correction or a related field.

Sec. 4. Powers and Duties of Director Generally; Com-
2 pensation and Funds of Inmates.—Subject to the approval
3 and consent of the commissioner of public institutions the
4 director shall:
5   a. Exercise general supervision over the administra-
6      tion of the division of correction;
7   b. Establish separate subdivisions, to be headed by
8      deputy directors, of adult services, youth services, and
9      other subdivisions as he deems advisable, which may be
10      headed by the same or different deputy directors, which
11      said deputy directors must be graduates of an accredited
12      college or university with a degree in sociology, psychol-
13      ogy, social science or a related field;
14   c. At the close of each fiscal year, submit to the com-
15      missioner of public institutions a report with statistical
16      and other data of the division's work, including any rec-
17      ommendations for legislation for the improvement of
18      correctional treatment and the more effective work of
19      the division;
20   d. Recommend qualifications for employment of dep-
21      uty directors, wardens and superintendents of institu-
22      tions within the division, all necessary staff for the oper-
23      ation of the institutions and subdivisions, and state em-
24      ployed probation and parole personnel;
25   e. Establish rules and regulations in writing govern-
26      ing all subdivisions and institutions within the division;
27   f. Establish an in-service, training program for per-
28      sonnel of the division;
29   g. Establish a plan of classification of institutions,
30      varying according to such factors as security features,
31      program, age and sex of inmates, physical stature or size,
32      character of inmates, and recommend the organization
of the institutions of the division in accordance with such plan;

h. Establish a system of classification of inmates, through a reception and examination procedure, and in each institution a classification committee and procedure for assignment of inmates within the programs of the institution;

i. Establish, maintain and direct a varied program of education for inmates in all institutions within the division;

j. Supervise the treatment, custody and discipline of all inmates and the maintenance of the institutions of the division and its industries;

k. Establish a system of compensation for inmates of the correctional institutions of the state who perform good and satisfactory work either within the industrial program or in the servicing and maintenance of the correctional institutions or any other institutions or camps within the state. The director, with the approval of the commissioner of public institutions, may establish a graduated scale of compensation to be paid to inmates in accordance with their skill in industry, and the director shall recommend rules and regulations for carrying out the purposes of this subsection.

The principal officer of any correctional institution, on request of an inmate, may expend up to one half of the money so earned by such inmate on behalf of the family of such inmate. The remainder of the money so earned, after deducting amounts expended as aforesaid, shall be accumulated to the credit of the inmate and be paid to the inmate at such times as may be prescribed by such rules and regulations. Such funds so accumulated on behalf of inmates shall be held by the principal officer of each institution, under a bond approved by the attorney general.

The accumulation of such total funds, not necessary for current distribution, shall be invested, with the approval of the director, through the state sinking fund commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds and certificates so pur-
chased shall remain in the custody of the state treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts of such institutions by the sinking fund commission.

When such earnings are transferred to the respective institutions, they shall be credited by the principal officer to the credit of and for the benefit of the inmates' activities account.

Sec. 5. Commitments; Transfers.—All persons committed by courts of criminal and juvenile jurisdiction for custody in penal, correctional or training institutions under the jurisdiction of the commissioner of public institutions shall be committed to an appropriate institution, but the director shall have the authority to and may order the transfer of any person committed to the division to any appropriate institution within the division. However, no person committed as a juvenile shall be held in any institution except one for training and care of children; and no one may be transferred to a state prison unless the crime for which such person is incarcerated was of the grade which would warrant direct commitment to the prison.

The director may transfer any prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the department of mental health, to such department, subject to the approval of the director of the department of mental health. The director may transfer any prisoner or inmate to an appropriate mental facility for specialized medical treatment.

Sec. 6. Compensation of Director and Employees; Traveling and Other Expenses; Payment of Funds.—The director shall receive a salary of thirteen thousand dollars per annum. Each deputy director shall receive a salary of ten thousand dollars per annum. Within the limits of available funds the commissioner of public institutions shall fix the salaries or compensation of the other officers and employees employed pursuant to the provisions of
9 this article. All persons employed hereunder shall re-
10 ceive necessary traveling and other expenses. The com-
11 pensation, salaries, expenses and appropriations provided
12 for the division of correction and its employees shall be
13 paid in the same manner as are those of other state em-
14 ployees and agencies upon recommendation of the director
15 and certification and approval of the commissioner of
16 public institutions.

Sec. 7. Repeal of Inconsistent Laws; Transfer of Certain
2 Functions of Board of Probation and Parole to Division
3 of Corrections.—All other laws or parts of laws incon-
4 sistent with this article are hereby repealed to the extent
5 of such inconsistency: Provided, however, That nothing
6 in this article shall be construed to affect in any way the
7 laws relating to juvenile probation. Whenever in the
8 official code of West Virginia the words “board of proba-
9 tion and parole” are used and refer to specific adminis-
10 trative and supervisory functions and duties transferred
11 to the division of correction within the office of the com-
12 missioner of public institutions by this article, the words
13 shall be construed to mean said division of correction.

CHAPTER 43
(Com. Sub. for House Bill No. 718—By Mr. Boiarsky)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections one and three, article
nine, chapter five of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, and to amend
said article by adding thereto a new section, designated
section two-a, all relating to the department of commerce.

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

**Article 9. Department of Commerce.**

Section 1. Department created; appointment, term and compensation of commissioner; divisions of department; powers and duties of commissioner and division directors.

2-a. Approval of agreements and contracts.

3. General powers and duties of department.

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Section 1. Department Created; Appointment, Term and Compensation of Commissioner; Divisions of Department; Powers and Duties of Commissioner and Division Directors.—There is hereby created in the state government a department of commerce and the office of commissioner of commerce. The commissioner shall be the chief executive officer of the department and shall be appointed by the governor by and with the advice and consent of the senate for a term of four years, which term shall run concurrently with the term of the governor or until said commissioner’s successor is appointed and qualified. The annual compensation of the commissioner shall be fixed by the governor, but not in excess of fourteen thousand dollars. There shall be in the department of commerce a planning and research division, an industrial development division, and a travel development division. Each division shall be headed by a director, who shall be appointed by the commissioner of commerce, to serve at the will and pleasure of the commissioner of commerce. Each division director shall be qualified in his respective field by special training and experience. The director of the planning and research division shall be trained and have experience in the field of state, local or national economic planning. The director of the industrial development division shall be trained and have experience in the field of industrial development. The director of the travel development division shall be trained and have experience in the field of travel development.

The commissioner of commerce shall have control and supervision of the department of commerce and shall be legally responsible for the work of each of its divisions. Under his control, each division director shall be ac-
countable to the commissioner for the work of his division. The commissioner of commerce shall have the authority to employ such assistants as may be necessary for the efficient operation of the department.

Sec. 2-a. Approval of Agreements and Contracts.—
All agreements and/or contracts of the department of commerce by and with any federal, state, county or municipal departments or agencies and any other groups which are in harmony with the purposes of this article, which said agreements and/or contracts necessitate the expenditure by the department of commerce of funds shall prior to the execution thereof by the department of commerce be submitted to the purchasing division for the approval by the director of said purchasing division of the department of finance and administration as to substance.

Sec. 3. General Powers and Duties of Department.—
The department of commerce shall have the authority and, within the limits of available funds, it shall be its duty to:

(1) Investigate, study and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interests and welfare of West Virginia business, industry and commerce, within and outside the state.

(2) Serve as a clearinghouse for industrial problems of the state.

(3) Promote and encourage the expansion and development of markets for West Virginia products.

(4) Promote and encourage the location and development of new business in the state and the maintenance and expansion of existing business.

(5) Investigate and study conditions affecting West Virginia business, industry and commerce; collect and disseminate information, and engage in technical studies, scientific investigations, statistical research and education activities necessary or useful for the proper execution of the powers and duties of the department.

(6) Plan and develop an effective business information service that will directly assist West Virginia industry
and also encourage industries outside the state to use
business facilities within the state.

(7) Compile, collect and periodically make available
scientific indices and other information relating to cur-
rent business conditions.

(8) Encourage and develop commerce with other states
and devise methods of removing trade barriers that
hamper the free flow of commerce between this and other
states, and for these purposes cooperate with interstate
commissions engaged in formulating and promoting the
adoption of interstate compacts and agreements helpful
to business, industry and commerce.

(9) Conduct or encourage research designed to further
new and more extensive uses of the natural and other
resources of the state, with a view to the development of
new products and industrial processes.

(10) Compile periodically a census of business and
industry in the state, in cooperation with other agencies,
and analyze and publish the information in such form
as to be most valuable to business and industry.

(11) Compile periodically a census of the crafts,
trades, skills and occupations of all adult persons in the
state, in cooperation with other agencies, and analyze
and publish the information in such form as to be most
valuable to business and industry.

(12) Study long-range trends and developments in
the industries of the state, and analyze the reasons un-
derlying such trends; study costs and other factors affect-
ing successful operation of businesses within the state.

(13) Advertise and publicize the material, economic
and other advantages of the state which render it a de-
sirable place for business and residence.

(14) Collect, compile and distribute information and
literature concerning the advantages and attractions of
the state, its historic and scenic points of interest, and
the highway, transportation and other facilities of the
state.

(15) Plan and carry out a program of information
and publicity designed to attract to West Virginia tourists,
visitors and other interested persons from outside the state.

(16) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions and industrial advantages of the state.

(17) Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the department for any or all of the purposes specified in this section.

(18) Publish information as an aid to planning on both community and state levels, and provide planning assistance and do planning work, including surveys, land use, studies, urban renewal plans, technical services and other elements of comprehensive planning programs, in and for any counties, cities, towns and regions; and, for this purpose, to accept and utilize any funds, personnel or other assistance made available by the federal government or any of its agencies, or made available from any other source, public or private; and, notwithstanding the provisions of any other law and for the purposes of receiving and using federal planning grants for providing urban planning assistance, to serve as the official state planning agency of the state and, to these ends, to enter into agreements or contracts regarding the acceptance or utilization of such funds or assistance for any of the purposes authorized by this article.

(19) Enter into agreements with federal and state departments or agencies, including those of other states, and any other groups which are in harmony with the purposes of this article, as well as with counties or municipalities of this state, for the promotion of and for the rendering of consultive service with respect to the planning of the county or municipality, and the agreement may provide that the county or municipality shall pay part or all of the expense of such service. In this connection, the department of commerce is hereby expressly authorized to participate in the federal planning assistance programs as set forth in the "Federal Housing Act of 1954," as amended, and any subsequent acts, to give planning assistance to municipalities, whatever their
size, and metropolitan and regional areas, and any other areas now or hereafter engaged in such activity; and to accept, on behalf of said municipalities, metropolitan and regional areas, funds provided by the government of the United States in accordance with the aforesaid "Federal Housing Act of 1954," as amended. Also, the department of commerce shall be the official state government department to administer and supervise any provisions of a federal area redevelopment act, and is expressly authorized to participate in any federal area redevelopment act within the limits of the funds that are or may be made available for such purposes.

(20) Initiate, promote and conduct, or cause to be conducted, research designed to further new and more extensive uses and consumption of natural and other resources and their by-products; and for such purposes, to enter into contracts and agreements with research laboratories maintained by educational or endowed institutions in this state, and to expend appropriations to the department for such purposes.

(21) Prepare and maintain a comprehensive plan for the physical, social, and economic development of the state; and the department shall prepare and keep current a proposed long-range program of major state improvements relating to the comprehensive development of natural and artificial resources of this state, and shall cooperate with existing federal and state departments and other agencies or groups in perfecting and promoting the aforesaid comprehensive plan.

(22) Assist voluntary county or regional councils or groups in order to help effectuate the purposes of this article on a local level.

(23) Make recommendations to the governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties, and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the department and the effective discharge of the duties of the department.
AN ACT to amend chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section one, article one thereof, and by amending and reenacting section seven, article three thereof, all relating to the authority of the director of purchases to give preference to commodities and printing produced by nonprofit workshops approved by the division of vocational rehabilitation.

Be it enacted by the Legislature of West Virginia:

That chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section one, article one thereof, and by amending and reenacting section seven, article three thereof, all to read as follows:

Article
1. Department of Finance and Administration.
3. Purchasing Division.

Article 1. Department of Finance and Administration.

Section
1. Definitions.

Section 1. Definitions.—For the purpose of this chapter:

2 “Commissioner” means the commissioner of finance and administration and, as used in article two of this chapter, the director of the budget.

3 “Board” means the board of public works.

4 “Director” means the director of the division referred to in the heading of the article in which the word appears.

5 “Spending unit” means a department, agency or institution of the state government for which an appropriation is requested, or to which an appropriation is made by the Legislature.
“Spending officer” means the executive head of a spending unit, or a person designated by him.

“Commodities” means supplies, material, equipment, contractual services, and any other articles or things used by or furnished to a department, agency or institution of the state government.

“Contractual services” shall include telephone, telegraph, electric light and power, water and similar services.

“Printing” means printing, binding, ruling, lithographing, engraving and other similar services.

“Expendable commodities” means those commodities which, when used in the ordinary course of business, will become consumed or of no market value within the period of one year or less.

“Removable property” means any personal property not permanently affixed to or forming a part of real estate.

“Nonprofit workshops” means an establishment (a) where any manufacture or handiwork is carried on, and (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, and (c) which is operated for the primary purpose of providing remunerative employment to blind and severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation.

Article 3. Purchasing Division.

Section 7. Preference given state products; nonprofit workshop products.

Section 7. Preference Given State Products; Nonprofit Workshop Products.—The director shall, in the purchases of commodities and printing, give preference, so far as may be practicable and not conflicting with the provisions of this article, to commodities and printing produced in this state.

Further, the director may, in the purchases of com-
CHAPTER 45

(Senate Bill No. 249—By Mr. Carson, Mr. President, and Mr. Lambert)

[Passed March 11, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article one, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section two-b, and to amend and reenact section one, article four of said chapter, relating to appointment of security officers by the commissioner of finance and administration, the authority and powers of such officers, the removal of the authority of the director of the general services division to appoint guards, and some of the general duties and responsibilities of such director.

Be it enacted by the Legislature of West Virginia:

That article one, chapter five-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 two-b; and that section one, article four of said chapter be amended and reenacted, all to read as follows:

Article
1. Department of Finance and Administration.
4. General Services Division.

Article 1. Department of Finance and Administration.

Section
2-b. Security officers; appointment; oath; carrying weapons; powers and duties generally, etc.
Section 2-b. Security Officers; Appointment; Oath; Carrying Weapons; Powers and Duties Generally, etc.—In addition to the other powers given and assigned to the commissioner in this chapter, he is hereby authorized to appoint bona fide residents of this state to act as security officers upon any premises owned or leased by the state of West Virginia and under the jurisdiction of the commissioner, subject to the conditions and restrictions hereinafter imposed. Before entering upon the performance of his duties as such security officer, each person so appointed shall qualify therefor in the same manner as is required of constables by the taking and filing of an oath of office as required by article one, chapter six of this code. No such person shall have authority to carry a gun or any other dangerous weapon until he shall have obtained a license therefor in the manner prescribed by section two, article seven, chapter sixty-one of this code. It shall be the duty of any person so appointed and qualified to preserve law and order on any premises under the jurisdiction of the commissioner to which he may be assigned by the commissioner. For this purpose he shall as to offenses committed on such premises have and may exercise all the powers and authority and shall be subject to all the responsibilities of regularly elected constables of the county. The assignment of security officers to any premises under the jurisdiction of the commissioner shall not be deemed to supersede in any way the authority or duty of other peace officers to preserve law and order on such premises.

The commissioner may at his pleasure revoke the authority of any such officer by filing a notice to that effect in the office of the clerk of each county in which his oath of office was filed, and in the case of officers licensed to carry a gun or other dangerous weapons by notifying the clerk of the circuit court of the county in which the license therefor was granted.

Article 4. General Services Division.

Section 1. Care, control and custody of capitol building and grounds.

Section 1. Care, Control and Custody of Capitol Buildings and Grounds.—The director shall be charged with
the full responsibility for the care, control and custody
of the capitol buildings and in this connection he shall:

(1) Furnish janitors for the capitol buildings and
grounds, together with all the departments therein, or
connected therewith, regardless of the budget or budgets,
departmental or otherwise, from which such janitors
are paid, and shall furnish janitorial supplies, light, heat
and ventilation for all the rooms and corridors of the
buildings. Under the direction of the president of the
senate and speaker of the house of delegates, the director
shall have charge of the halls and committee rooms of
the two houses and any other quarters at the state capitol
provided for the use of the Legislature or its staff, and
keep the same properly cleaned, warmed and in good
order, and shall do and perform such other duties in
relation thereto as either house may require;

(2) Furnish messenger service to the various state
departments. Department heads shall be consulted with
reference to the amount of messenger service required
for their departments. Janitor-messengers, or messengers,
shall receive from the director compensation for total
services in the same manner as other employees are paid;

(3) Have immediate control and direction of the
switchboard telephone service for the various depart-
ments of the state capitol. Changes in telephone instru-
ments or equipment in the various departments of the
state capitol shall be referred to the director, and pay-
ment for any such changes will not be honored unless
such changes have been approved by the director. A
simple accounting system shall be installed and main-
tained by the director for all telephone service to the
state departments;

(4) Landscape and take care of the lawns and gardens;

(5) Direct the making of all minor repairs to and al-
terations of the capitol buildings and governor's mansion
and the grounds of such buildings and mansion. Major
repairs and alterations shall be made under the super-
vision of the director, subject to the direction of the board.
The offices of the assistants and employees appointed
to perform these duties shall be located where desig-
nated by the board, except that they shall not be located
in any of the legislative chambers, offices, rooms or halls.
Office hours shall be so arranged that emergency or tele-
phone service shall be available at all times. The hours
of employment shall be so arranged that janitorial serv-
ice shall not interfere with other employment during
regular office hours.

CHAPTER 46
(House Bill No. 999—By Mr. Boiarzy and Mr. Cann)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections three and ten, article
two, chapter five-a of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the
department of finance and administration.

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

Article 2. Budget Division.

Section 3. Requests for appropriations; copies to legislative auditor.

Section 3. Requests for Appropriations; Copies to Leg-
islative Auditor.—The spending officer of each spending
unit, other than the Legislature and the judicial branch
of state government, shall, on or before the fifteenth day
of August of each year, submit to the commissioner a
request for appropriations for the fiscal year next en-
suing. Immediately upon receipt of such requests, the
commissioner shall transmit two copies thereof to the
legislative auditor for the use of the finance committees
of the Legislature.

Sec. 10. Preparation of Tentative Budget Submitted to
Board.—The commissioner shall prepare for the consid-
eration of the board a tentative budget for the fiscal year
next ensuing. The budget shall state actual receipts and
expenditures for the fiscal year next preceding, estimated
receipts and expenditures for the current fiscal year,
recommended expenditures for the current fiscal year
as shown in the legislative digest, and it shall state also
the requested amounts, or estimates, for the fiscal year
next ensuing with respect to:
(1) Appropriations requested by each spending unit
and requested general appropriations;
(2) The amount of the total of each appropriation to
be paid out of collections;
(3) Amounts and purposes of appropriations re-
quested other than for spending units of the state;
(4) Revenues of each of the funds of the state;
(5) A summary statement of requests and revenues
showing the amount of an anticipated surplus or deficit;
(6) Balances carried forward to July first from fiscal
year next preceding on all reappropriated accounts from
general revenue fund and general school fund;
(7) Percentage of increase or decrease by comparison
of recommended appropriation for next ensuing year with
current fiscal year.

On or before November fifteenth, the commissioner
shall submit the tentative budgets to the board. The com-
missioner shall convey to the board all explanatory and
justification statements and statements of personnel re-
quirements of spending units as reported and filed in his
office.

CHAPTER 47

(Com. Sub. for Senate Bill No. 99—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed March 8, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article three, chapter five-a of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section fourteen-a, relating to the purchasing division of the department of finance and administration; requiring prequalification disclosure by vendors, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That article three, chapter five-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-a, to read as follows:

**Article 3. Purchasing Division.**

**Section 14-a. Prequalification Disclosure by Vendors Required; Form and Contents; Register of Vendors; False Affidavits, etc.; Penalties.**

The director shall reject any bid received from any vendor unless the vendor has filed with the director an affidavit of the vendor or the affidavit of a member of the vendor's firm, or, if the vendor be a corporation, the affidavit of an officer, director, or managing agent, of such corporation, disclosing the following information: (1) If the vendor be an individual, his name and residence address, and, if he has associates or partners sharing in his business, their names and residence addresses; (2) if the vendor be a firm, the name and residence address of each member, partner or associate of the firm; (3) if the vendor be a corporation created under the laws of this state, the name and business address of the corporation; the names and residence addresses of the president, vice president, secretary, treasurer, and general manager, if any, of the corporation; and the names and residence addresses of each stockholder of the corporation owning or holding more than ten per cent of the capital stock thereof; (4) if the vendor be a foreign corporation, the name and business address of the corporation; the names and residence addresses of the president, vice president, secretary, treasurer, and general manager, if any, of the corporation; the names and residence addresses of each stockholder of the corporation owning or holding more
than ten per cent of the capital stock thereof; and a certifi-
cate from the secretary of state verifying that said foreign
corporation has qualified to do business in this state, prior
to the submission of any bid. Whenever a change occurs
in the information heretofore submitted as required, such
change shall be reported immediately in the same manner
as required in the original disclosure affidavit.

The affidavit and information so received by the direc-
tor shall be kept in a register of vendors which shall be
a public record and open to public inspection during
regular business hours in the director's office and made
readily available to the public at such time.

The director may waive the above requirements in the
case of corporations listed on any nationally-recognized
stock exchange.

Any person who makes such affidavit falsely or who
shall knowingly file or cause to be filed with the director,
an affidavit containing a false statement of a material fact
or omitting any material fact, shall be guilty of a mis-
demeanor, and, upon conviction thereof, shall be fined
not more than one thousand dollars and in the discretion
of the court, confined in jail not more than one year.

In any such case, the person convicted shall be adjudged
forever incapable of holding any office of honor, trust or
profit in this state, or of serving as a juror.

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CHAPTER 48

(Senate Bill No. 197—By Mr. Smith)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section forty-five, article three,
chapter five-a of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the right
of the state agency for surplus property to charge the
donoe of such property a fee to cover actual expenses.
Be it enacted by the Legislature of West Virginia:

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

Article 3. Purchasing Division.

Section 45. Surplus Property Agency; Authority of Director.—The purchasing division is hereby designated as a sole agency for the purposes of sections forty-four and forty-five of this article, and the director shall be the director of the state agency for surplus property. As such, he shall have sole authority to:

(a) Make such reasonable rules and regulations, require such certifications and agreements by eligible recipients of surplus property, and employ such persons as may be necessary for the accomplishment of the purposes of sections forty-four and forty-five of this article;

(b) Make such certification and enter into such agreements or understandings for and in the name of the state (including cooperative agreements with federal agencies) as may be appropriate or required by federal law or regulations in carrying out the functions hereby authorized; the state agency for surplus property shall have the right to charge the donee of such surplus property a service charge for the care and handling of donable surplus property which shall be limited to the amount necessary to pay actual expenses of current operations and to purchase necessary equipment. The service charge assessed by the state agency for surplus property for the transfer of any single item of donable surplus property shall be reasonable in relation to the costs incident to the transfer; such service charges shall be used by the state agency for surplus property to defray the general operating expenses of such state agency for surplus property;

(c) Require such reports and make such investigations and take such actions as may be necessary for the accomplishment of the purposes of this and the preceding section.
AN ACT to amend and reenact sections three and thirty-four, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said chapter by adding thereto a new article, designated article five, all relating to the leasing of grounds, buildings, office or other space by any department, agency or institution of state government.

Be it enacted by the Legislature of West Virginia:

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

Article

3. Purchasing Division.

5. Leasing of Grounds, Buildings, Office or Other Space by State Government.

Article 3. Purchasing Division.

Section

3. Powers and duties of director.

34. Conditions affecting application of article.

Section 3. Powers and Duties of Director.—The director, under the direction and supervision of the commissioner, shall be the executive officer of the purchasing division and shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the commodities and printing required by the departments of the state government;

(2) Apply and enforce standard specifications established in accordance with section five of this article, as hereinafter provided;

(3) Transfer to or between departments or sell commodities that are surplus, obsolete, or unused, as hereinafter provided;
(4) Have charge of central storerooms for the supply of departments;
(5) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose, as hereinafter provided;
(6) Direct the state agency for surplus property as provided in sections forty-four and forty-five of this article;
(7) Recommend to the commissioner that the right and privilege of a person to bid on state purchases be suspended when the director has evidence that such person has violated any of the provisions of the purchasing law or the rules and regulations of the director;
(8) Examine the provisions and terms of every contract entered into for and on behalf of the state of West Virginia which imposes any obligation upon the state to pay any sums of money or perform any particular service or do any act or deed, and approve said contract as to said provisions and terms; and the duty of examination and approval herein set forth shall not supersede the responsibility and duty of the attorney general to approve said contracts as to form: Provided, That the provisions of this subdivision shall not apply in any respect whatever to contracts entered into by the state road commissioner or commission.

Sec. 34. Conditions Affecting Application of Article.—
The application of this article shall be subject to the following conditions:
(1) The purchases of stock for state liquor stores shall be made by the West Virginia alcohol beverage control commissioner;
(2) In the purchase and contracting for textbooks by the state board of education, the director shall perform only such duties as may be required by law.

Article 5. Leasing of Grounds, Buildings, Office or Other Space by State Government.

Section
1. Prohibition on leasing of space.
2. Leasing of space by commissioner; delegation of authority when rental and costs do not exceed five hundred dollars in a fiscal year or when emergency.
3. Selection of grounds, etc.; acquisition by contract or lease.
4. Leases and other instruments signed by commissioner; form approved; filing.
5. Power and authority of commissioner generally; rules and regulations.

Section 1. Prohibition on Leasing of Space.—Notwithstanding any other provision of this code, no department, agency or institution of state government shall lease, or offer to lease, as lessee, any grounds, buildings, office or other space except in accordance with this article: Provided, That the provisions of this article except as to office space shall not apply in any respect whatever to the state road commissioner or commission.

Sec. 2. Leasing of Space by Commissioner; Delegation of Authority When Rental and Costs Do Not Exceed Five Hundred Dollars in a Fiscal Year or When Emergency.—The commissioner is authorized to lease, in the name of the state, any grounds, buildings, office or other space required by any department, agency or institution of state government: Provided, That the commissioner may expressly delegate, in writing, the authority granted to him by this article to the appropriate department, agency or institution of state government when the rental and other costs to the state do not exceed the sum of five hundred dollars in any one fiscal year or when necessary to meet bona fide emergencies arising from unforeseen causes.

Sec. 3. Selection of Grounds, etc.; Acquisition by Contract or Lease.—The commissioner shall have sole authority to select and to acquire by contract or lease, in the name of the state, all grounds, buildings, office space or other space, the rental of which is necessarily required by any spending unit, upon a certification from the chief executive officer of said spending unit that the grounds, buildings, office space or other space requested is necessarily required for the proper function of said spending unit and that satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings now owned or leased by the state. The commissioner shall, before executing any rental contract or lease, determine the reasonable market value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract
CHAPTER 50

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

Sec. 1. Reasonable market value therefor.

Sec. 4. Leases and other leases or interests in the premises, and appliances, equipment, and supplies at a price not to exceed the

See 4. Leases and Other Leases or Leases of Premises, and Appliances, Equipment, and Supplies by Com-

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

Sec. 1. Reasonable market value therefor.

Sec. 4. Leases and other leases or interests in the premises, and appliances, equipment, and supplies at a price not to exceed the

See 4. Leases and Other Leases or Leases of Premises, and Appliances, Equipment, and Supplies by Com-

Reasonable market value therefor.

for or lease said premises at a price not to exceed the

Department of Finance and Administration
and means for the enforcement of rules and regulations prescribed with respect thereto.

Be it enacted by the Legislature of West Virginia:

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

Article 6. Transportation Division.

Section 1. Division Created; Power and Duties Generally; Rules and Regulations; Exceptions.—The West Virginia transportation division of the department of finance and administration is hereby created. The commissioner of finance and administration shall promulgate rules and regulations relating to the ownership, purchase, use, storage, maintenance, and repair of all motor vehicles and aircraft owned by the state of West Virginia and in the possession of any department, institution, or agency thereof: Provided, however, That the provisions of this article shall not apply to the state road commissioner or to the department of public safety. If, in the judgment of the commissioner, economy or convenience indicate the expediency thereof, the commissioner may require all vehicles and aircraft subject to regulation by this article, or such of them as he may designate, to be kept in such garages, and other places of storage, and to be made available in such manner and under such terms for the official use of such departments, institutions, agencies, officers, agents and employees of the state as the commissioner may designate by any such rule or regulation as he may from time to time promulgate.

Sec. 2. Central Motor Pool for State-owned Vehicles and Aircraft.—The commissioner shall create a central motor pool, which pool shall be maintained by the trans-
portation division of the department of finance and administra-
tion, subject to such rules and regulations as the commissioner may from time to time promulgate. Said transportation division shall be responsible for the storage, maintenance, and repairs of all vehicles and aircraft assigned to it.

Sec. 3. Acquiring and Disposing of Vehicles.—The commissioner shall be empowered to purchase new vehicles and aircraft and dispose of old vehicles and aircraft as is practical from time to time.

Sec. 4. Employees of Transportation Division; Maintenance and Service to Vehicles and Aircraft.—The commissioner may utilize any building or land owned by the state, any department, institution or agency thereof, for the storing, garaging, and repairing of such motor vehicles and aircraft. The commissioner shall provide for the employment of a supervisor and such clerical help as needed to manage said motor pool, as well as for employment of watchmen, guards, mechanics and other labor and repair to service such vehicles and aircraft and for the purchase of gasoline, oil, and other supplies for use in connection therewith, and may utilize the facilities, services and employees of any department, institution or agency of the state to effectuate the purposes thereof.

Sec. 5. Funds of Transportation Division.—There is hereby created a special fund in the state treasury, out of which all costs and expenses incurred pursuant to this section shall be paid. All allocations of costs and charges for operating, repairing and servicing motor vehicles and aircraft made against any institution, agency or department shall be paid into such special fund by said department or agency. All funds so paid or transferred into this special fund are hereby appropriated for the purposes of this section and shall be paid out as the commissioner may designate; said funds to be transferred to include all appropriations for the acquisition, maintenance, repair and operation of motor vehicles and aircraft for the fiscal year beginning July one, one thousand nine hundred sixty-five, and as may thereafter be appropriated by the Legislature, of the de-
partments and state agencies within the purview of this article.

Sec. 6. Administration.—The commissioner is authorized to designate a director of the motor pool and to impose upon such director or any other agency of the executive department of the government, any or all administrative duties pertaining to the administration of this section.

Sec. 7. Enforcement.—If any state officer, agent or employee fails to comply with any rule or regulation of the commissioner made pursuant to the provisions of this article, the state auditor shall, upon order of the commissioner, refuse to issue any warrant or warrants on account of expenses incurred, or to be incurred, in the purchase, operation, maintenance, or repairs of any motor vehicle or aircraft now or to be in the possession or under the control of such officer, agent or employee. The commissioner may take possession of any state-owned vehicle or aircraft and transfer it to the central motor pool or to make such other disposition thereof as the commissioner may direct.

CHAPTER 51
(Com. Sub. for House Bill No. 884—By Mr. Speaker, Mr. White, and Mr. Vickers)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to repeal sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter twenty-nine of said code by adding thereto a new article, designated article sixteen, relating to the powers and duties of the director of the department of personnel, and the duties of certain state departments and agencies in relation to their personnel.
Be it enacted by the Legislature of West Virginia:

That sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that chapter twenty-nine of said code be amended by adding thereto a new article, designated article sixteen, to read as follows:

**Article 16. Department of Personnel.**

Section 1. Creation; powers and duties.

Section 2. Director; appointment; powers and duties generally; salary.

Section 3. Departments and individuals excepted.

Section 4. Certification of personnel.

Section 5. Personnel, classification and compensation schedules.

Section 6. Authority of governor.

Section 7. Separability.

**Section 1. Creation; Powers and Duties.**—There is hereby created a department of personnel which shall have the power and duty to establish a system of personnel administration, and shall exercise and perform the other powers and duties conferred upon it by this article.

**Sec. 2. Director; Appointment; Powers and Duties Generally; Salary.**—The director of the department shall be appointed by the governor, with the advice and consent of the senate, to serve at the will and pleasure of the governor, who shall have the power and duty to establish and administer a system of personnel administration based upon scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation and welfare of state personnel and other incidents of state employment, except as hereinafter specified, in order to attract to and retain in the service of this state competent and qualified personnel of the highest ability and integrity. The salary of the director shall be in the amount of ten thousand dollars annually.

**Sec. 3. Departments and Individuals Excepted.**—The provisions of this article shall not apply to:

(1) Officers and employees under the present classified service (chapter twenty-nine, article six of the code of West Virginia), whether by the express terms of the present law or by executive order of the governor made pursuant thereto, at the effective date of this article, and
8 officers and employees added to the list of personnel in
9 the classified service by executive order of the governor;
10 (2) Members of the state Legislature and other elec-
11 ted officials, and persons appointed to fill vacancies in
12 elective offices, their assistants, deputies, directors or
13 heads of major divisions and not more than one secretary
14 therefor;
15 (3) Members of boards and commissions, heads of
16 departments, and wardens and superintendents of state
17 institutions appointed by the governor or such heads of
18 departments selected by commissions or boards, their
19 assistants, deputies, directors or heads of major divisions
20 and not more than one secretary therefor;
21 (4) Judges, referees, receivers, jurors and notaries
22 public;
23 (5) The secretaries and clerks of each judge of a court
24 of record;
25 (6) Patients or inmates employed in state institu-
26 tions;
27 (7) Persons employed in a professional or scientific
28 capacity to make or conduct a temporary or special in-
29 quiry, investigation or examination on behalf of the Leg-
30 islature or a committee thereof, an executive department
31 or by authority of the governor;
32 (8) Employees of the legislative and judicial branches
33 of the state government;
34 (9) Officers and members of the teaching staff, ad-
35 ministrative personnel and students employed in institu-
36 tions under the control of the state board of education
37 and the board of governors of West Virginia University;
38 (10) Employees of the office of the governor;
39 (11) Part-time professional personnel engaged in pro-
40 fessional services without administrative duties and per-
41 sonnel employed for less than ninety working days a
42 year.

 Sec. 4. Certification of Personnel.—The spending offi-
2 cer of each spending unit, within thirty days prior to
3 the beginning of each fiscal year, shall certify to the
4 director a schedule of personnel appointed to or employed
5 by the spending unit, and showing the personnel classifi-
6 cation and compensation approved for such personnel.
Amounts appropriated for personal services shall be expended upon requisition only for the appointees and employees included upon the personnel schedule and only in accordance with the rate of compensation shown by the schedule.

Sec. 5. Personnel, Classification and Compensation

Schedules.—The director shall prepare schedules of the approved or certified personnel showing the personnel employed in each spending unit of the state government and the classification and compensation authorized to be paid for each person employed. Such schedules shall be preserved as a public record and shall be open to inspection by any person showing good cause.

Sec. 6. Authority of Governor.—The governor is hereby authorized to direct by executive order the transfer to the department of personnel of such records and equipment, the performance by the department of such additional functions and duties, and the discontinuance of such functions and duties of other state officers, agencies and departments as may be necessary to effectuate the purposes of this article.

Sec. 7. Separability.—If any provision of this article or of any rule, regulation or order promulgated or issued thereunder or the application of such provision to any person or circumstance shall be held invalid the remainder of this article and the application of such provision of this article or of such rule, regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

CHAPTER 52
(Com. Sub. for Senate Bill No. 34—By Mr. Kaufman)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

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 the ap-
application for a marriage license, and the requirements for the issuance of a marriage 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 Issuance of License.—Every license for marriage shall be issued by the clerk of the county court of the county in which the female to be married usually resides except, in cases of a female who is a nonresident of the state of West Virginia, by the clerk of the county court of the county in which application is made: Provided, That such license shall be issued not sooner than three days after the filing with said clerk of a written application therefor. The day upon which such application is filed shall be counted as the first day, but two full days shall elapse after the day of such filing before the license shall be issued: Provided, however, That before any such license is issued each applicant therefor shall file with the clerk a certificate or certificates from any physician duly licensed in the state, stating that each party thereto has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than thirty days prior to the date on which such license is issued, and stating that in the opinion of the physician the person therein named either is not infected with syphilis or, if so infected, is not in the state of the disease which is or may later become communicable. Such examinations and tests as are required hereunder may be given as provided by section nineteen, article four, chapter sixteen of this code.

The application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by both of the parties to the contemplated marriage, under oath before the clerk of the county court or
before a person authorized to administer oaths under the
laws of this state. At the time of the execution of such
application, the clerk, or the person administering the
oath to the applicants, shall require some evidence of the
age of each of the applicants. Evidence of the age of
each applicant may be in the form of a certified or photo-
static copy of a birth certificate, a voter’s registration
certificate, an operator’s or chauffeur’s license, an affidavit
of both parents of the applicant or other good and suf-
ficient evidence of such age. Where such an affidavit is
relied upon as evidence of the age of an applicant, and
one parent is dead, the affidavit of the surviving parent
or of the guardian of the applicant shall suffice; if both
parents are dead, the affidavit of the guardian of the ap-
plicant shall suffice. If the parents of the applicant are
living separate and apart, the affidavit of the parent having
the custody of the applicant shall suffice. Such applica-
tion shall be recorded in the register of marriages pro-
vided for in section eleven of this article. The date of
the filing of the application shall be noted in said register.
which notation, or a certified copy thereof, shall be legal
evidence of the facts therein contained.

To the extent otherwise provided by section six-c of
this article, the provisions of this section shall not apply.
No application for license shall be received nor any li-
cense issued on any Sunday, or before the hours of eight
o’clock a. m. and after five o’clock p. m. on any week day.

CHAPTER 53

(Senate Bill No. 33—By Mr. Brotherton)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article one, chap-
ter forty-eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the con-
sent of parents or a guardian to the marriage of a minor.
Be it enacted by the Legislature of West Virginia:

That section eight, 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 8. Consent of parents, parent or guardian.

Section 8. Consent of Parents, Parent or Guardian.—If any person intending to marry be under twenty-one years of age, and has not been previously married, the consent of the parents of such person, or of the parent living, or, if the parents be living separate and apart, of the one to whom was awarded the custody of such person, or, if there be a guardian entitled to the custody of such person, then of such guardian, shall be given either personally to the clerk of the county court or in writing subscribed by such parents, parent or guardian, as the case may be, and duly acknowledged before an officer authorized to take the acknowledgment of deeds.

CHAPTER 54

(Com. Sub. for Senate Bill No. 9—By Mr. Carson, Mr. President, and Mr. Hubbard)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]
amended by adding thereto a new section, designated section one-a, and that section one, article three, chapter forty-nine of said code be amended and reenacted, all to read as follows:

Chapter
48. DOMESTIC RELATIONS.
49. CHILD WELFARE.

CHAPTER 48. DOMESTIC RELATIONS.

Article 4. Adoption.

Section
1-a. Revocation of consent or relinquishment for adoption.

Section 1-a. Revocation of Consent or Relinquishment for Adoption.—Parental consent or relinquishment of legal custody for adoption purposes, if given prior to the expiration of seventy-two hours after the birth of the child, may be revoked by such parent within ten days after the birth of said child. Except as provided in the preceding sentence and except where a court of competent jurisdiction finds that such consent or relinquishment for adoption was obtained by fraud or duress, no consent or relinquishment of legal custody for adoption of a child, whether given by an adult or a minor, shall be revocable:

Provided, That a relinquishment of legal custody for adoption of a child given by a minor parent or parents to a licensed private child welfare agency or to the state department of welfare shall be revocable unless the relinquishment was given in compliance with section one, article three, chapter forty-nine of the code: Provided, however, That the foregoing proviso shall not be construed as precluding a minor parent or parents from consenting to the adoption of his or her or their child by an individual or individuals.

CHAPTER 49. CHILD WELFARE.


Section
1. Private and public child welfare agencies.

Section 1. Private and Public Child Welfare Agencies.—Whenever a child welfare agency licensed to place children for adoption or the state department of welfare shall have been given the permanent care, custody and guard-
ianship of any child and the rights of the parents of such child shall have been terminated by order of a court of competent jurisdiction or by a legally executed relinquishment of parental rights, the child welfare agency or department of welfare may consent to the adoption of such child pursuant to the statutes regulating adoption proceedings. The parents or the surviving parent of a child or the mother of an illegitimate child may relinquish the child to a child welfare agency licensed to place children for adoption, or to the department of welfare, by a written statement acknowledged as deeds are required to be acknowledged by law: Provided, That if either of the parents of such child is under twenty-one years of age, such relinquishment shall not be valid unless and until the same shall have been approved in writing by a judge of a court having jurisdiction of adoption proceedings in the county in which such parent may reside or in which such relinquishment is made. Notwithstanding any other provision in this article, no minor parent or parents shall be required to go before any court in order to execute a consent to the adoption of his, her, or their child by an individual or individuals.

CHAPTER 55

(House Bill No. 789—By Mr. Poindexter and Mr. Pauley, of McDowell)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the Governor.]

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-h, relating to the acquisition, construction and regulation of parking facilities at the colleges and universities under the control and management of the state board of education.
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-h, to read as follows:

Article 2. State Board of Education.

Section 13-h. Acquisition and operation of college or university parking facilities.

Section 13-h. Acquisition and Operation of College or University Parking Facilities.—The state board of education is hereby authorized to construct, maintain and operate automobile parking facilities upon any premises owned or leased at any college or university under its jurisdiction for use by students, faculty, staff and visitors. Such facilities shall be open to use on such terms and subject to such reasonable regulations as may be prescribed by the state board of education. A summary of the regulations shall be posted conspicuously in each parking area.

The state board of education shall have authority to charge fees for use of the parking facilities under its control. All moneys collected for such use shall be paid into a special fund which is hereby created in the state treasury. The moneys in such fund shall be used first to pay the cost of maintaining and operating such facilities, but any excess not needed for this purpose may be used for the acquisition of property by lease or purchase and the construction thereon of additional parking facilities. Any money in the fund not needed immediately for the acquisition, construction, maintenance, or operation of such facilities may be temporarily invested by the institution in the state sinking fund.

Whenever a vehicle is parked on any college or university parking facility in violation of the posted regulations, the institution shall have authority to remove the vehicle, by towing or otherwise, to an established garage or parking lot for storage until called for by the owner or his agent. The owner shall be liable for the reasonable cost of such removal and storage, and until payment of such cost the garage or parking lot operator
may retain possession of the vehicle subject to a lien for
the amount due. Notice to this effect shall be posted
conspicuously in each parking area. The garage or park-
ing lot operator may enforce his lien for towing and
storage in the manner provided in section fourteen, ar-
ticle eleven, chapter thirty-eight of this code, for the en-
forcement of other liens.

CHAPTER 56
(House Bill No. 869—By Mr. Poling)

(Passed March 3, 1965: in effect ninety days from passage. Approved by the Governor.)

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 sixteen-a, relating to state camp and conference center.

Be it enacted by the Legislature of West Virginia:
That article two, chapter eighteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section sixteen-a, to read as follows:

Article 2. State Board of Education.

Section 16-a. Construction of buildings and recreational facilities at state camp and conference center; charges for use; financing by revenue bonds permissible.

Section 16-a. Construction of Buildings and Recreational Facilities at State Camp and Conference Center;
Charges for Use; Financing by Revenue Bonds Permis-
sible.—The West Virginia board of education is hereby authorized to construct, erect, acquire and improve dining halls, cottages, and such other building or buildings or recre-
tational facilities as it shall deem necessary and beneficial for the proper conduct and management of the camp and conference center and may charge such rates, fees, rentals
CHAPTER 57

(Com. Sub. for Senate Bill No. 102—By Mr. Carson, Mr. President, and Mr. McKown)

[Passed March 13, 1965: in effect July 1, 1965. Approved by the Governor.]

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 twenty-three, relating to comprehensive educational programs and financial support thereof.

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 twenty-three, to read as follows:
Article 2. State Board of Education.

Section 23. Comprehensive Educational Programs; Standards, etc.; Evaluation and Approval; Allocation and Distribution of Funds; Distribution of Excess Funds.—The West Virginia board of education, through the state superintendent of schools, shall establish standards and criteria especially designed to guide the development of plans for a comprehensive educational program or programs in county school systems, to provide for their evaluation and approval, and to provide, as herein directed, for the allocation and distribution of state funds, which may be appropriated to assist county school systems to meet additional costs of development and operation of such programs. The plans shall include, but need not be restricted to an analysis of existing program area deficiencies and the procedures for their correction. The plans shall be submitted to and be approved by the West Virginia board of education.

County plans shall include one or more of the following: (1) A plan to initiate comprehensive educational programs in any or all areas or parts of the curriculum, and provide necessary supporting services, or (2) a plan to provide for the maintenance or extension of areas or parts of comprehensive educational programs developed or established under this section, or (3) a plan to give essential aid for instruction or supporting services for enrichment of curriculum in schools designated as isolated by the West Virginia board of education where consolidation of schools or the development of county comprehensive educational programs are not possible or feasible.

The state superintendent of schools shall provide assistance to counties in the development and preparation of their plans for a comprehensive educational program or programs in order to insure that every county may have the opportunity to fully participate and receive its maximum share of the funds available. All plans shall be submitted to the West Virginia board of education on or before the first day of July of the school year in
which they are operative. The state superintendent of schools shall as soon as possible and before the first day of August each year notify any county whose plan fails to receive approval specifying the manner in which the plan fails to meet the criteria established and suggesting the necessary corrections. If the county modifies its plan so that its program or programs become acceptable on or before the first day of September of that year, the county shall be entitled to receive the computed share of its allocation for which it is eligible under its approved plan.

The total potential cost of the comprehensive educational program for each county shall be determined prior to the first day of July by multiplying the applicable net enrollments at the close of the third month of the current school term by the following amounts: Ten dollars for an adult in a public school program; ten dollars per senior high school student; seven dollars and fifty cents per junior high school student; and five dollars per elementary school student, including kindergarten. If the appropriation is not sufficient to provide for all counties their total potential costs as herein set forth, the allocation to all counties shall be reduced proportionately to secure a total which matches the appropriation.

Funds allocated to the counties shall be distributed to them annually not later than the first day of November on the basis of net enrollment in approved programs which are part of their current comprehensive educational plan and the funds distributed shall be computed as provided herein.

The West Virginia board of education shall establish by regulation the number of areas in which a county shall participate to qualify for full or partial distribution of its allocation. The number of curriculum areas in which a county shall be required to participate to qualify for its full allocation shall depend upon factors such as county size, population sparsity, topography and availability of school staff personnel. In no case shall the allocation for any one county exceed the amount derived from application of the maximum pupil allocation as hereinbefore set forth.
If the county plans approved by the first day of September do not utilize the total allocations by reason of the plan or plans of one or more counties not requiring the full allocations or by failure of one or more counties to submit an acceptable plan or plans by the first day of September, then those moneys which were available to such county or counties shall be declared by the state board of education to be excess funds. These excess funds shall be available for that year only for special distribution. All counties shall be eligible for additional moneys as a special distribution from excess funds if, and to the extent that, such county or counties approved plan or plans requires funds in excess of the amount allocated to each county on or before the first day of September: Provided, That no county may receive any funds in excess of its total potential cost as determined prior to the first day of July. If the moneys for which the counties are eligible from the special distribution of excess funds exceed the total amount available for such distribution, the special distribution to each county shall be reduced proportionately. It is the intention to distribute all excess funds, in any given year, on a prorata basis to all counties who have approved comprehensive educational programs for that year and who have not received their total potential funds.

Appropriations for the purpose of this section shall be used only to meet the requirements of the allocation schedule and of approved county plans.

CHAPTER 58
(Senate Bill No. 134—By Mr. McKown and Mr. Floyd)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of county superintendents.
Be it enacted by the Legislature of West Virginia:
That section four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:


Section 4. Compensation; Master's Degree or Equivalent Required for New Appointee.

Section 4. Compensation; Master's Degree or Equivalent Required for New Appointee.—On or before the first day of May of the year in which the superintendent is appointed, the board shall fix the annual salary of the superintendent for the period of appointment for the term beginning on the first day of July following. The board shall pay the salary from the general current expense fund of the district: Provided, That, beginning with the effective date of this section, any newly appointed superintendent and not now employed and/or serving as superintendent, shall not only have met the requirements set forth in section two of this article but in addition thereto shall hold at least a master's degree or its equivalent obtained in an institution of higher education approved to offer graduate work and that such work shall be related to public school education.

CHAPTER 59
(Com. Sub. for Senate Bill No. 29—By Mr. Carson, Mr. President, and Mr. McKown)

[Passed February 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend article nine-a of said chapter by adding thereto a new section, designated section twelve-a, relating to salaries for teachers and improvement of supporting services.
Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that article nine-a of said chapter be amended by adding thereto a new section, designated section twelve-a, all to read as follows:

**Article 7. Teachers.**

Section 2. Salaries for teachers; basic salaries; advanced salaries.

**Section 2. Salaries for Teachers; Basic Salaries; Advanced Salaries.—**For the purpose of this section, assistant superintendents, directors and supervisors of instruction, and elementary and secondary principals shall be defined as teachers. Salaries shall be defined as: (a) "Basic salaries" which shall mean the salaries paid to teachers with zero years of experience and in accordance with the classification of certification and of training of said teachers; and (b) "advanced salaries" which shall mean the basic salary plus an experience increment based on the allowable years of experience of the respective teachers in accordance with the schedule established herein for the applicable classification of certification and of training of said teachers. "Classification of certification" means the class or type of certificate issued by the state superintendent of schools under the statutory provisions of this chapter. "Classification of training" means the number of collegiate or graduate hours necessary to meet the requirements stipulated in the definitions set forth in the next paragraph in items (2) to (10), inclusive.

The column heads of the state minimum salary schedule, set forth below, are defined as follows:

1. "Years experience" means the number of years taught by the teacher and allowed under each classification of the said state minimum salary schedule.

2. "Fourth Class" means all certificates previously identified as (a) "certificates secured by examination,"
(b) "other first grade certificates," and (c) "short course certificates."

(3) "Third Class" means all certificates previously identified as (a) "standard normal certificates" and (b) "third class temporary (sixty-four semester hours) certificates."

(4) "Second Class" means all certificates previously identified as "second class temporary certificates based upon the required ninety-six hours of college work."

(5) "B.A." means a bachelor's degree, from an accredited institution of higher education, which has been issued to, or for which the requirements for such have been met, by a person who qualifies for and holds a professional certificate or its equivalent.

(6) "B.A. + 15" means a bachelor's degree as defined above plus fifteen hours of graduate work, from an accredited institution of higher education certified to do graduate work, in an approved planned program at the graduate level which requirements have been met by a person who qualifies for and holds a professional certificate or its equivalent under the above-defined bachelor's degree.

(7) "M.A." means a master's degree, earned in an institution of higher education approved to do graduate work, which has been issued to or the requirements for such have been met by a person who qualifies for and holds a professional certificate under the above-defined bachelor's degree.

(8) "M.A. + 15" means the above-defined master's degree plus fifteen hours of graduate work, earned in an institution of higher education approved to do graduate work: Provided, That the person is qualified and holds a professional certificate or its equivalent.

(9) "M.A. + 30" means the above-defined master's degree plus thirty graduate hours, earned in an institution approved to do graduate work: Provided, That the person holds or is qualified to hold a professional certificate or its equivalent.

(10) "Doctorate" means a doctor's degree, which is of the type normally associated with the educational system,
from a university qualified and approved to confer such a degree: *Provided*, That the person who holds or is qualified to hold such a degree meets the requirements for a professional certificate or its equivalent.

### State Minimum Salary Schedule

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<th>B.A.</th>
<th>M.A.</th>
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The state board of education shall establish the minimum salary schedule for teachers where specialized training may be required for vocational, technical and adult education and such other permits as may be authorized by said board.

County boards of education in fixing the salaries of teachers shall use as a minimum the salaries in the schedule set forth above as to classification of certification and of training and as to the years of experience, said schedule being based upon a ten-month employment term. For teachers employed for a longer or shorter term, or on a part-time basis, said minimum salary shall be in ratio to said schedule in accordance with the classification and experience of such teachers. Salaries under said schedule shall be uniform throughout the state as to certification classification, as to training, and as to experience.
County boards of education may establish for teachers local salary schedules which shall be in excess of the minimums scheduled by this section. Such county schedules shall be uniform throughout the county as to classification of certification, of training, and as to the experience of the teachers.

In addition thereto, said boards may fix higher salaries for teachers assigned to or employed for duties other than regular instructional duties, for teachers of one-teacher schools, for principals, and for other supervisory and administrative personnel; and may provide additional compensation for any teacher assigned duties in addition to his regular instructional duties wherein such non-instructional duties are not a part of the scheduled hours of the regular school day, as may be defined by the state board. Such additional salary increments or compensation shall conform to the regulations of the state board of education and such shall be uniform for all persons performing like duties within said county.

Upon the change of the certification or training classification of any teacher, his salary shall be made to comply with requirements of state schedules and of any county schedules, where such exist, based upon his new classification and allowable years of experience thereunder.

In determining the number of regular terms of school a teacher has taught, county boards of education shall credit as teaching experience: (1) Active work in educational positions other than teaching and (2) service in the armed forces of the United States provided the teacher was under contract to teach at the time of his induction.

No teacher shall be given credit for more than one year of experience for any school year.

The above state minimum salary schedule for teachers shall go into effect in the order of the following steps:

Step one—During the school year one thousand nine hundred sixty-five—sixty-six: (1) The basic salaries for all teachers shall be increased an amount equal to one half the difference between the salaries established in the above state minimum salary schedule, except columns (6), (8), and (9), adjusted to an employment term of nine
and one-half months, and the legal minimum basic salaries
which were in effect during the school year one thousand
nine hundred sixty-four—sixty-five; (2) the experience
increment for all teachers shall be increased an amount
equal to one third the difference between the experience
increment established in the above state minimum salary
schedule, adjusted to an employment term of nine and
one-half months, and the legal minimum experience in-
crements which were in effect during the school year one
thousand nine hundred sixty-four—sixty-five.

Step two—During the school year one thousand nine
hundred sixty-six—sixty-seven: (1) The basic salaries for
all teachers shall be those established in the above state
minimum salary schedule, except columns (6), (8), and
(9), adjusted to an employment term of nine and one-
half months; (2) the experience increment for all teach-
ers shall be increased an amount equal to one half the
difference between the experience increment established
in the above state minimum salary schedule, adjusted to the
employment term of nine and one-half months, and the ex-
perence increments which were in effect during the school
year one thousand nine hundred sixty-five—sixty-six.

Step three—Beginning with the school year one thou-
sand nine hundred sixty-seven—sixty-eight, and for each
year thereafter, the basic and advanced salaries shall be
those established in the above state minimum salary
schedule.

Any board of education failing to comply with the pro-
visions of this section may be compelled to do so by
mandamus.

Article 9-a. Allocation of State Aid for Schools.

Section 12-a. Improvement of supporting services.

Section 12-a. Improvement of Supporting Services.—
2 For the purpose of providing supplementary aid to the
3 counties for the improvement of supporting services to
4 the instructional program, there shall be allocated an
5 amount equal to thirty-five per cent of the difference be-
6 tween the current allocation made under the provisions
7 of section twelve of this article and that allocation made
under the provisions of said section twelve for the school
year one thousand nine hundred sixty-four—sixty-five.
The amount so determined shall be distributed among
the counties on a per pupil basis, with one half allocated
according to net enrollment and the remaining one half
according to weighted pupils.

Appropriations under this section shall go into the cur-
rent expense fund of the county school budget and shall
not be used as a substitute for any expenditure in
the current operating program, now in effect in any
county, which is supported in whole or in part in any
county by regular or special levies: Provided, however,
That no moneys so appropriated shall be used for sites
and buildings in the capital outlay item of such fund.
Further, the intent of this section is that the improvement
and procurement of instructional supporting services such
as instructional aids and aides, secretarial help, custodial
care, ordinary maintenance, transportation, and the pro-
tection of all school personnel in such areas as salaries,
social security, sick leave and workmen’s compensation
shall be the first charge upon the use of such funds.

CHAPTER 60

(House Bill No. 576—By Mr. Speaker, Mr. White, and
Mr. Boiarsky)

[Passed March 10, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section twenty-six-a, article
seven-a, chapter eighteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to additional benefits for certain annuitants under the state
teachers’ retirement system.

Be it enacted by the Legislature of West Virginia:

That section twenty-six-a, 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:
Article 7-a. State Teachers’ Retirement System.

Section 26-a. Additional benefits for certain annuitants.

Section 26-a. Additional Benefits for Certain Annuitants.—Annuitants whose annuities were approved by the retirement board on or before December eighteen, one thousand nine hundred sixty-two, shall, upon written application, receive in addition to such approved annuities a monthly allowance computed as follows: The annuitant’s years of service shall be multiplied by thirty dollars and this product shall then be divided by his monthly retirement allowance, as computed prior to the above-stated date, excluding any portion of said allowance which is based on voluntary deposits of the annuitant.

In addition thereto, beginning July one, one thousand nine hundred sixty-five, each annuitant under the provisions of this section shall receive a monthly amount equal to seventy-six cents multiplied by his total service credit.

CHAPTER 61

(House Bill No. 573—By Mr. England)

Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.

AN ACT to amend and reenact section thirty-four, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the amount of maximum loan to members of teacher retirement system.

Be it enacted by the Legislature of West Virginia:

That section thirty-four, 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:
Article 7-a. State Teachers' Retirement System.

Section 34. Loans to members.

Sections 34. Loans to Members.—A member of the retirement system upon written application may borrow from his individual account in the teachers' accumulation fund, subject to these restrictions:

1. Loans shall be made in multiples of ten dollars, the minimal loan being forty dollars and the maximum being one thousand two hundred dollars.

2. Loans to any one member shall not exceed one half of his contributions to his individual account in the teachers' accumulation fund.

3. Interest charged on the amount of the loan shall be six per cent per annum, and minimal interest charge shall be for six months.

4. No member shall be eligible for more than one loan in any one year, except in cases of accidents, illness requiring medical or hospital care for himself or a member of his immediate family.

5. If a refund or benefit is payable to the borrower or his beneficiary before he repays the loan with interest, the balance due with interest to date shall be deducted from such benefit or refund.

6. From his monthly salary as a teacher the member shall pay the loan and interest by deductions which will pay the loan and interest in not more than twenty-four nor less than six months. Upon notice of loan granted and payment due, the employer shall be responsible for making such salary deductions and reporting them to the retirement board. At the option of the retirement board, loan deductions may be collected as prescribed herein for the collection of members' contribution, or may be collected through issuance of warrant by employer. If the borrower decides to make loan payments while not paid for service as a teacher, the retirement board must accept such payments.
CHAPTER 62

(House Bill No. 668—By Mr. Speaker, Mr. White)

[Passed February 24, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two-d, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authorization of temporary investment of funds of county boards of education raised by levy or by the sale of bonds.

Be it enacted by the Legislature of West Virginia:

That section two-d, 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:

Article 9. School Finances.

Section 2-d. Authorizing temporary investment of funds raised by levy or the sale of bonds.

Section 2-d. Authorizing Temporary Investment of Funds Raised by Levy or the Sale of Bonds.—Any funds of a county board of education raised by levy or by the sale of bonds which cannot be used within a reasonable time may be transferred to the state sinking fund commission for investment, except as otherwise provided in this chapter.

CHAPTER 63

(House Bill No. 913—By Mr. Schupbach)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article ten-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to the authority of the division of
vocational rehabilitation to enter into contracts with private persons, and to pay the clients of that division a remuneration for work done under said contracts.

Be it enacted by the Legislature of West Virginia:

That article ten-b, 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 nine, to read as follows:

Article 10-b. Vocational Rehabilitation Centers and Workshops.

Section 9. Contracts for Supplying Goods and Services; Remuneration to Client; Vocational Rehabilitation Industries Account.—Whereas, it is considered to be an essential part of any complete rehabilitation program to provide remunerative employment to severely handicapped or blind persons in order to prepare them to take their place in the competitive labor market, the division is hereby authorized to:

(a) Enter into contracts with any person, firm, corporation or association for the provision of goods and services by the division;

(b) Provide remuneration to the clients of the division from the proceeds of said contracts based upon standards established by the director of the division:

Provided, however, That said clients so paid shall in no way be considered employees of the state for any purpose whatsoever. To effectuate the provisions of this section, there is hereby created a special revolving account in the office of the state treasurer designated "vocational rehabilitation industries account." All moneys collected by the division from the sale or disposition of articles, products manufactured, and services provided by the clients of the division in accordance with the provisions of this article shall be deposited in said special account, and shall be used solely for the purchase of manufacturing supplies, equipment, machinery and materials used to carry out the purposes of this article, as well as for the
28 payment of remuneration to the clients of the division
29 who are utilized in the manufacture of said products or
30 articles. The division may deposit into said account an
31 initial amount which the director determines necessary
32 to establish the program herein authorized, and may
33 deposit additional amounts in said account as from time
34 to time may become necessary to continue said program.
35 All funds so deposited shall be from moneys appropriated
36 therefor, or which are made available by the federal gov-
37 ernment or other sources for such purposes.

CHAPTER 64

(House Bill No. 729—By Mr. Mentz and Mr. Bowling)

[Passed March 3, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section one, article nineteen,
chapter eighteen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to edu-
cational opportunities for children of deceased soldiers,
sailors and marines.

Be it enacted by the Legislature of West Virginia:

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

Article 19. Educational Opportunities for Children of De-
ceased Soldiers, Sailors and Marines.

Section
1. Appropriation to provide educational opportunities.

Section 1. Appropriation to Provide Educational Op-
2 portunities.—For the purpose of providing educational
3 opportunities for the children of those who served in the
4 army, navy or marine corps of the United States during
5 the world war from April sixth, one thousand nine hun-
6 dred seventeen, to July second, one thousand nine hun-
7 dred twenty-one, or served in the armed forces of the
United States of America at any time between December first, one thousand nine hundred forty-one, and the declaration of peace by the Congress of the United States, or served in the armed forces of the United States of America at any time between June twenty-seventh, one thousand nine hundred fifty, and January thirty-first, one thousand nine hundred fifty-five, all dates inclusive, and who were killed in action or have died or may hereafter die from disease or disability resulting from such war service, there shall be appropriated from the state fund general revenue the sum of at least five thousand dollars for each fiscal year commencing July first and ending on June thirty of each year of the next biennium to be used for the benefit of such children while attending state education or training institutions.

CHAPTER 65

(House Bill No. 906—By Mr. Watson)

(Passed March 10, 1965; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article one-a by adding thereto a new section, designated section one-d, relating to the imposition, collection and use of tuition and other student fees at state educational institutions, including the imposition and collection of student union fees and the use thereof to finance the cost of construction of student union or combination student union-dining buildings at such institutions.

Be it enacted by the Legislature of West Virginia:

That section one, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article one-a be further amended by adding thereto a new section, designated section one-d, all to read as follows:
Article 1-a. Fees and Other Money Collected at State Institutions.

Section 1. Enrollment and Other Fees at Educational Institutions; Refund of Fees.

1-d. Disposition and use of student union fees; issuance, etc., of revenue bonds.

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, and branch college fees, or either, if the establishment and operation of graduate centers or branch colleges 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 or at any branch college shall be paid into special funds and shall be used solely for the maintenance and operation of the graduate center or branch college at which they were collected: Provided, however, That except in the case of graduate center fees or branch college fees, the minimum tuition fee for full-time resident students shall be twenty-five dollars per semester and the minimum tuition fee for full-time nonresident students shall be one hundred seventy-five dollars per semester at all state institutions of higher education except West Virginia University: And provided further, That the minimum tuition fee for full-time resident students at West Virginia University shall be forty dollars per semester and the minimum tuition fee for full-time nonresident students at West Virginia University shall be two hundred five dollars per semester: And provided further, That except for graduate center fees, branch college fees, and the student union fees herein-after authorized, the maximum fees to be collected under this section for resident students shall not exceed two
hundred dollars per semester; and for nonresident stu-
dents, five hundred dollars per semester. The schedule
of all fees, and any changes therein, shall be entered in
the minutes of the meeting of the governing board, and
the governing board shall file with the state auditor and
director of the budget division a certified copy of such
schedule and changes.

In addition to the fees mentioned in the preceding
paragraph, the governing board of any state educational
institution may impose and collect a student union build-
ing fee. All such building fees collected at the institution
shall be paid into a special student union building fund
for such institution, which is hereby created in the state
treasury, and shall be used only for the construction,
operation, and maintenance of a student union building
or a combination student union-dining hall building or
for the renovation of an existing structure for use as a
student union building or a combination student union-
dining hall building or for the payment of the principal
of and interest on any bonds issued to finance part or all
of the construction of a student union building or a com-
bination student union-dining hall building or the reno-
vation of an existing structure for use as a student union
building or a combination student union-dining hall
building, all as more fully provided in section one-d of
this article. Any moneys in such funds not immediately
needed for such purposes may be invested in any such
bonds or other securities as are now or may hereafter be
authorized as proper investments for state funds.

Refund, as an erroneous payment, may be made of any
such fees, upon the voluntary or involuntary withdrawal
from classes of any student, until eight weeks of the
school semester or term have expired, but no refund may
be made thereafter.

Sec. 1-d. Disposition and Use of Student Union Fees;
Issuance, etc., of Revenue Bonds.—Wherever the term
“student union building” is used in this section the same
shall mean a student union building or a combination stu-
dent union building and dining hall building; and where-
ever the term “building fund” is used in this section the
same shall mean the respective special student union building funds created as provided in section one of this article for each state educational institution which has imposed student union fees pursuant to section one of this article, to be expended by the board of governors of West Virginia University for the benefit of West Virginia University and Potomac state college of West Virginia University, and by the West Virginia board of education for the benefit of the state educational institutions under its control.

The respective boards may make expenditures from such building funds at the various state educational institutions under their control to finance in whole or in part, together with any federal, state or other grants or contributions, any one or more of the following purposes:

1. The construction and acquisition of new student union buildings.
2. The acquisition, renovation and improvement of existing buildings to be used as student union buildings.
3. The construction of additions, extensions and improvements to existing student union buildings.
4. The acquisition of furnishings and equipment for any existing student union buildings or student union buildings to be constructed or acquired, or the construction of any roads, utilities or other properties, real or personal, or for any other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of such student union buildings.
5. The repayment of the cost of the operation and maintenance of such student union buildings, subject however to any covenants or agreements made with the holders of revenue bonds heretofore or hereafter issued pursuant to this section or pursuant to section one of this article.

The respective boards, at their discretion, may use the moneys in such building funds to finance the costs of the above purposes on a cash basis, or may from time to time issue revenue bonds of the state as provided in this section to finance all or part of such purposes and pledge all or any part of the moneys in such building funds for the payment of the principal of and interest on such revenue bonds, and for reserves therefor. Any pledge of such building funds for such revenue bonds
shall be a prior and superior charge on such special funds over the use of any of the moneys in such funds to pay for the cost of any of such purposes on a cash basis, or for the payment of the cost of operation and maintenance, or any part thereof, of such student union buildings, under such terms and conditions as shall be provided in the proceedings which authorized the issuance of such revenue bonds.

Such revenue bonds may be authorized and issued from time to time by the respective boards to finance in whole or in part the purposes at any state educational institution under their control provided for in this section in an aggregate principal amount not exceeding the amount which the respective boards shall determine can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in such building funds.

The issuance of such revenue bonds shall be authorized by a resolution adopted by the respective board, and such revenue bonds shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates; bear interest at such rate or rates not exceeding five per centum per annum; be in such form either coupon or registered, with such exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places, within or without the state; be subject to such terms of prior redemption at such prices not exceeding one hundred five per centum of the principal amount thereof; and shall have such other terms and provisions as such respective board shall determine. Such revenue bonds shall be signed by the governor and by the president of the respective board authorizing the issuance thereof, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the president of such respective board. Such revenue bonds shall be sold in such manner as the respective board may determine to be for the best interests of the state, such sale to be made at a price not lower than a price which will show a net return of not more than six per centum per annum to the purchaser upon the
amount paid therefor computed to the stated maturity
dates of such revenue bonds without regard to any right
of prior redemption.

Such respective boards may enter into trust agree-
ments with banks or trust companies, within or without
the state, and in such trust agreements or the resolutions
authorizing the issuance of such bonds may enter into
valid and legally binding covenants with the holders of
such revenue bonds as to the custody, safeguarding and
disposition of the proceeds of such revenue bonds, the
moneys in such building funds, sinking funds, reserve
funds, or any other moneys or funds; as to the rank and
priority, if any, of different issues of revenue bonds issued
by the same board for the same educational institution
under the provisions of this section; as to the mainte-
nance or revision of the amounts of such student union
fees, and the terms and conditions, if any, under which
any of such student union fees may be reduced; and as
to any other matters or provisions which are deemed
necessary and advisable by such respective board in
the best interests of the state and to enhance the market-
ability of such revenue bonds.

Any revenues or income derived from the operation of
such student union buildings may, in the discretion of
the respective boards, be used to pay the cost of the
operation and maintenance of such student union build-
ings, or for the debt service on any bonds issued pur-
suant to this section or pursuant to any other law.

After the issuance of any of such revenue bonds, the
student union fees at the state educational institution
for which such revenue bonds were issued shall not be
reduced as long as any of such revenue bonds are out-
standing and unpaid except under such terms, provi-
sions and conditions as shall be contained in the resolu-
tion, trust agreement or other proceedings under which
such revenue bonds were issued.

Such revenue bonds shall be and constitute negotiable
instruments under the law merchant and the negotiable
instruments law of the state; shall, together with the
interest thereon, be exempt from all taxation by the state
of West Virginia, or by any county, school district, mu-
nicipality or political subdivision thereof; and such rev-
eue bonds shall not be deemed to be obligations or debts
of the state, and the credit or taxing power of the state
shall not be pledged therefor, but such revenue bonds
shall be payable only from the student union fees pledged
therefor as provided in this section.

The provisions of this section shall constitute an addi-
tional, alternative and complete authority for the exercise
of the powers and the issuance of the bonds provided for
in this section, but shall not prevent said respective
boards from exercising similar or related powers or
issuing bonds therefor under any other law or laws, but
such respective boards, in exercising the powers and
issuing the bonds provided for in this section, shall only
be required to comply with the provisions of this section
and shall not be required to comply with or be subject
to the provisions of any other law or laws.

CHAPTER 66

(Senate Bill No. 77—By Mr. McCourt)

[Passed March 6, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section one-b, article one-a,
chapter twenty-five of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
imposition, collection and disposition of registration fees
at state institutions of higher education.

Be it enacted by the Legislature of West Virginia:

That section one-b, 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:
Article 1-a. Fees and Other Money Collected at State Institutions.

Section 1-b. Additional registration fee at state institutions of higher education; refund of fee; special capital improvements funds created; disposition and use of additional registration fee; revenue bonds.

Section 1-b. Additional Registration Fee at State Institutions of Higher Education; Refund of Fee; Special Capital Improvements Funds Created; Disposition and Use of Additional Registration Fee; Revenue Bonds.—In addition to all other fees imposed by the governing boards of state institutions of higher education, there is hereby imposed and the governing board of each state institution of higher education is hereby directed to provide for the collection of an additional registration fee from all students in the amounts as hereinafter provided.

For full-time students at each state institution of higher education, the additional registration fee shall be fifty dollars per semester. The board of governors of West Virginia University and the West Virginia board of education shall have authority to increase such additional registration fee at any institution of higher education under their respective control for students who are non-residents of this state. For all part-time students and for all summer-school students, the respective governing boards shall impose and collect such fee in proportion to, but not exceeding, that paid by full-time students. The fee imposed by this section shall be in addition to the maximum fees allowed to be collected under the provisions of section one of this article and shall not be limited thereby. Refunds of such fee may be made in the same manner as any other fee collected at state institutions of higher education.

There is hereby created in the state treasury a special capital improvements fund, to be expended by the board of governors of West Virginia University for the benefit of West Virginia University and Potomac state college of West Virginia University, as provided in this section. On and after the first day of July, one thousand nine hundred sixty-three, there shall be paid into such special fund all proceeds of the additional registration fees col-
lected from students at West Virginia University and at Potomac state college.

There is hereby created in the state treasury a special capital improvements fund, to be expended by the West Virginia board of education for the benefit of the state institutions of higher education under its control, as provided in this section. On and after the first day of July, one thousand nine hundred sixty-three, there shall be paid into such special fund all proceeds of the additional registration fees collected from students at such institutions.

The respective boards may make expenditures from such special capital improvements funds at the various state institutions of higher education under their control to finance in whole or in part, together with any federal, state or other grants or contributions, any one or more of the following purposes: (1) The acquisition of land or any rights or interest therein. (2) The construction or acquisition of new buildings. (3) The renovation or construction of additions to existing buildings. (4) The acquisition of furnishings and equipment for any such buildings. (5) The construction or acquisition of any other capital improvements or capital educational facilities at such state institutions of higher education, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of such buildings, capital improvements or capital educational facilities.

The respective boards, at their discretion, may use the moneys in such special capital improvements funds to finance the costs of the above purposes on a cash basis, or may from time to time issue revenue bonds of the state as provided in this section to finance all or part of such purposes and pledge all or any part of the moneys in such special funds for the payment of the principal of and interest on such revenue bonds, and for reserves therefor. Any pledge of such special funds for such revenue bonds shall be a prior and superior charge on such special funds over the use of any of the moneys in such funds to pay for the cost of any of such purposes.
on a cash basis: Provided, That any expenditures from such special funds, other than for the retirement of revenue bonds, may only be made by the board of governors of West Virginia University and the West Virginia board of education to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education under their control, in such order of priority as shall have been agreed upon by the respective boards and presented to the board of public works for inclusion in the annual budget bill, and only with the approval of the Legislature as indicated by direct appropriation for the purpose.

Such revenue bonds may be authorized and issued from time to time by the respective boards to finance in whole or in part the purposes provided in this section in an aggregate principal amount not exceeding the amount which the respective boards shall determine can be paid as to both principal and interest and reasonable margins for a reserve therefor from the moneys in such special funds.

The issuance of such revenue bonds shall be authorized by a resolution adopted by the respective board, and such revenue bonds shall bear such date or dates, mature at such time or times not exceeding forty years from their respective dates; bear interest at such rate or rates not exceeding five per centum per annum; be in such form either coupon or registered, with such exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places, within or without the state; be subject to such terms of prior redemption at such prices not exceeding one hundred five per centum of the principal amount thereof; and shall have such other terms and provisions as such respective board shall determine. Such revenue bonds shall be signed by the governor and by the president of the respective board authorizing the issuance thereof, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of the president of such respective board. Such revenue bonds shall be sold in such manner as the respective board may determine to be for the best
interests of the state, such sale to be made at a price not lower than a price which will show a net return of not more than six per centum per annum to the purchaser upon the amount paid therefor computed to the stated maturity dates of such revenue bonds without regard to any right of prior redemption.

Such respective board may enter into trust agreements with banks or trust companies, within or without the state, and in such trust agreements or the resolutions authorizing the issuance of such bonds may enter into valid and legally binding covenants with the holders of such revenue bonds as to the custody, safeguarding and disposition of the proceeds of such revenue bonds, the moneys in such special funds, sinking funds, reserve funds, or any other moneys or funds; as to the rank and priority, if any, of different issues of revenue bonds by the same board under the provisions of this section; as to the maintenance or revision of the amounts of such additional registration fees, and the terms and conditions, if any, under which such additional registration fees may be reduced; and as to any other matters or provisions which are deemed necessary and advisable by such respective board in the best interests of the state and to enhance the marketability of such revenue bonds.

After the issuance of any of such revenue bonds, the additional registration fees at the state institutions of higher education under the control of the board which issued the bonds shall not be reduced as long as any of such revenue bonds are outstanding and unpaid except under such terms, provisions and conditions as shall be contained in the resolution, trust agreement or other proceedings under which such revenue bonds were issued.

Such revenue bonds shall be and constitute negotiable instruments under the law merchant and the negotiable instruments law of the state; shall, together with the interest thereon, be exempt from all taxation by the state of West Virginia, or by any county, school district, municipality or political subdivision thereof; and such revenue bonds shall not be deemed to be obligations or debts of the state, and the credit or taxing power of the state shall not be pledged therefor, but such revenue bonds shall be
payable only from the revenue pledged therefor as pro-
vided in this section.

CHAPTER 67
(Senate Bill No. 259—By Mr. Smith and Mr. McKown)

[Passed March 11, 1965; in effect from passage. Approved by the Governor.]

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 fees and money derived from athletic contests, and the 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:

Article 1-a. Fees and Other Money Collected at State Institutions.

Section

2. Fees and money derived from athletic contests; collection and expenditure thereof.

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 and providing room accommodations for participants in the athletic program of such institutions shall be recog-
recognized and considered as a proper part of such maintenance, but the specific mention of training camps and training tables and providing room accommodations shall not be construed or understood to limit in any way the general power and authority otherwise granted and conferred by this section.

CHAPTER 68
(Com. Sub. for Senate Bill No. 80—By Mr. McKown)

{Passed March 8, 1965: in effect July 1, 1965. Approved by the Governor.}

AN ACT to amend and reenact section six-c, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the addition of motor pools to the special services and programs which the governing boards of state educational institutions may provide, and for which they may fix, collect and retain special fees or charges.

Be it enacted by the Legislature of West Virginia:

That section six-c, 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:

Article 1-a. Fees and Other Money Collected at State Institutions.

Section 6-c. Fees or Charges for Special Services and Programs Provided by Educational Institutions; Collection and Expenditure Thereof.—The governing board of each state educational institution shall have authority to provide special services and special programs at such institutions and may fix and collect special fees or charges therefor. Such special services and special programs may include any one or more of the following:
(1) The conduct of music camps and band, orchestra, or voice clinics for secondary school students or other youth groups, summer tutoring programs for primary and secondary school students, speech therapy clinics and services, educational and psychological testing programs, student guidance programs, and statistical studies and calculations by electronic computer service.

(2) Rental of lockers or other storage facilities and the maintenance and operation of parking facilities for use by students, faculty, staff, and visitors.

(3) Rental of musical recordings, educational films, slides, and other audio-visual aids.

(4) Microfilming or other mechanical reproduction of records and noncopyrighted library reference materials.

(5) Institutes, conferences, workshops, postgraduate and refresher noncredit courses, and any other special program or special service customarily provided by institutions of higher education.

(6) Motor pools, consisting of motor vehicles for the use of their employees when carrying on the business and affairs of the institutions.

All fees or charges collected for any such special services or programs shall be paid into a special fund and shall be expended solely for the maintenance, operation, and support of such services and programs.

Whenever any such special service is provided by one school, division or department of an educational institution for the benefit of any other school, division or department in the same institution, the cost shall be paid by the school, division or department requesting the service and shall be deposited and expended as provided above. Whenever a motor pool is provided by the governing board of a state educational institution, such board may charge any school, college, department or division of such institution for which a vehicle is used a reasonable amount for such use, which amount shall be paid by such school, college, department or division and shall be deposited and expended as above provided.
AN ACT to amend and reenact sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions of certain terms as used in the West Virginia election code, persons entitled to vote in certain elections, elections to fill certain offices, election officials in certain elections, and compensation of election officials in certain elections, and providing that expenses of certain elections be borne by the state.

Be it enacted by the Legislature of West Virginia:

That sections two, three, eighteen, twenty-eight and forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:


Section
2. Scope of chapter; definitions.
3. Persons entitled to vote.
18. Election to fill other offices.
28. Election commissioners and clerks; appointment and notification; vacancies; authority to administer oaths, etc.
44. Compensation of election officials; expenses.

Section 2. Scope of Chapter; Definitions.—Unless restricted by the context, the provisions of this chapter shall apply to every general, primary, and special election in which candidates are nominated or elected or in which voters pass upon any public question submitted to them, except that the provisions hereof shall be construed to be operative in municipal elections only in those instances in which they are made expressly so applicable.

Unless the context clearly requires a different meaning, as herein used:
"Voter" shall mean any person who possesses the statutory and constitutional qualifications for voting;

"Election" shall mean the procedure whereby the voters of this state or any subdivision thereof elect persons to fill public offices, or elect members of a constitutional convention, or vote on public questions;

"Any election" or "all elections" shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal or state officers, or county, city, town or village officers of any subdivision now existing or hereafter created, or for the purpose of electing members of a constitutional convention, or for voting upon any public question submitted to the people of the state or any of the aforesaid subdivisions;

"Office" shall be construed to mean "public office" which shall include (1) any elective office provided for by the constitution or laws of the United States or of this state to which a salary or other compensation attaches, and (2) membership in a constitutional convention;

"Candidate" shall mean any person to be voted for at an election;

"Public question" shall mean any issue or proposition, now or hereafter required by the governing body of this state or any of its subdivisions to be submitted to the voters of the state or subdivision for decision at elections.

Sec. 3. Persons Entitled to Vote.—Citizens of the state shall be entitled to vote at all elections held within the precincts of the counties and municipalities in which they respectively reside. But no person who has not been registered as a voter as required by law, or who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who, in the case of state-county elections has not been a bona fide resident of the state for one year and of the county in which he offers to vote for sixty days next preceding such election, or who, in the case of a special election to elect members to a constitutional convention, has not been a bona fide resident of the state for one year and
of the county in which he offers to vote for sixty days next preceding such election, or who in the case of municipal elections has not been a bona fide resident of the state for one year and of the municipality in which he offers to vote for sixty days next preceding such election, shall be permitted to vote at such election while such disability continues. Subject to the qualifications otherwise prescribed in this section, however, a minor shall be permitted to vote in a primary election if he will have reached the age of twenty-one years on the date of the general election next to be held after such primary election.

Sec. 18. Election to Fill Other Offices.—If the Legislature shall hereafter create any elective office, or make any office now filled by appointment an elective office, in the state or in any subdivision thereof, the person to fill the same shall be elected at the general election last preceding the beginning of the term of such office.

The provisions of this section shall not apply to the office of member or to the election of members of a constitutional convention.

Sec. 28. Election Commissioners and Clerks; Appointment and Notification; Vacancies; Authority to Administer Oaths, etc.—The county court of each county shall hold a regular or special session at the courthouse of the county on the first Tuesday of the month next preceding the date on which any election is to be held and appoint three commissioners and two clerks to hold the election in each precinct in the county. In primary and general elections and in any special election in which political party candidates are to be nominated or elected, the election commissioners and clerks shall be selected from the two political parties which at the last preceding general election cast the highest and the second highest number of votes in this state. For every precinct in which there are three hundred, but not more than four hundred, registered voters, there may be two boards of election officers, and for all precincts in which there are more than four hundred registered voters, there shall be two boards of election officers, and where two boards are
used, each board shall consist of three election commissioners and two poll clerks, one of which boards shall be designated the "receiving board" and the other the "counting board" and not more than two commissioners and one poll clerk of each board shall be appointed from the same political party: Provided, That for any special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, and for any special election to elect members of a constitutional convention, and for any special election to ratify or reject the proposals, acts and ordinances of a constitutional convention, there shall be but one board of election officials in each precinct, consisting of three commissioners and two poll clerks. If, at any time before or during the session of the county court, the county executive committee of either or both of the political parties, from which commissioners and clerks of election are to be selected, shall file with or present to the county court a writing signed by them, or by the chairman or secretary of such committee on their behalf, requesting the appointment of a member and of one clerk of each board of the political party for which such committee, chairman or secretary is acting, and designating persons who are qualified under this article for such appointment for each election precinct in the county, the county court shall appoint the persons so designated. The county court shall by mail notify all commissioners and poll clerks of their appointment, and include with such notice an appropriate form for each person so appointed to return indicating whether or not he will serve as such commissioner or poll clerk. It shall be the duty of all persons so appointed to immediately return said form to the county court. In the event any of the persons so appointed refuse to serve as such commissioners or poll clerks, the county court shall immediately notify the chairman of the county executive committee of the political party from which such commissioners and poll clerks are to be selected. The chairman of the political committee so notified shall recommend the person or persons to be appointed to replace those declining to serve and
it shall be the duty of the county court to appoint the
person or persons so recommended.

If any person appointed receiving commissioner or
clerk of election shall fail to appear at the voting place
at the hour for opening the polls, the remaining commis-
sioner or commissioners of election of the political party
to which the absentee belongs shall select another com-
missioner or clerk, as the case may be, of such political
party. But if the qualified voters of his party present at
the polls shall nominate a voter of his party qualified to
act under the provisions of this section, such nominee
shall be appointed. If none of the receiving commis-
sioners of the election or poll clerks shall appear at the
voting place at the hour appointed for opening the polls,
the qualified voters present, being at least ten in number,
of the political party which cast the highest number of
votes in the county at the last preceding election, shall
select two commissioners and one clerk and those of the
political party which cast the next highest number of
votes in the county at such election shall select one com-
missioner and one clerk of the receiving board of such
precinct, and the persons so selected shall constitute the
receiving board for the precinct. A vacancy or vacancies
on the counting board shall be filled in the manner herein
provided for filling a vacancy or vacancies on the receiv-
ing board, except that such vacancy or vacancies shall be
determined and filled as of the hour appointed in this
chapter for the counting board to attend at the polls.
Any commissioner of election acting at any election pre-
cinct is hereby empowered and authorized to administer
oaths and to take and certify affidavits in relation to any
matter or thing required or permitted to be done by any
of the provisions of this article in conducting and holding
the election.

Sec. 44. Compensation of Election Officials; Expenses.—
Each ballot commissioner shall be allowed and paid a
sum, to be fixed by the county court, not exceeding
twenty dollars for each day he shall serve as such, but
in no case shall a ballot commissioner receive allowance
for more than ten days' services for any one primary,
general or special election. Each commissioner of election and poll clerk shall be allowed and paid a sum, to be fixed by the county court, not exceeding ten dollars for one day’s services for attending the school of instructions for election officials and a sum not exceeding twenty dollars for his services at any one election: Provided, that each commissioner of election and poll clerk shall be paid and allowed a sum not exceeding ten dollars for his services at any of the three special elections hereinafter specified and described. The commissioners of election obtaining and delivering the election supplies, as provided in section twenty-four of this article, and returning them as provided in articles five and six of this chapter, shall be allowed and paid an additional sum, likewise fixed by the county court, not exceeding ten dollars for all such services at any one election and, in addition, shall be allowed and paid mileage at the rate of seven cents per mile necessarily traveled in the performance of such services. The compensation of election officers, cost of printing ballots, and all other expenses incurred in holding and making the return of elections, other than the three special elections hereinafter specified and described, shall be audited by the county court and paid out of the county treasury. The compensation of election officers, cost of printing ballots, and all other reasonable and necessary expenses in holding and making the return of a special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, of a special election to elect members of a constitutional convention, and of a special election to ratify or reject the proposals, acts and ordinances of a constitutional convention shall be obligations of the state incurred by the ballot commissioners, clerks of the circuit courts, clerks of the county courts, and county courts of the various counties as agents of the state, and all such expenses shall be audited by the secretary of state. The secretary of state shall prepare and transmit to the county courts forms on which the county courts shall certify all such expenses of such special elections to the secretary of state. If satisfied that such expenses as certified by the county courts are reasonable and were neces-
sarily incurred, the secretary of state shall requisition
the necessary warrants from the auditor of the state to
be drawn on the state treasurer, and shall mail such
warrants directly to the vendors of such special election
services, supplies and facilities.

CHAPTER 70
(House Bill No. 524—By Mr. Bailey and Mr. Black)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing parties other than the two major political parties in municipal corporations to hold primary elections.

Be it enacted by the Legislature of West Virginia:

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


Section 8. Political Party Defined; Parties or Groups that May Participate in Municipal Primary Election.—

Any affiliation of voters representing any principle or organization which, at the last preceding general election, polled for its candidate for governor at least one per cent of the total number of votes cast for all candidates for that office in the state, shall be a political party, within the meaning and for the purpose of this chapter: Provided,

That notwithstanding the foregoing provisions of this section, the governing body of any municipality may, by ordinance adopted by the affirmative vote of at least three fourths of the members of such governing body by re-
corded vote, provide that municipal political parties or groups within such municipality that do not meet the requirements of this section for classification as a political party may participate in the primary elections of any such municipality. Any such ordinance shall contain provisions implementing the foregoing proviso, which implementing provisions shall conform as nearly as practicable to any general provisions of law relating to municipal primary elections.

CHAPTER 71

(House Bill No. 699—By Mr. Seibert and Mr. Steptoe)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eighteen, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eminent domain, certain procedures in eminent domain matters, payment into court, notice of such payment to the parties of record, accrual of interest upon failure to give such notice, the disposition of such payment and the determination of conflicting claims.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Procedure.

Section 18. Payment to clerk; disposition of money paid into court; determination of conflicting claims; notice to condemnee.

Section 18. Payment to Clerk; Disposition of Money Paid into Court; Determination of Conflicting Claims; Notice to Condemnee.—Payment of an award or judgment, or any money, under any of the provisions of this chapter may be made to the clerk of the court in which such proceeding is had, and such payment shall be deemed
7 to be a payment into court. Within ten days after the
8 payment of an award, judgment or money into court pur-
9 suant to the provisions of this chapter, the condemnor
10 shall serve notice upon the parties of record except non-
11 residents and unknown parties whose interests the ap-
12 plicant seeks to condemn, or upon their counsel of record.
13 Service of notice by registered or certified mail to the
14 parties', last known address shall be deemed sufficient.
15 Notwithstanding any other provision of this chapter to
16 the contrary, failure to serve such notice shall result in
17 the accrual of interest at six per cent upon the award,
18 judgment or money paid into court until such notice is
19 served or until disbursement be made to the persons
20 entitled thereto. The clerk to whom payment is so made,
21 together with the surety on his official bond, shall be liable
22 therefore, as for other moneys collected by him by virtue
23 of his office.
24 Upon money being paid into court, pursuant to the pro-
25 visions of this chapter, and the court or judge being
26 satisfied that the persons entitled thereto are before the
27 court or judge, it or he shall make such distribution or
28 disposition of such money as is proper, having due regard
29 to the interest of all persons therein, and in what pro-
30 portions such money is properly payable.
31 If it shall appear that the petition states the persons or
32 classes of persons, who, in the opinion of the applicant,
33 are vested with the superior right or claim of title in the
34 property, or interest or right therein, condemned or
35 sought to be condemned or in the amount allowed or to
36 be allowed by the report of the condemnation comis-
37 sioners, or the verdict of a jury, if there be one, and it
38 does not appear from the record or otherwise that there
39 is any denial or dispute, by any person or party in in-
40 terest, of such statement in the petition, the court or judge
41 may direct that the money paid into court, after with-
42 holding therefrom any sum necessary for payment of any
43 taxes which are a lien upon the property, interest, or
44 right, be disbursed and distributed in accordance with
45 the statement in the petition, among the persons entitled
46 thereto, except that with respect to any persons appearing
47 to be infants, incompetents, incarcerated convicts, or
under any other legal disability, the court or judge shall inquire into their rights or claims, independent of any statement in the petition, and any order for disbursement or distribution shall conserve and protect the rights or claims of such persons in and to the money paid into court.

If it shall appear to the court or judge, from the record or otherwise, that there exists a controversy among claimants to the money paid into court, or to the ownership of the property, or interest or right therein, condemned or sought to be condemned, the court or judge shall enter an order setting a time for hearing the case and determining the rights and claims of all persons entitled to the money paid into court or to any interest or share therein. To aid in properly disposing of the money, the court or judge may appoint a commissioner to take evidence of the conflicting claims. The court or judge may direct publication to be made requiring all who are interested to appear at the time set for hearing the case to present their respective claims. Such costs shall be allowed to the prevailing persons as the court or judge shall direct. Upon a determination by the court or judge of the rights and claims of the persons entitled to the money paid into court, with or without a report of such commissioner, judgment shall be entered directing the disbursement or distribution, after withholding for taxes as provided in the next preceding paragraph, to the persons entitled thereto, provided that the rights or claims of persons under legal disability shall be protected as provided in the next preceding paragraph.

CHAPTER 72
(Senate Bill No. 193—By Mr. Davis)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article two, chapter fifty-seven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, to allow, in criminal
prosecutions for false swearing, the use of statements
made by the accused persons as witnesses upon legal
examinations.

Be it enacted by the Legislature of West Virginia:
That section three, article two, 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:

Article 2. Writings and Statements of Private Persons.

Section 3. Statement by accused upon legal examination.

Section 3. Statement by Accused upon Legal Examination.—In a criminal prosecution other than for perjury
or false swearing, evidence shall not be given against
the accused of any statement made by him as a witness
upon a legal examination.

CHAPTER 73

(Com. Sub. for House Bill No. 694—By Mr. Moyers and Mr. Casey)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article three,
chapter fifty-seven of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended, relating to the
competency of practitioners of chiropractic to qualify as
competent witnesses on chiropractic testimony and chi­
ropractic facts.

Be it enacted by the Legislature of West Virginia:
That section eight, article three, 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:

Article 3. Competency of Witnesses.

Section 8. Cases in which chiropractors are competent witnesses.

Section 8. Cases in Which Chiropractors Are Competent Witnesses.—Practitioners of chiropractic shall be
permitted to qualify as competent witnesses, insofar as
chiropractic testimony or chiropractic facts may be con-
cerned in any civil action in any court in this state.

CHAPTER 74
(House Bill No. 680—By Mr. Speaker, Mr. White)

[Passed March 12, 1965: In effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article one, chap-
ter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the fees to be charged by secretary of state.

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

Article 1. Fees and Allowances.
Section
2. Fees to be charged by secretary of state.

Section 2. Fees to Be Charged by Secretary of State.—
2 The secretary of state shall charge for services rendered in his office the following fees to be paid by the person to whom the service is rendered at the time it is done:
5 For each certificate of incorporation or copy thereof,
including certificates issued on new agree-
ments, and/or consolidations or mergers (in-
cluding all consolidations or mergers effected under the provisions of sections sixty-three,
sixty-three-a and sixty-three-a1, article one,
chapter thirty-one of this code) or authorizing a foreign corporation to do business within this state ......................................................... $10.00
14 For each certified copy of certificate of incorpora-
tion, not to exceed ten pages ........................................... 10.00
16 If such copy contains in excess of ten pages, for each additional page ...................................................... .20
For filing and recording a trade-mark ........................................... 5.00
For each certificate of change of name, of increase
or decrease of authorized capital stock, of
change of principal office, or of amendment to
certificate of incorporation ....................................................... 5.00
For recording a power of attorney and certificate
thereof ......................................................................................... 3.00
For any other certificate, whether required by law
or made at the request of any person ........................................ 5.00
The foregoing fees shall include the tax on the great
seal or the less seal impressed on any such
document, as well as the filing, recording and
indexing of the same.
For indorsing and filing reports of corporations, and
all other papers, which shall include the indexing
of the same, for each report or paper filed ............................... 1.00
For any search, not less than ..................................................... 1.00
For searches of more than one hour, for each hour
or fraction thereof consumed in making such
search .......................................................................................... 1.00
The cost of the search shall be in addition to the
cost of any certificate issued pursuant thereto
or based thereon.
For entering statement of satisfaction of conditional sale contract ............................... 1.00
For filing each financing, continuation or termination
statement or other statement or writing
permitted to be filed under chapter forty-six
of the code .................................................................................. 1.00
For filing, preserving and indexing a security
agreement filed under chapter forty-six of the
code ............................................................................................. 2.00
For recording any paper for which no specific fee
is prescribed ................................................................................ 1.00
Or at the rate, for each one hundred words recorded, of ............................................ .20
For issuing commission to a notary public, or to
a commissioner of deeds, which shall include
(Senate Bill No. 54—By Mr. Moreland and Mr. Brotherton)

(Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section ten, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fees to be charged by the clerks of the county courts.

Be it enacted by the Legislature of West Virginia:

That section ten, 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:

Article 1. Fees and Allowances.

Section 10. Fees to be charged by Clerk of County Court.

For the purpose of this section, the word “page”
is defined as being a paper writing of not more than legal
size, 8½" x 13".

The clerk of the county court shall charge and collect
the following fees:

When a writing is admitted to record, for receiving
proof of acknowledgment thereof, entering an
order in connection therewith, endorsing clerk’s
certificate of recordation thereon and indexing in
a proper index, where the writing is a deed of
conveyance, trust deed, lease, or power of attor-
ney concerning real estate ........................................ $1.25

If such writing contains more than two pages, for
each additional page, in counties where recording
is done by photograph, fifty cents; and in counties
where recording is done by typewriter, and such
writing contains more than one thousand words,
three cents for each additional twenty words.

For recording a plat accompanying a deed or other
writing ........................................................................ 1.00

If such plat contains more than one hundred twenty
square inches, for each additional square inch .... .007

For recording and indexing a map to be placed in
map book ................................................................. 2.00

If such map contains more than one hundred twenty
square inches, for each additional square inch .... .007

For recording and indexing assignment .................. 1.25

If such assignment contains more than one reference
to the record of property assigned, for each refer-
ence ............................................................. .50

If such assignment does not give the reference to the
record of property assigned, for search of record
to determine such book and page ....................... .25

If such assignment contains more than two pages,
for each additional page ...................................... .50

For recording and indexing and noting release of lien 1.00

If such release contains more than one reference to
lien released, for each lien released thereby .... 1.00

If book and page reference to lien released is omitted,
for search of record to determine such book and 
page ......................................................... .25
For filing or refiling and entering conditional sales 
contract ................................................................. 1.00
For recording and indexing a satisfaction of a con-
ditional sales contract ............................................ 1.00
For filing each financing, continuation or termination 
statement or other statement or writing permitted to be filed under chapter forty-six of the 
code ........................................................................ 1.00
For filing, preserving and indexing a security agree-
ment filed under chapter forty-six of the code .......... 2.00
For recording and indexing a certificate of incorpora-
tion ........................................................................ 1.25
If such certificate contains more than two pages, for 
each additional page .............................................. .50
For filing and indexing a certificate showing the name 
or names of a person or persons conducting busi-
ness under an assumed name ................................ 1.00
For certifying to the assessor a transfer of real estate 
under section eight, article four, chapter eleven 
of the code .......................................................... .50
For swearing the witnesses and entering in the order 
or minute book, all orders in relation to the proof 
of a will which is admitted to record without con-
test, and copying such order on the will or on a 
paper annexed thereto, when fully proved and 
but one order .......................................................... 2.00
If the will be but partially proved on one day, for the 
order and entering the same on the will or paper 
annexed thereto ........................................................ .50
For each subsequent order and entering the same on 
the will or paper annexed thereto ................................ .50
For the same services where there is a contest ........ 5.00
For preparing notices in connection with contest, or 
any hearing, each notice .............................................. .50
For recording a will and the matter recorded there-
with in the will book .................................................. 1.00
79 If will and matter recorded therewith contains more than two pages, for each additional page .......... .50
80 For entering orders and transmitting papers in case of appeal .................................................. 2.50
81 If such order and transmittal contains more than five pages, for each additional page .................. .50
82 If any personal representative or guardian qualify for administering necessary oaths, notating the bond, entering and copying on the will, order granting probate or administration, making out copy of such order for personal representative or guardian, entering and copying orders of appraisement 1.50
83 For each additional copy of qualification order .................. .50
84 If several personal representatives qualify on the same estate at the same time or term the same fee shall be charged as if one had qualified, to-wit 1.50
85 For entering and copying an order granting a license under provisions of article twelve, chapter eleven of the code .................................................. .50
86 For certificate for a license or endorsing assignment thereof .................................................. .50
87 For issuance of marriage license, for preparing the application and administering the oath, for registering and recording the license, for mailing acknowledgment of minister's return to one of licensees, for notifying one of licensees after sixty days of the nonreceipt of the minister's return ...... 5.00
88 One dollar of the latter fee shall be paid by the county clerk into the state treasury as a state registration fee, in the same manner that license taxes are paid into the treasury under article twelve, chapter eleven of the code.
89 For search of anything in his office of over a year's standing, unless otherwise required by statute .... .25
90 For recording certificates and posting a copy thereof under the provisions of section two, article one, chapter thirty-four of the code .................................................. 1.25
91 For docketing or redocketing under article three,
chapter thirty-eight of the code, a judgment, decree, bond or recognizance ............................ .50
If such writing contains more than one page, for each additional page ........................................... .50
For recording and indexing an execution and noting the date of issuance and the date of filing of same upon the judgment record ....................................................... 1.00
For making out a transcript of the record and proceedings in any case in due form so that the same may be used in appellate court, such fee shall be the same as specified herein for recording.
For making out, in any other manner than copying, any paper to go out of the office which is not otherwise provided for ................................................................. 1.00
If such paper contains more than two pages, for each additional page ........................................... .50
For any copy, if it be not otherwise provided for ............................................................................. 1.00
If such copy contains more than two pages, for each additional page ........................................... .50
For annexing the seal of the court to any paper, writing certificates of clerk accompanying it ........... .50
For writing a certificate of the president of the court or judge, when the clerk be required to do so .... .50
For recording and indexing an inventory or sale bill ................................................................. 1.00
If such writing contains more than two pages, for each additional page ........................................... .50
For entering an order confirming the report of a fiduciary ............................................................... .50
For recording and indexing such report and matter recorded therewith ............................................. 2.00
If such report contains more than four pages, for each additional page ........................................... .50
For recording and indexing any bond required by law to be recorded, including the certificate or other evidence of its execution ............................................................. 1.00
If such bond and certificate contains more than two pages, for each additional page ......................... .50
For recording and indexing a notice of mechanic's lien ......................................... 1.00

If such notice contains more than two pages, for each additional page ........................................ 0.50

For recording contract limiting liability of owner and bond of contractor to be filed therewith, as prescribed in article two, chapter thirty-eight of the code ......................................................... 1.25

If such contract and bond contains more than two pages, for each additional page ................ 0.50

For recording and indexing a notice of lis pendens ................................................. 1.25

If such notice contains more than two pages, for each additional page ........................................ 0.50

For recording a certificate of real estate claimed as a homestead ........................................... 0.50

For administering an oath not herein provided for, and writing a certificate thereof where the case requires one ................................................................. 0.50

For recording a writing containing pages in excess of legal size, 8½” x 13”, additional fee for each page, where recording is by photograph .................................................... 0.25

For recording and indexing instruments not specifically provided for herein ................................... 1.25

If such instrument contains more than two pages, for each additional page ........................................ 0.50

For recording anew any will, deed or other paper, the same fees herein provided for the original recording.

For any service other than recording and indexing not specifically provided for, the same fee as a clerk of the circuit court for similar services.

All acts or parts of acts in conflict herewith are hereby repealed.
AN ACT to amend and reenact section two-a, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the termination of term, appointment, removal and salaries of certain appointive state officials.

Be it enacted by the Legislature of West Virginia:

That section two-a, 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:

**Article 7. Appointment, Removal, and Compensation and Allowances.**

*Section 2-a. Termination of Term of Certain Appointive State Officers; Appointment; Terms; Qualifications; Powers and Salaries of Such Officers.—Notwithstanding any other provision of this code to the contrary, on and after the effective date of this section, each of the terms of the following named appointive state officers shall be terminated and thereafter each of such appointive state officers shall be appointed by the governor, by and with the advice and consent of the senate. Each of such appointive state officers shall serve at the will and pleasure of the governor for the term for which the governor was elected and until the respective state officer's successors have been appointed and qualified. Each of such appointive state officers shall hereafter be subject to the existing qualifications for holding each such respective office and each shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respect-
ing each such office. The annual salary of each such
named appointive state officer shall be as follows:

The state road commissioner, twenty-two thousand dol-
lars; director of mental health, twenty thousand dollars;
commissioner of commerce, fourteen thousand dollars;
commissioner of finance and administration, fifteen thou-
sand dollars; tax commissioner, sixteen thousand dollars;
director of department of natural resources, fifteen thou-
sand dollars; commissioner of department of welfare,
fifteen thousand dollars; liquor control commissioner,
fifteen thousand dollars; director of department of
mines, fourteen thousand dollars; commissioner of public
institutions, thirteen thousand dollars; commissioner of
employment security, fourteen thousand dollars; commis-
sioner of labor, twelve thousand dollars; director of per-
sonnel civil service commission, twelve thousand dollars;
superintendent of department of public safety, thirteen
thousand dollars; insurance commissioner, twelve thou-
sand dollars; commissioner of motor vehicles, twelve
thousand dollars; commissioner of banking, twelve thou-
sand dollars; members of the board of probation and
parole, nine thousand dollars; nonintoxicating beer com-
missoner, ten thousand dollars; state historian and archi-
vist, nine thousand dollars; adjutant general, eight thou-
sand dollars; director of civil and defense mobilization,
ten thousand dollars; director of veterans affairs, ten
thousand dollars; members of board of review of employ-
ment security, eight thousand two hundred dollars; mem-
bers of workmen's compensation appeal board, four thou-
sand eight hundred dollars.

CHAPTER 77

(House Bill No. 773—By Mr. Speaker, Mr. White)

[Passed March 13, 1985; in effect July 1, 1985. Approved by the Governor.]

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

Be it enacted by the Legislature of West Virginia:

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


Section 4. Salaries of Judges of Circuit Courts; Additional Compensation from Counties.—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:

1. In circuits having more than sixty thousand population, fifteen thousand five hundred dollars;
2. In circuits having less than sixty thousand population, fourteen thousand dollars.

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

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

CHAPTER 78

(House Bill No. 578—By Mr. Speaker, Mr. White, and Mr. Cann)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article fourteen, relating to a uniform facsimile signatures of public officials act, and providing penalties.

Be it enacted by the Legislature of West Virginia:

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


Section
1. Definitions.
2. Facsimile signature; use; legal effect.
3. Facsimile seal; use; legal effect.
4. Use with intent to defraud; penalty.
5. Construction.
6. Citation.
7. Severability provisions.
8. Inconsistent articles repealed.

Section 1. Definitions.—As used in this article:

(a) “Public security” means a bond, note, certificate of indebtedness or other obligation for the payment of money issued by this state or by any of its departments, agencies, boards, commissions or other instrumentalities or by any of its public corporations, political subdivisions, municipal corporations or other governmental units.

(b) “Instrument of payment” means a check, draft, warrant or order for the payment, delivery or transfer of funds.

(c) “Authorized officer” means any official of this state or of any of its departments, agencies, boards, commissions or other instrumentalities or of any of its public corporations, political subdivisions, municipal corporations or other governmental units whose signature to a public security or instrument of payment is required or permitted.

(d) “Facsimile signature” means a reproduction by engraving, imprinting, stamping or other means of the manual signature of an authorized officer.

Sec. 2. Facsimile Signature; Use; Legal Effect.—Any authorized officer, after filing with the secretary of state
his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed; and

(b) Any instrument of payment.

Upon compliance with this article by the authorized officer, his facsimile signature shall have the same legal effect as his manual signature.

Sec. 3. Facsimile Seal; Use; Legal Effect.—When the seal of this state or of any of its departments, agencies, boards, commissions or other instrumentalities or of any of its public corporations, political subdivisions, municipal corporations or other governmental units is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped or otherwise placed in facsimile thereon. The facsimile seal shall have the same legal effect as the impression of the seal.

Sec. 4. Use with Intent to Defraud; Penalty.—Any person who with intent to defraud uses on a public security or an instrument of payment:

(a) A facsimile signature of any authorized officer or any reproduction of such facsimile signature, or

(b) Any facsimile seal of this state or of any of its departments, agencies, boards, commissions or other instrumentalities or of any of its public corporations, political subdivisions, municipal corporations or other governmental units, or any reproduction of such facsimile seal is guilty of a felony and shall be imprisoned in the penitentiary not less than one nor more than ten years.

Sec. 5. Construction.—This article shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 6. Citation.—This article may be known and cited as the “Uniform Facsimile Signatures of Public Officials Act.”
Sec. 7. Severability Provision.—If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application and to that end the provisions of this article are severable.

Sec. 8. Inconsistent Articles Repealed.—All articles and parts of articles inconsistent with the provisions of this article are, to the extent of such inconsistency only, hereby repealed.

CHAPTER 79

(Senate Bill No. 3—By Mr. McCourt)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section two, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the qualifications and compensation of members of the West Virginia racing commission and the employment and qualifications of employees of the commission.

Be it enacted by the Legislature of West Virginia:

That section two, 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:

Article 23. Horse Racing.

Section 2. Qualifications and compensation of members, secretary, steward and employees.

Section 2. Qualifications and Compensation of Members, Secretary, Steward and Employees.—Each member of the commission shall receive a salary of five thousand dollars per annum to be paid in monthly installments and shall be reimbursed for all actual and necessary expenses incurred in the performance of his duties as a member of the commission. The commission shall, under the re-
strictions and within the qualifications hereinafter set forth, appoint a secretary and steward, to represent the commission, and such additional help as shall be reasonably necessary to administer the provisions of this article, and shall, within the limits prescribed by the Legislature, fix their compensation and actual expenses. The compensation and actual expenses of the members and employees of the commission shall be paid from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel wagering and shall be itemized in the budget in the same manner as all other departments of the state government, but no such expenses shall be paid unless an itemized account thereof, under oath, be first filed with the state auditor.

(a) No person who directly or indirectly has an interest in any manner whatsoever, including an interest as owner, lessor, lessee, stockholder or employee, in any race track, where horse race meetings may be held, shall be eligible for appointment to the commission.

(b) No person while serving as a member of the Legislature, or as an elective officer of this state, shall be eligible for appointment to the commission.

(c) No person convicted of an offense, which, under the laws of this state or any other state or of the United States of America, constitutes a felony or a violation of chapter sixty-one, article four of this code, shall be eligible for appointment to the commission.

(d) No person shall knowingly be employed by the commission in any capacity whatsoever who shall:

1. Directly or indirectly, or in any capacity, own or have an interest in any race track where horse race meetings may be held, including an interest as owner, lessor, lessee, stockholder or employee.

2. At the time of his employment as a racing official be or have been within one year prior thereto, a member of the Legislature or an elective officer of this state, unless he is experienced and qualified as a racing official.

3. Have been prior to the time of his employment, or shall be during the time of his employment, convicted of an offense, which, under the laws of this state or any
other state or of the United States of America, constitutes a felony or a violation of chapter sixty-one, article four of this code.

4. In any manner have delegated to him the duties and powers of the members of the commission, as director or supervisor of racing, or in any other manner or capacity whatsoever, except such authority as shall be necessary in order to carry out fully and effectively the reasonable regulations adopted and promulgated by the commission, may be delegated to employees and/or representatives of the commission.

Any steward employed by the commission or by a licensee thereof, shall be a person of integrity, and experienced and qualified for such position by the generally accepted practices and customs of horse racing in the United States.

Any person violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than six months nor more than one year or be fined not less than five hundred nor more than one thousand dollars, or, in the discretion of the court, may be punished by both such fine and imprisonment. Venue of such offense shall be in the county, or any one of the counties, wherein the person violating this section carries out any duties of, or performs any work for, the commission, which constitutes the basis of the charge or complaint against him.

CHAPTER 80

(Senate Bill No. 120—By Mr. Jackson and Mr. McKown)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section three, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to increase the compensation of each member of the state board of insurance of West Virginia from twenty-five dollars to
forty dollars per day for each day's services actually performed for such board.

Be it enacted by the Legislature of West Virginia:

That section three, article twelve, 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 3. State Board of Insurance; creation, composition, qualifications and compensation.

(a) There is hereby created the “state board of insurance of West Virginia” which shall be composed of three members appointed by the governor with the advice and consent of the senate. Each of the members shall be a resident of West Virginia possessed of not less than five years' experience in the business of insurance and no more than two of such members shall belong to any one political party. The three original members of such board shall be appointed for terms of one, two and three years, respectively, and each subsequent appointment shall be for a term of four years. In the event a vacancy occurs it shall be filled by appointment for the unexpired term. No member of the board may be removed from office by the governor except for official misconduct, incompetency, neglect of duty, or gross immorality.

(b) The insurance commissioner of West Virginia shall serve as secretary of the board without vote and shall make available to the board the information, facilities and services of the office of the state insurance commissioner.

(c) Each member of the board shall receive the sum of forty dollars per day for each day's services actually performed for such board as well as all necessary expenses incurred in the performance of their duties, not exceeding one hundred days in any one calendar year. The auditor shall pay such compensation and expenses upon requisition certified by the chairman from appropriations provided for such purposes.
AN ACT to amend and reenact section five, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to capital or surplus required of insurance companies.

Be it enacted by the Legislature of West Virginia:

That section five, 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:

**Article 3. Licensing, Fees and Taxation of Insurers.**

**Section 5. Capital or Surplus Required.**—To qualify for a license to transact insurance, unless otherwise provided in this chapter, an insurer shall possess paid-in capital stock (if a stock insurer) or surplus (if a mutual insurer) in the amount set forth below opposite the kinds of insurance for which license is requested:

| (a) Life | $200,000.00 |
| (b) Accident and Sickness | $200,000.00 |
| (c) Life and Accident and Sickness | $300,000.00 |
| (d) Fire and Marine | $100,000.00 |
| (e) Casualty | $100,000.00 |
| (f) Surety | $600,000.00 |
| (g) Accident and Sickness together with any one or more of the following: Fire and Marine, Casualty | $300,000.00 |
| (h) Fire and Marine and Casualty | $200,000.00 |
| (i) Surety together with any one or more of the following: Accident and Sickness, Fire and Marine, Casualty | $600,000.00 |

In addition, every insurer shall maintain additional surplus funds in an amount equal to one half such minimum
capital or surplus listed above for the kinds of insurance for which license is requested: Provided, That domestic insurers duly licensed to transact insurance in West Virginia shall have until March thirty-first, one thousand nine hundred sixty-eight, to meet the requirements of the additional surplus funds in the amount herein specified.

CHAPTER 82
(Senate Bill No. 22—By Mr. Porter)

[Passed March 8, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section fourteen-b, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to credit against insurance premium taxes.

Be it enacted by the Legislature of West Virginia:

That section fourteen-b, 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:

Article 3. Licensing, Fees and Taxation of Insurers.

Section 14-b. Credits against premium tax for investment in West Virginia securities.

Section 14-b. Credits against Premium Tax for Investment in West Virginia Securities.—If the annual statement of any insurance company covering a calendar year shows it to have investments at the close of said year in West Virginia securities, as hereinafter defined, of as much as twenty-five per centum of its admitted assets, it shall be entitled to a credit against the premium tax levied by section fourteen-a of this article in an amount equal to one hundred per centum of such tax for such calendar year.

West Virginia securities, as used in this section, shall mean real estate situate in this state; bonds or interest-
bonds or interest-bearing notes or obligations of any county, district, school district or independent school district, municipality or any other political subdivision of this state; revenue bonds issued by any West Virginia state agency, board, department, or commission authorized to issue such bonds by the laws of this state; bonds or notes secured by mortgages or deeds of trust on real estate situate in this state; securities of corporations organized and existing under the laws of this state including, but not by way of limitation, bonds, debentures, notes, equipment trust obligations or other evidences of indebtedness, and shares of common and preferred stock of such corporations; cash balances in regularly established national and state banks in this state reflected as an asset in such annual statement; and investment shares and investment share accounts in federally insured savings and loan associations in this state.

CHAPTER 83

(House Bill No. 612—By Mr. Marstiller and Mr. Poindexter)

(Passed February 26, 1985; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section seventeen, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibited interests of officers and directors in certain transactions.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article 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 17. Prohibited Interests of Officers and Directors in Certain Transactions.—(a) No director or officer of an insurer shall accept, except for and on behalf of the insurer, or be the beneficiary of any fee, commission, brokerage, gift or other emolument or thing of value in addition to his fixed salary or compensation, because of any investment, loan, deposit, purchase, sale, exchange, or other similar transaction made by or for the insurer, or be pecuniarily interested in any capacity except on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director or officer from becoming a policyholder of the insurer and enjoying thereunder the rights customarily provided therein for holders of such policies, nor shall this section prohibit a director or officer of an insurer from serving as an agent or general agent of such insurer and receiving regular established agency commissions therefor: Provided, That the contract between the insurer and its officer and/or director has been approved by the board of directors of the insurer and a true copy thereof, certified to by the secretary of the board of directors of such insurer, has been filed with the commissioner of insurance; nor shall this section prohibit such a director or officer of an insurer from receiving his share of the commission earnings of a stock exchange firm of which he is a partner, or a percentage of underwriting profits under a management contract: Provided, That such contract is subject to review and termination by the board of directors, nor shall this section prohibit the payment to a director or officer of a fee for legal services actually rendered to any such insurer provided such compensation is not in excess of the amounts customarily charged for the same type of service.
AN ACT to amend article five, 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 thirty, relating to insider trading.

Be it enacted by the Legislature of West Virginia:
That article five, chapter thirty-three of the code of West Virginia, as amended, be amended by adding thereto a new section, designated section thirty, to read as follows:


Section 30. Insider Trading.—(a) Every person who is directly or indirectly the beneficial owner of more than ten per cent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner on or before the thirty-first day of January, one thousand nine hundred sixty-six, or within ten days after he becomes such beneficial owner, director or officer a statement, in such form as the commissioner may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

(b) For the purpose of preventing the unfair use of information which may have been obtained by such bene-
ficial owner, director or officer by reason of his relation-
ship to such company, any profit realized by him from any
purchase and sale, or any sale and purchase, of any equity
security of such company within any period of less than
six months, unless such security was acquired in good
faith in connection with a debt previously contracted,
shall inure to and be recoverable by the company, irre-
spective of any intention on the part of such beneficial
owner, director or officer in entering into such transaction
of holding the security purchased or of not repurchasing
the security sold for a period exceeding six months. An
action to recover such profit may be instituted in any
court of competent jurisdiction by the company, or by the
owner of any security of the company in the name and in
behalf of the company if the company shall fail or refuse
to bring such action within sixty days after request or
shall fail diligently to prosecute the same thereafter; but
no such action shall be brought more than two years after
the date such profit was realized. This section shall not
be construed to cover any transaction where such bene-
ficial owner was not such, both at the time of the purchase
and sale, or the sale and purchase, of the security in-
volved, or any transaction or transactions which the com-
missoner by rules and regulations may exempt as not
comprehended within the purpose of this section.

(c) It shall be unlawful for any such beneficial owner,
director or officer, directly or indirectly, to sell any equity
security of such company if the person selling the security
or his principal (i) does not own the security sold, or
(ii) if owning the security, does not deliver it against such
sale within twenty days thereafter, or does not within
five days after such sale deposit it in the mails or other
usual channels of transportation; but no person shall be
deemed to have violated this section if he proves that
notwithstanding the exercise of good faith he was unable
to make such delivery or deposit within such time, or that
to do so would cause undue inconvenience or expense.

(d) The provisions of subsection (b) of this section
shall not apply to any purchase and sale, or sale and
purchase, and the provisions of subsection (c) of this sec-
tion shall not apply to any sale of an equity security of a
62 domestic stock insurance company not then or theretofore
63 held by him in an investment account, by a dealer in the
64 ordinary course of his business and incident to the estab-
65 lishment or maintenance by him of a primary or second-
66 ary market (otherwise than on an exchange as defined
67 in the Securities Exchange Act of 1934) for such security.
68 The commissioner may, by such rules and regulations
69 as he deems necessary or appropriate in the public in-
70 terest, define and prescribe terms and conditions with re-
71 spect to securities held in an investment account and
72 transactions made in the ordinary course of business and
73 incident to the establishment or maintenance of a primary
74 or secondary market.
75 (e) The provisions of subsections (a), (b) and (c) of
76 this section shall not apply to foreign or domestic arbi-
77 trade transactions unless made in contravention of such
78 rules and regulations as the commissioner may adopt in
79 order to carry out the purposes of this section.
80 (f) The term “equity security” when used in this sec-
81 tion means any stock or similar security; or any security
82 convertible, with or without consideration, into such a se-
83curity, or carrying any warrant or right to subscribe to or
84 purchase such a security; or any such warrant or right;
85 or any other security which the commissioner shall deem
86 to be of similar nature and consider necessary or appro-
87 priate, by such rules and regulations as he may prescribe
88 in the public interest or for the protection of investors,
89 to treat as an equity security.
90 (g) The provisions of subsections (a), (b) and (c) of
91 this section shall not apply to equity securities of a do-
92 mestic stock insurance company if (i) such securities
93 shall be registered, or shall be required to be registered,
94 pursuant to section twelve of the Securities Exchange
95 Act of 1934, as amended, or if (ii) such domestic stock
96 insurance company shall not have any class of its equity
97 securities held of record by one hundred or more persons
98 on the last business day of the year next preceding the
99 year in which equity securities of the company would
100 be subject to the provisions of subsections (a), (b) and
101 (c) of this section except for the provisions of this sub-
102 section (ii).
(h) The commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by subsections (a) through (g) of this section, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of subsections (a), (b) and (c) of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

(i) This section shall take effect January first, one thousand nine hundred sixty-six.

Section 31. Proxies, Consents and Authorizations in Respect of Any Voting Security Issued by a Domestic Insurer.—(a) The commissioner may, by regulation, prescribe the form, content and manner of solicitation of any proxy, consent or authorization in respect of any voting security issued by a domestic insurer as necessary or appropriate in the public interest or for the proper protection of investors in the voting securities issued by such insurer, or to insure the fair dealing in such voting securities.

(b) No person and no domestic insurer or any director, officer or employee of such insurer shall solicit or permit the use of his name to solicit, by mail or otherwise, any person to give any proxy, consent or authorization in respect of any voting security issued by such insurer in contravention of any rule or regulation the commissioner may prescribe pursuant to this section.

(c) Failure to comply with any rule or regulation of the commissioner made pursuant to this section shall be unlawful and any proxy or consent obtained in violation of this section or in contravention of any rule or regulation issued pursuant thereto shall be void. Any domestic insurer or any person (who is legally entitled to vote, consent or authorize by virtue of being the holder of record of such a voting security) or the commissioner, if any of the foregoing parties shall fail to act within fifteen days after the date on which such vote was cast or counted, may enforce compliance with the rules and regulations made pursuant to this section, by appropriate action in law or equity: Provided, That no suit shall be brought more than thirty days after the date on which such vote, consent or authorization was to have been effected.

(d) None of the provisions of this section shall apply to voting securities of a domestic insurer if such voting
36 securities shall be registered pursuant to section twelve
38 (e) The term "voting security" as used in this section
39 shall mean any instrument which, in law or by contract,
40 gives the holder the right to vote, consent or authorize
41 any corporate action of an insurer.

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**CHAPTER 86**

*(House Bill No. 858—By Mr. Poindexter and Mr. Hill)*

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the construction of insurance policies.

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

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

**Article 6. The Insurance Policy.**

*Section 30. Construction of Policies.—Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application attached to and made a part of the policy: Provided, however, That the word "physician" when used in any accident and sickness policy or other contract providing for the payment of surgical procedures performed while the insured is hospitalized, shall be construed to include a dentist performing such surgical procedure within the scope of his professional license.*
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 policies.

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:

Article 13. Life Insurance.

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 policy-holder:

(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
(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default;

(d) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified;

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy;

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surren-
der value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof, not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(2) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection one, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (i) the then present value of the adjusted premiums as defined in subsections four, four-a and four-b, 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 specific period.
(4) Except as provided in the third paragraph of this subsection, 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 first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: Provided, however, That in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy: Provided, however, That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by
the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Except as otherwise provided in subsections four-a and four-b, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table: Provided, That for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: Provided, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rate of mortality assumed may be not more than one hundred and thirty per cent of the rates of mortality according to such applicable table: Provided further, That for insurance issued on a substandard basis, the calculation of
any such adjusted premiums and present values may be
based on such other table of mortality as may be speci-
ified by the insurer and approved by the commissioner.
(4a) In the case of ordinary policies issued on or
after the operative date of this subsection four-a as de-
fined herein, all adjusted premiums and present values
referred to in this section shall be calculated on the basis
of the Commissioners 1958 Standard Ordinary Mortality
Table and the rate of interest, not exceeding three and
one-half per cent per annum, specified in the policy for
calculating cash surrender values and paid-up nonfor-
feiture benefits: Provided, That for any category of
ordinary insurance issued on female risks, adjusted premi-
ums and present values may be calculated according to an
age not more than three years younger than the actual
age of the insured: Provided, however, That in calcu-
ling the present value of any paid-up term insurance
with accompanying pure endowment, if any, offered as
a nonforfeiture benefit, the rates of mortality assumed may
be not more than those shown in the Commissioners 1958
Extended Term Insurance Table: Provided further, That
for insurance issued on a substandard basis, the calcula-
tion of any such adjusted premiums and present values
may be based on such other table of mortality as may be
specified by the company and approved by the commissioner.
After June third, one thousand nine hundred fifty-nine,
any company may file with the commissioner a written
notice of its election to comply with the provisions of this
subsection after a specified date before January first, one
thousand nine hundred sixty-six. After the filing of such
notice, then upon such specified date (which shall be
the operative date of this subsection for such company),
this subsection shall become operative with respect to the
ordinary policies thereafter issued by such company. If
a company makes no such election, the operative date
of this subsection for such company shall be January first,
one thousand nine hundred sixty-six.
(4b) In the case of industrial policies issued on or
after the operative date of this subsection four-b as de-
fined herein, all adjusted premiums and present values
referred to in this section shall be calculated on the basis
of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest, not exceeding three and one-half per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: Provided, however, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table: Provided further, That for insurance issued on a substantial basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this amendatory act, any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January first, one thousand nine hundred sixty-eight. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such company), this subsection shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subsection for such company shall be January first, one thousand nine hundred sixty-eight.

(5) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections two, three, four, four-a, and four-b may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends paid to provide such additions. Notwithstanding the provisions of subsection two, additional benefits payable (a) in the event of death or
dismemberment by accident or accidental means, (b) in
the event of total and permanent disability, (c) as re-
versionary or deferred reversionary annuity benefits,
(d) as term insurance benefits provided by a rider or
supplemental policy provision to which, if issued as a
separate policy, this subsection would not apply, (e) as
term insurance on the life of a child or on the lives of
children provided in a policy on the life of a parent of
the child, if such term insurance expires before the child's
age is twenty-six, is uniform in amount after the child's
age is one, and has not become paid up by reason of the
death of a parent of the child, and (f) as other policy
benefits additional to life insurance and endowment
benefits, and premiums for all such additional benefits,
shall be disregarded in ascertaining cash surrender values
and nonforfeiture benefits required by this section, and
no such additional benefits shall be required to be in-
cluded in any paid-up nonforfeiture benefits.

(6) This section shall not apply to any reinsurance,
group insurance, pure endowment, annuity or reversion-
ary annuity contract, nor to any term policy of uniform
amount, or renewal thereof, of fifteen years or less ex-
piring before age sixty-six, for which uniform premiums
are payable during the entire term of the policy, nor to
any term policy of decreasing amount on which each
adjusted premium, calculated as specified in subsections
four, four-a and four-b, is less than the adjusted premium
so calculated on a policy issued at the same age and for
the same initial amount of insurance for a term defined
as follows—for ages at issue fifty and under, the term
shall be fifteen years, thereafter, the terms shall decrease
one year for each year of age beyond fifty, nor to any
policy for which shall be delivered outside this state
through an agent or other representative of the insurer
issuing the policy.
CHAPTER 88

(Senate Bill No. 114—By Mr. Holden, by request)

[Passed February 24, 1965; in effect ninety days from passage. Approved by the Governor.]

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 twelve, relating to the payment of the proceeds of a fire insurance policy by an insurer.

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 twelve, to read as follows:

Article 17. Fire and Marine Insurance.

Section 12. Payment discharges insurer.

Section 12. Payment Discharges Insurer.—Whenever the proceeds of or payment under a policy of fire insurance covering property located in West Virginia hereby or hereafter issued becomes payable, and the insurer makes payment thereof to the person or persons designated in the policy or contract or if the proceeds have been assigned and written notice of such assignment given to the insurer, to the person or persons being entitled thereto by virtue of such assignment, such payment shall fully discharge the insurer from all claims under the policy or contract. This section is declared to be applicable to all insurers, including farmers' mutual fire insurance companies.
CHAPTER 89  
(Senate Bill No. 154—By Mr. McCourt)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment, qualification and compensation of jury commissioners.

Be it enacted by the Legislature of West Virginia:

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


Section 3. Jury Commissioners; Appointment and Qualification; Term; Removal; Vacancies; Compensation; Oath; Powers and Duties Generally.—There shall be two jury commissioners of the circuit court of each county. They shall be of opposite politics, citizens of good standing, residents in the county for which they are appointed, and well-known members of the principal political parties thereof; but the chairman of any political party shall be ineligible to appointment, and no jury commissioner shall be eligible to reappointment after he shall have served four consecutive years. They shall be appointed by the circuit court, or the judge thereof in vacation, of their respective counties. Their term of office shall be four years, and shall commence on the first day of June next after their appointment. The jury commissioners appointed by the circuit court or the judge thereof, in office when this code takes effect, shall continue in office, unless removed, until the expiration of their respective terms of office, and their successors shall be appointed, as aforesaid, alternate-...
ly, so that a period of two years shall intervene between
the dates when the terms of office of the two commissi-
ers shall begin and expire. They may be removed from
office by the court or judge having the power of appoint-
ment, for official misconduct, incompetency, habitual
drunkenness, neglect of duty or gross immorality. Vacan-
cies caused by death, resignation or otherwise, shall be
filled for the unexpired term in the same manner as the
original appointments. They shall receive as compensation
for their services, while necessarily employed as such jury
commissioners, an amount to be fixed by the judge of the
circuit court, which amount for each jury commissioner
shall not exceed one hundred fifty dollars per year and be
payable out of the county treasury upon the order of the
circuit court. Before entering upon the discharge of his
duties, a jury commissioner shall take and subscribe, be-
fore the clerk of the circuit court, who is hereby author-
ized to administer the same, an oath, to be filed and pre-
served by him in his office, to the following effect:

State of West Virginia,
County of ................................, to-wit:

I, A........................................ B.........................., do solemnly
swear that I will support the Constitution of the United
States and the Constitution of this State and will faith-
fully discharge the duties of jury commissioner to the
best of my skill and judgment, and that I will not place
any person upon the jury list in violation of law, or out
of fear, favor or affection.

There shall be two jury commissioners for every court
of limited jurisdiction, who shall be appointed by such
courts, or the judges thereof in vacation, respectively,
and whose terms of office and compensation shall be the
same as jury commissioners of the circuit courts. The
same powers conferred and duties imposed by this article
upon the circuit courts, or the judges thereof in vacation,
and upon the clerks and jury commissioners of the circuit
courts, are hereby conferred and imposed upon every
court of limited jurisdiction and the judges thereof re-
spectively, and upon the clerks and jury commissioners
of such courts of limited jurisdiction.
AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-a, relating to authority of the commissioner of labor to investigate and mediate labor disputes if requested by both parties to the dispute, or if he offers to do so and both parties agree thereto.

Be it enacted by the Legislature of West Virginia:
That chapter twenty-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 one-a, to read as follows:

Article 1-a. Labor-Management Relations.

1. Declaration of policy.
2. Investigation and mediation by commissioner of certain labor disputes.

Section 1. Declaration of Policy.—It is hereby declared as the public policy of this state that the best interests of the people of the state are served by the prevention or prompt settlement of labor disputes and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the state.

Sec. 2. Investigation and Mediation by Commissioner of Certain Labor Disputes.—The commissioner or his designated representative may investigate and mediate labor disputes between an employer and an employee group or union whether or not a collective bargaining agreement exists between such parties providing both parties to such dispute request in writing such intervention or provided the commissioner offers such service to
both parties and both parties to the dispute agree in writing to the investigation or mediation. The commissioner may arbitrate such disputes or arrange for the selection of boards of arbitration on such terms as all of the parties to such dispute may agree upon. Records of the department relating to labor disputes shall be confidential.

CHAPTER 91
(House Bill No. 677—By Mr. Cann)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to using minimum standards of national electrical code for installation of electrical wiring, apparatus and equipment for electrical light, heat and power in factories, mercantile establishments, mills or workshops.

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


Section 3-a. National electrical code minimum standards.

Section 3-a. National Electrical Code Minimum Standards.—In every factory, mercantile establishment, mill or workshop, the installation, alteration, repair, moving, removal, maintenance and conversion of all electrical wiring and apparatus and equipment shall be done in accordance with the minimum standards of safety and construction as set by the copyrighted national electrical
code, as promulgated, from time to time, by the national fire protection association.

CHAPTER 92

(House Bill No. 659—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-b, relating to the abolishment of discriminatory wage rates based on sex, and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-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 five-b, to read as follows:

Article 5-b. Equal Pay for Equal Work.

Section

1. Definitions.
2. State commissioner of labor to enforce article.
3. Payment of wages for work of comparable character; exceptions.
4. Employee's right of action against his employer.
5. Offenses; penalties.

Section 1. Definitions.—(1) “Employer” means any person, partnership, firm or corporation employing one or more employees, but does not include the state, or any municipal corporation or political subdivision of the state having in force a civil service system based on merit: Provided, That the term employer shall not include any individual, corporation, business trust, or similar unit whose operations are subject to any federal act relating to equal wages for equal work, regardless of sex.

(2) “Employee” means any individual who, otherwise than as a co-partner of the employer or as an independent
contractor, renders personal services wholly or partly in 
this state to an employer who pays or agrees to pay such 
individual at a fixed rate: Provided, however, That where 
services are rendered only partly in this state, an individu-
al is not an employee unless his contract of employment 
has been entered into, or payments thereunder are ordi-
narily made or are to be made, within this state.

(3) "Wages" means all compensation for performance 
of service by an employee for an employer whether paid 
by the employer or another person, including cash value 
of all compensation paid in any medium other than cash.

(4) "Rate" with reference to wages means the basis 
of compensation for services by an employee for an em-
ployer and includes compensation based on the time spent 
in the performance of such services, or on the number 
of operations accomplished, or on the quantity produced 
or handled.

(5) "Unpaid wages" means the difference between 
the wages actually paid to an employee and the wages 
required under section three of this article, to be paid to 
such employee.

Sec. 2. State Commissioner of Labor to Enforce Article.
- The state commissioner of labor shall have the power 
and it shall be his duty to carry out and enforce the pro-
visions of this article.

Sec. 3. Payment of Wages for Work of Comparable 
Character; Exceptions.—(1) No employer shall: (a) In 
any manner discriminate between the sexes in the pay-
ment of wages for work of comparable character, the 
performance of which requires comparable skills; (b) 
pay wages to any employee at a rate less than that at 
which he pays wages to his employees of the opposite 
sex for work of comparable character, the performance 
of which requires comparable skills.

(2) Subsection (1) of this section does not apply 
where: (a) Payment is made pursuant to a seniority or 
merit system which does not discriminate on the basis of 
sex. (b) A differential in wages between employees is 
based in good faith on factors other than sex. No
employee shall be reduced in wages in order to eliminate an existing, past or future wage discrimination or to effectuate wage equalization.

(3) No employer shall in any manner discriminate in the payment of wages against any employee because the employee has filed a complaint in a proceeding under this article, or has testified, or is about to testify, or because the employer believes that the employee may testify, in any investigation or proceedings pursuant to this article or in a criminal action pursuant to this article.

Sec. 4. Employee's Right of Action against His Employer.—(1) Any employee whose compensation is at a rate that is in violation of section three of this article shall have a right of action against his employer for the recovery of (a) the amount of the unpaid wages to which the employee is entitled for the one-year period preceding the commencement of the action, and (b) an additional amount as liquidated damages equal to the amount referred to in paragraph (a) of this subsection.

(2) In addition to any judgment awarded to the plaintiff, the court shall allow reasonable attorney's fees to be taxed as costs in any judgment recovered.

(3) The action for the unpaid wages and liquidated damages may be maintained by one or more employees on behalf of themselves or other employees similarly situated.

(4) No agreement for compensation at a rate of less than the rate to which such employee is entitled under this article is a defense to any action under this article.

Sec. 5. Offenses; Penalties.—In addition to the civil damages recoverable under section four of this article, any employer who violates any of the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 6. Severability.—If any provision of this article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of this article which
can be given effect without the invalid provisions or application, and to this end the provisions of this article are declared to be severable.

CHAPTER 93

(Senate Bill No. 156—By Mr. McCourt)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

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 twenty-five, to encourage landowners to make available to the public land and water areas and other property for recreational purposes by limiting their liability toward users.

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 twenty-five, to read as follows:

Article 25. Limiting Liability of Landowners.

Section

1. Purpose.
2. Limiting duty of landowner generally.
3. Limiting duty of landowner who leases land to state, counties, municipalities or agencies.
4. Application of article.
5. Definitions.

Section 1. Purpose.—The purpose of this article is to encourage owners of land to make available to the public land and water areas for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

Sec. 2. Limiting Duty of Landowner Generally.—Subject to the provisions of section four of this article, an
owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, or activity on such premises to persons entering for such purposes.

Subject to the provisions of section four of this article, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby (a) extend any assurance that the premises are safe for any purpose, or (b) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

Sec. 3. Limiting Duty of Landowner Who Leases Land to State, Counties, Municipalities or Agencies.—Unless otherwise agreed in writing, an owner of land leased to the state or any agency thereof, or any county or municipality or agency thereof, for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any dangerous or hazardous conditions, uses, structures or activities thereon. An owner who leases land to the state or any agency thereof, or any county or municipality or agency thereof, for recreational purposes shall not by giving such lease (a) extend any assurance to any person using the land that the premises are safe for any purpose, or (b) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser or otherwise.

Sec. 4. Application of Article.—Nothing herein limits in any way any liability which otherwise exists (a) for wilful or malicious failure to guard or warn against a dangerous or hazardous condition, use, structure, or activ-
ity, or (b) for injury suffered in any case where the
owner of land charges the person or persons who enter or
go on the land other than the amount, if any, paid to the
owner of the land by the state or any agency thereof, or
any county or municipality or agency thereof.

Nothing herein creates a duty of care or ground of lia-

ability for injury to person or property.

Nothing herein limits in any way the obligation of a
person entering upon or using the land of another for
recreational purposes to exercise due care in his use of
such land and in his activities thereon.

Sec. 5. Definitions.—For purposes of this article: (a)
The term “land” shall include, but not be limited to, roads,
water, watercourses, private ways and buildings, struc-
tures and machinery or equipment thereon when attached
to the realty, (b) the term “owner” shall include, but not
be limited to, tenant, lessee, occupant or person in control
of the premises, (c) the term “recreational purposes”
shall include, but not be limited to, any one or any combi-
nation of the following: Hunting, fishing, swimming, boating,
camping, picnicking, hiking, pleasure driving, nature
study, water skiing, winter sports and visiting, viewing
or enjoying historical, archaeological, scenic or scientific
sites, or otherwise using land for purposes of the user, and
(d) the term “charge” shall mean the amount of money
asked in return for an invitation to enter or go upon the
land.

Sec. 6. Severability.—The provisions of this article are
severable. If any section, subsection, sentence, clause or
provision of this article is held invalid, the remainder of
the article shall not be affected.

CHAPTER 94

(House Bill No. 926—By Mr. Seibert)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:
That section twelve, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 2. Legal Holidays; Construction of Statutes; Definitions.**

Section 12. Headlines, et cetera, not part of act; notes, et cetera, attached to bills not to be construed as expressing legislative intent.

Section 12. Headlines, Et Cetera, Not Part of Act; Notes, Et Cetera, Attached to Bills Not to Be Construed as Expressing Legislative Intent.—Chapter, article or section headings, headlines or headnotes of any act of the Legislature, whether in the act at the time of passage or inserted by the clerk of the house of delegates in editing, compiling and publishing the acts of the Legislature, are hereby declared to be mere catchwords and shall not be deemed or construed to be titles of such chapters, articles or sections, or as any part thereof, or as indicating or expressing legislative intent or purpose.

Abstacts of bills or of changes proposed in existing statutes, explanatory notes and declarations of purpose accompanying bills at the time of introduction in the Legislature or appended or attached thereto after introduction, and included with copies of such bills printed or otherwise reproduced by the Legislature or either house thereof, are hereby declared not to be a part of such bills or of reports of committees thereon, and shall not be construed or interpreted as indicating or expressing legislative intent.

**CHAPTER 95**

(Com. Sub. for Senate Bill No. 232—By Mr. Carson,
Mr. President)

(Passed March 13, 1965; in effect from passage. Approved by the Governor.)

AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article three, relating to making the joint committee on government and finance a statutory body, and its powers and duties.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Joint Committee on Government and Finance.

Section
1. Continued as statutory body; composition; appointment and terms of members.
2. Expenses of committee; compensation of members.
3. Powers and duties generally; report to Legislature; office.
4. Access to records of state agency or department; public hearings to make investigations and surveys; administering oaths to persons testifying; compelling attendance of witnesses; production of evidence.

Section 1. Continued as Statutory Body; Composition; Appointment and Terms of Members.—The joint committee on government and finance, heretofore existing under a joint rule of the senate and house of delegates, is hereby continued as a statutory body. This committee shall be composed of seven members of the senate, six of whom shall be appointed by the president of the senate, and seven members of the house of delegates, six of whom shall be appointed by the speaker of the house of delegates. The six members appointed by the president of the senate shall include the majority leader of the senate, the minority leader of the senate, the chairman of the senate committee on the judiciary and the chairman of the senate committee on finance. The six members appointed by the speaker of the house of delegates shall include the majority leader of the house of delegates, the minority leader of the house of delegates, the chairman of the house committee on the judiciary and the chairman of the house committee on finance. The president of the senate and the speaker of the house of delegates shall be members of the committee and cochairmen thereof. Not more than five of the members of the committee from each house shall be members of the same political party. The members shall
serve until their successors shall have been appointed as heretofore provided.

Sec. 2. Expenses of Committee; Compensation of Members.—The expenses of the committee shall be paid from the contingent fund of the senate and contingent fund of the house of delegates in equal amounts. The members of the committee shall receive no remuneration for their services, other than actual expenses incurred in the discharge of their duties hereunder as approved by the committee.

Sec. 3. Powers and Duties Generally; Report to Legislature; Office.—It shall be the duty of the committee to consider matters referred to it by legislative resolution, and to study and survey matters of government, finance, and claims against the state and to make a report of its studies, findings and such recommendations as it may deem proper and as well all expenditures of said committee to regular annual sessions of the Legislature. The committee is hereby vested with power and authority to employ and supervise the legislative auditor, as provided in article two of this chapter; and to employ other technical and clerical personnel as may from time to time be necessary; and to establish a legislative reference library. The committee shall be vested with and authorized to exercise all powers granted such committee by legislative resolution, and the statutes and constitution of the state of West Virginia. The committee may function and exercise any power granted it either during the interim periods between sessions of the Legislature or while the Legislature is in session. The office of said committee shall be maintained at the state capitol.

Sec. 4. Access to Records of State Agency or Department; Public Hearings to Make Investigations and Surveys; Administering Oaths to Persons Testifying; Compelling Attendance of Witnesses; Production of Evidence.—For the purpose of obtaining information in conjunction with the formulation of new laws or the revision of existing laws, the committee, or an employee duly authorized by the committee, shall have access to records of every agency or department of the state.
In addition, the committee, or any employee duly authorized by the committee, is empowered to hold public hearings at such times and places within the state as may be desirable to make investigations and surveys, and either cochairman or any member of the committee shall have the power to administer oaths to persons testifying at such hearings. By subpoena, issued over the signature of either chairman of the committee and served in the manner provided by law, the committee may summon and compel the attendance of witnesses and their examination under oath and the production of all books, papers, documents and records necessary or convenient to be examined and used by the committee in the performance of its duties. If any witness subpoenaed to appear at such hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, papers, documents or records within his or her control when the same are demanded, the committee shall report the facts to the circuit court of Kanawha county or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance. Witnesses subpoenaed to attend such hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

CHAPTER 96
(Senate Bill No. 177—By Mr. Martin)

(Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section one-a, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to deeds of trust conveying real property and/or personal property
and certain limitations on the application of said article one.

Be it enacted by the Legislature of West Virginia:

That section one-a, article one, 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:

Article 1. Vendor's and Trust Deed Liens.

Section 1-a. Deeds of trust conveying real and/or personal property; limitations on application of this article.

Section 1-a. Deeds of Trust Conveying Real and/or Personal Property; Limitations on Application of This Article.

A deed of trust may convey both real property or some interest therein and personal property or only real property or some interest therein or only personal property in order to secure a debt. This article shall apply to deeds of trust that convey real property or some interest therein or both real property or some interest therein and personal property. Deeds of trust conveying only personal property are governed by article nine of chapter forty-six of this code. If the deed of trust conveys both real and personal property, a financing statement as to the personal property shall be required as specified in article nine, chapter forty-six of this code, and the trustee may proceed as to the sale or other disposition of the personal property involved under said article nine of chapter forty-six and of the real property involved under this article or he may proceed as to the sale or other disposition of both the real and personal property involved under this article. In all other respects this article is applicable to the conveyance of real property by deed of trust, and article nine of chapter forty-six is applicable to the conveyance of personal property by deed of trust.

For purposes of this section, personal property is any property right or interest in which a security interest under article nine of chapter forty-six of this code may be obtained or created.
AN ACT to amend and reenact section seven, article five-a, and section seven, article five-b, all of chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the renewal of a suggestee execution directed against the salary and wages of persons engaged in private employment and the renewal of a suggestee execution directed against the salary and wages of persons employed by the state, a state agency or political subdivision.

Be it enacted by the Legislature of West Virginia:
That section seven, article five-a, and section seven, article five-b, all of 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:


5-b. Suggestion of the State and Political Subdivisions; Garnishment and Suggestion of Public Officers.


Section 7. Renewal of suggestee executions.

Section 7. Renewal of Suggestee Executions.—A suggestee execution which shall expire wholly or partly unsatisfied may be renewed from time to time in the manner in which it was originally issued and for a like period. The renewal execution shall conform to the original save that it shall state in addition the fact that it is a renewal and shall be issued only for the balance due on the judgment. A renewal execution shall retain the same priority of lien as the original if, and only if, served within a thirty-day period ending on the date of the expiration of
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11 the life of the original or the last previous renewal, as
12 the case may be.

Article 5-b. Suggestion of the State and Political Subdivisions;
Garnishment and Suggestion of Public Officers.

Section 7. Renewal of suggestee executions.

Section 7. Renewal of Suggestee Executions.—A suggestee execution which shall expire wholly or partly unsatisfied may be renewed from time to time in the manner in which it was originally issued and for a like period. The renewal execution shall conform to the original save that it shall state in addition the fact that it is a renewal and shall be issued only for the balance due on the judgment. A renewal execution shall retain the same priority of lien as the original if, and only if, served within a thirty-day period ending on the date of the expiration of the life of the original or the last previous renewal, as the case may be.

CHAPTER 98

(Com. Sub. for House Bill No. 586—By Mr. Speaker, Mr. White, and Mr. Poindexter)

(Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.)

AN ACT to repeal article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal articles one, four, five and six of said chapter twenty-seven and to enact in lieu thereof new articles one, four, five and six; and to amend and reenact sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one, two, three, four and five, article two; section two, article three; sections one, three, four and five, article seven; article eight; section one, article nine; sections one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, relating to mentally ill
and mentally retarded persons and inebriates; defining certain words and phrases; relating to the department of mental health; changing the name of the West Virginia training school to Colin Anderson center; relating to the state hospitals as therein defined; changing certain terminology; providing for the voluntary hospitalization of the mentally ill and mentally retarded; providing for the involuntary hospitalization of the mentally ill and mentally retarded on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill on medical certification; providing an emergency procedure for the involuntary hospitalization of the mentally ill without medical certification; providing a legal procedure for the involuntary hospitalization of the mentally ill and mentally retarded; providing for judicial review of an order of commitment to a state hospital entered by a mental hygiene commission; providing for an examination of newly admitted patients; providing for hospitalization by an agency of the United States; providing for the commitment of inebriates by mental hygiene commissions; providing for the commitment and admission of criminally mentally ill persons and of the return of criminally mentally ill persons upon discharge from a state hospital; providing for the release, discharge and readmission of patients and of escapees; providing for the maintenance of mentally ill and mentally retarded patients; providing for the licensing of hospitals for the mentally ill and mentally retarded by the director of mental health; providing for the appointment of a committee for the mentally ill and mentally retarded; providing the duties of such committee; providing for certain offenses and penalties; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that articles one, four, five and six of said chapter twenty-seven be repealed, and new articles one, four, five and six be enacted in lieu thereof; that sections one, two, four, five, six, seven, eight, nine and ten, article one-a; sections one, two, three, four and five, article two; section two, article
three; sections one, three, four and five, article seven; article eight; section one, article nine; sections one, two, three and five, article eleven; article twelve, and section two, article thirteen, all of said chapter twenty-seven, be amended and reenacted, all to read as follows:

Article

1. Words and Phrases Defined.
1-a. Department of Mental Health.
2. State Hospitals and Colin Anderson Center.
4. Voluntary Hospitalization.
5. Involuntary Hospitalization.
6. Commitment of Inebriates and Criminally Mentally Ill.
7. Release, Discharge and Readmission of Patients; Escapees.
8. Maintenance of Mentally Ill or Mentally Retarded Patients.
10. Committee; Disposition of Property.
11. Offenses.
12. Laws Repealed; Severability.


Section

1. Definitions for purposes of chapter.
2. Mentally ill.
3. Mentally retarded.
4. Inebriate.
5. Physician.
7. Superintendent.
8. Resident of state and county.

Section 1. Definitions for Purposes of Chapter.—The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article, unless the context clearly requires a different meaning.

Sec. 2. Mentally Ill.—A "mentally ill" person is one having a psychiatric or other disease which substantially impairs his mental health.

Sec. 3. Mentally Retarded.—A "mentally retarded" person is one having an inadequately developed or impaired intellect, and who because thereof is significantly disabled in his ability to learn and to adapt to the demands of society.

Sec. 4. Inebriate.—An "inebriate" person is anyone over the age of eighteen years who is incapable or unfit to properly conduct himself or herself, or his or her affairs, or is dangerous to himself or herself or others,
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by reason of periodical, frequent or constant drunkenness, induced either by the use of alcoholic or other liquors, or of opium, morphine, or other narcotic or intoxicating or stupefying substance.

Sec. 5. Physician.—A “physician” is a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of his official duties.

Sec. 6. State Hospital.—A “state hospital” refers to Spencer state hospital, Lakin state hospital, Huntington state hospital, Barbourvillle state hospital, Weston state hospital, Colin Anderson center, and any other hospital, center, or institution, or part thereof, established, maintained, and operated by the state or by the state in conjunction with a political subdivision of the state to provide in-patient care and treatment for the mentally ill, or mentally retarded, or both.

Sec. 7. Superintendent.—A “superintendent” is the physician having the administrative responsibility for the state hospital.

Sec. 8. Resident of State and County.—A “resident of the state” is any person who has had an established residency in this state for at least one year, and a “resident of the county” is any person who has had an established residency in a county for at least sixty days.

Article 1-a. Department of Mental Health.

Section

1. Statement of policy.
2. Creation; composition; control of state hospitals.
4. Powers and duties of director.
5. Division of administration; powers and duties of supervisor.
6. Division of professional services; powers and duties of supervisor; liaison with other state agencies.
7. Division of community services; powers and duties of supervisors.
8. Superintendents to pay money to state treasury through department of mental health; appropriations; deficiency; how met.
9. Transfer of control, records and property from the board of control to the department of mental health.
10. Transfer of records and personnel from department of health to division of community services.

Section 1. Statement of Policy.—The purpose of this article is to improve the administration of the state hos-
3. pitals, raise the standards of treatment of the mentally
4. ill and mentally retarded in the state hospitals, encourage
5. the further development of out-patient and diagnostic
6. clinics, establish better research and training programs,
7. and promote the development of mental health.

Sec. 2. Creation; Composition; Control of State Hos-
2. pitals.—There shall be a state department of mental
3. health, to be known as the department of mental health.
4. It shall be a corporation and, as such, shall have a seal
5. and may contract and be contracted with. The depart-
6. ment shall consist of a director of mental health, super-
7. visors of divisions of the department, and such other
8. employees as are needed to carry out its functions. The
9. department shall supervise and control the state hos-
10. pitals.

Sec. 4. Powers and Duties of Director.—The director
2. shall appoint the superintendents of the state hospitals,
3. shall supervise and coordinate their medical and fiscal
4. administration, and may establish uniform policies for
5. state hospitals. He may transfer a patient from any state
6. hospital to any other state hospital or clinic under his
7. control. By agreement between the director of mental
8. health and the state commissioner of public institutions,
9. a patient at a state hospital may be transferred to an
10. institution, other than correctional, under the super-
11. vision of the state commissioner of public institutions.
12. The director of mental health shall have all the au-
13. thority vested in the divisions of the department, as here-
14. inafter provided, and shall appoint the supervisors of those
15. divisions. He may prescribe rules and regulations to
16. carry out his authority. The director shall make periodic
17. reports to the governor and to the Legislature on the con-
18. dition of the state hospitals and on other matters within
19. his authority, and shall include recommendations for im-
20. provement of the state hospitals and any other matters
21. affecting the mental health of the people of the state.
22. The director is hereby authorized and empowered to
23. accept and use for the benefit of a state hospital or hos-
24. pitals, or for any other mental health purpose specified in
25. this chapter, any gift or devise of any property or thing
which lawfully may be given. If such a gift or devise is for a specific purpose or for a particular state hospital or hospitals, it shall be used as specified, and the director is hereby vested with the title to the property which is or may be the subject of such gift or devise. Any gift or devise of any property or thing which lawfully may be given and whatever profit may arise from its use or investment shall be deposited in a special revenue fund with the state treasurer, and shall be used only as specified by the donor or donors.

Whenever it shall become necessary, the department of mental health may condemn any interest, right or privilege, land or improvement which in its opinion may be necessary, in the manner provided by law for the acquisition by this state of property for public purposes. The state shall be under no obligation to accept and pay for any property condemned, and shall no event pay for the same except from the funds provided; and in any proceeding to condemn, such orders shall be made by the court having jurisdiction of the suit, action or proceedings as may be just to the state and to the owners of property to be condemned, and a bond or other security may be required by the court securing such owners against any loss or damage to be sustained by reason of the failure of the state to accept and pay for the property, but such bond or security shall impose no liability or debt on or of the state as contemplated by the provisions of the constitution of the state in relation to state debt.

Sec. 5. Division of Administration; Powers and Duties of Supervisor.—There shall be a division of administration in the department of mental health. The supervisor of this division shall assist the director of the department in performing his general administrative duties, and shall also have the following powers and duties:

(1) To keep the records of the department, including records transferred from the board of control.

(2) To receive and disburse funds for the department.

(3) To assemble and analyze departmental budget esti-
mates, review requests for transfer of funds, and maintain departmental appropriation and fiscal records.

(4) To make rules and regulations governing the administration and business management of the state hospitals, formulate standard fiscal procedures, and make recommendations for improvement; to make regulations concerning any superintendent’s trustee fund heretofore established by authority of section three-a, article one, chapter twenty-five of the official code of West Virginia, one thousand nine hundred thirty-one, as amended.

(5) To have the responsibility for the maintenance of the land and buildings of state hospitals.

(6) To review requisitions for supplies and equipment, and cooperate with the division of purchases in development and drafting of specifications.

(7) To handle the personnel records of the department and to process payrolls.

(8) To enter into contracts for the department.

(9) To develop a civil service system, based on merit and including job classification and standardization, for the professional employees of the department and of the institutions and for any other employees thereof who are not made subject to such a system by other provisions of law.

(10) To perform any other duties assigned to the division by the director of the department.

Sec. 6. Division of Professional Services; Powers and Duties of Supervisor; Liaison with Other State Agencies. —There shall be a division of professional services in the department of mental health. The supervisor of this division shall act primarily in a consultant capacity and shall make recommendations as to professional aspects of state hospital management, but shall not exercise direct supervision of the state hospitals. The supervisor shall have the following powers and duties:

(1) To carry on or stimulate research activities related to medical and psychiatric facilities of the department, and render specialized assistance to hospital superintendents.
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(2) To develop professional standards, analyze hospital programs, and inspect individual hospitals.

(3) To assist in recruiting professional staff.

(4) To take primary responsibility for the education and training of professional and subprofessional personnel.

(5) To establish liaison with appropriate state agencies and with private groups interested in mental health, such as the state department of health, the board of probation and parole, the department of education, the board of governors of West Virginia University, and the West Virginia Association for Mental Health, Inc.

(6) To license, supervise and inspect any hospital, center or institution, or part thereof, maintained and operated by any political subdivision or by any person, persons, association or corporation to provide in-patient care and treatment for the mentally ill, or mentally retarded, or both.

(7) To perform any other duties assigned to the division by the director of the department.

Sec. 7. Division of Community Services; Powers and Duties of Supervisors.—There shall be a division of community services in the department of mental health. This division shall administer funds made available to the state of West Virginia and any political subdivision thereof under the national mental health act. The supervisor of this division shall also have the following powers and duties:

(1) To supervise the operation of out-patient psychiatric clinics for adults and children and to develop new clinics. Traveling clinics may be established for rural areas to be operated directly by the division or under its supervision.

(2) To develop a comprehensive and practical program of mental health education of the public, especially at the local level.

(3) To work with county mental hygiene commissions and circuit courts.
(4) To perform any other duties assigned to the division by the director of the department.

Sec. 8. Superintendents to Pay Money to State Treasury through Department of Mental Health; Appropriations; Deficiency; How Met.—All moneys and funds belonging to the state which shall come into the possession or under the control of the superintendent or other officer of a state hospital under the control of the department of mental health shall be paid to the director of mental health monthly, on or before the tenth day of the month following the month in which such moneys or funds were received, under such rules and regulations as the director shall prescribe. The director shall pay such moneys and funds into the state treasury immediately in the manner provided in article two, chapter twelve of this code.

All moneys appropriated for the department of mental health and state hospitals may be expended on proper requisitions issued by the director of mental health or his duly authorized agent. Whenever the appropriations by the Legislature for state hospitals are insufficient to pay the expenses of conducting such institutions, the director of mental health shall certify the deficiency to the governor. The certificate shall state the name of the state hospital and the items and amount in detail needed, and the governor may direct payment of the same or any part thereof out of any appropriation available for that purpose.

Sec. 9. Transfer of Control, Records and Property from the Board of Control to the Department of Mental Health. —The control of the financial, business and all other affairs of state hospitals is hereby transferred from the state board of control to the department of mental health, and, as its chief executive officer, the director shall, in respect to the control, management and property of such state hospitals, have the same rights and powers and shall perform the same duties and functions as were heretofore exercised or performed by the state board of control. The title to all property of such state hospitals is hereby
Sec. 10. Transfer of Records and Personnel from Department of Health to Division of Community Services.—

The state department of health shall transfer to the division of community services of the department of mental health all of the records of the bureau of mental health and all records pertaining to the state hospitals. Persons employed by the state department of health in that bureau may also be transferred to this division. All persons now employed by the various guidance clinics in the state shall be under the supervision of this division.

Article 2. State Hospitals and Colin Anderson Center.

Section 1. Locations; Continuation; Management; References to “West Virginia Training School” Construed to Mean “Colin Anderson Center.”—The state hospitals herefore established at Weston, Spencer, Huntington, Barboursville, Lakin and St. Marys shall be continued and known respectively as the Weston state hospital, Spencer state hospital, Huntington state hospital, Barboursville state hospital, Lakin state hospital and the Colin Anderson center. Said state hospitals shall be managed, directed and controlled by the department of mental health as provided in article one-a of this chapter.

All references in this code or elsewhere in law to the “West Virginia training school” shall be taken and construed to mean and to refer to the “Colin Anderson center.”

Sec. 2. Superintendents.—The superintendent of a state hospital shall be appointed for an indefinite period. The superintendent of a state hospital, other than a state hospital or center maintained and operated exclusively for the care and treatment of the mentally retarded, shall be a qualified psychiatrist with some experience in a
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Psychiatric facility. Preference shall be given to diplomates of the American board of psychiatry and neurology and to persons who are certified by the committee on the certification of mental hospital administrators. The superintendent of the Colin Anderson center, or of any other state hospital or center maintained and operated exclusively for the care and treatment of the mentally retarded, shall be a person qualified to supervise a hospital for mentally retarded.

The superintendent, subject to civil service regulations, shall have the power to appoint all assistants and employees required for the management of his institution; but the number of such assistants and employees, and their compensation, shall first be fixed by the director of mental health.

The superintendent shall be furnished living quarters, household furniture, board, fuel and lights for himself and his family. The director of mental health may designate other officers to receive these emoluments, as determined by the character of their duties.

Sec. 3. Rules as to Patients.—The director of mental health shall have authority to make rules, not contrary to law, regulating the admission of patients to the state hospitals, the care, maintenance and treatment of patients therein, and the release, trial visit and discharge of patients therefrom.

Sec. 4. Forms for Committing Patients; Other Records.—The director of mental health shall have authority to prepare, prescribe and have printed forms to be used for commitment to and discharge from the state hospitals.

Sec. 5. Reports by Superintendents; Records of Director of Mental Health.—The superintendent of each state hospital shall furnish to the director of mental health such information as he may require concerning admissions, discharges, deaths and other matters. From this and other information available to the director of mental health, he shall keep such records as are necessary to enable him to have current information concerning the extent of mental illness in the state. The names of in-
10 individuals shall not be accessible to anyone except by
11 permission of the director of mental health, or by order
12 of the judge of a court of record.

Article 3. Mental Hygiene Commissions.

Section
2. Meetings.

Section 2. Meetings.—All meetings of the commission
2 shall be held at the county seat, unless it shall be thought
3 best by the commission to meet at some other place, as in
4 the case of a person whose condition makes it advisable
5 to meet at or near his residence. The time of such meet-
6 ings shall be established by the commission.

Article 4. Voluntary Hospitalization.

Section
1. Authority to receive voluntary patients.
2. Release of voluntary patients.
3. Right to release on application.

Section 1. Authority to Receive Voluntary Patients.—
2 The superintendent of a state hospital, subject to the
3 availability of suitable accommodations, and subject fur-
4 ther to the rules and regulations promulgated by the di-
5 rector of mental health, shall admit for diagnosis, care
6 and treatment any individual:
7 (1) Over twenty-one years of age who is mentally
8 ill, mentally retarded or who has symptoms of mental
9 illness or mental retardation and makes application for
10 hospitalization; or
11 (2) Under twenty-one years of age who is mentally
12 ill or mentally retarded or who has symptoms of mental
13 illness or mental retardation and there is application
14 therefor in his behalf (a) by the parents of such person,
15 or (b) if only one parent is living, then by the such par-
16 ent, or (c) if the parents be living separate and apart,
17 by the one to whom was awarded the custody of such
18 person, or (d) if there is a guardian entitled to the cus-
19 tody of such person, then by such guardian.

Sec. 2. Release of Voluntary Patients.—The superin-
2 tendent of a state hospital shall release any voluntary
3 patient who, in his opinion, has recovered, or whose hos-
4 pitalization he determines to be no longer advisable.
Sec. 3. Right to Release on Application.—A voluntary patient who requests his release or whose release is requested in writing, by his parents, parent, guardian, spouse, or adult next of kin shall be released forthwith except that:

1. If the patient was admitted on his own application and the request for release is made by a person other than the patient, release shall be conditioned upon the agreement of the patient thereto;

2. If the patient is under twenty-one years of age, his release prior to becoming twenty-one years of age may be conditioned upon the consent of the person or persons who applied for his admission;

3. If, within ninety-six hours of the receipt of the request, the superintendent of the state hospital in which the patient is confined files with the clerk of the county court of the county in which the patient is a resident, or the clerk of the county court of the county where the hospital is situated, an application for involuntary hospitalization as provided in section four, article five of this chapter, release may be postponed pending a decision on the application by the mental hygiene commission.

Notwithstanding any other provision of this chapter, legal proceedings for hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by him or the individual or individuals who applied for his admission.

Article 5. Involuntary Hospitalization.

Section
1. Hospitalization on medical certification.
2. Hospitalization on medical certification; emergency procedure.
3. Hospitalization without medical certification; emergency procedure.
4. Hospitalization upon county court order; legal procedure; legal capacities.
5. Judicial review.
6. Examination of newly admitted patients; failure to examine; disposition of patients after examination; demands for release.
7. Hospitalization by an agency of the United States.

Section 1. Hospitalization on Medical Certification.—Any individual may be admitted to a state hospital upon:

(a) Written application to the state hospital by his parents or parent, guardian, spouse, adult next of kin or
friend, a health officer or public welfare caseworker familiar with the case of the individual, or the head of any institution where such individual may be, and

(b) Certification by two physicians that they have examined the individual, and that they are of the opinion that he is mentally ill or mentally retarded and:

(1) Because of his mental illness or mental retardation may injure himself or others if allowed to remain at liberty, or

(2) Is in need of care or treatment in a hospital, and because of his mental illness or mental retardation, lacks sufficient insight or capacity to make responsible application therefor.

The certifications by the licensed physicians may be made jointly or separately as the regulations of the director of mental health may prescribe. In the case of a licensed physician who examines the individual to determine whether or not he is mentally ill or mentally retarded, the physician's fee shall be paid by the patient or responsible relative. If, in the opinion of the county court, the patient or responsible relative is unable to pay such fee, the county court shall make such payment as such county court shall prescribe. An individual with respect to whom such certifications have been issued may not be admitted on the basis thereof at any time after the expiration of fifteen days from the last examination. The superintendent of the state hospital admitting the individual shall forthwith make a report thereof to the director of mental health.

If the certification by one of the examining physicians states the opinion that the individual because of his mental illness or mental retardation may injure himself or others if allowed to remain at liberty, the clerk of any county court of the county in which the individual is a resident or present may, upon application of the examining physician or of the person or persons seeking the admission of the individual, direct any health or police officer to take the individual into custody and transport him to the appropriate state hospital.

Sec. 2. Hospitalization on Medical Certification; Emer-
gency Procedure.—Any individual may be admitted to a state hospital upon:

(a) Written application to the state hospital by any health officer or police officer stating his belief that the individual, because of symptoms of mental illness, may cause injury to himself or others if not immediately restrained, and the grounds for such belief, and
(b) A certification by at least one physician that he has examined the individual and is of the opinion that the individual is mentally ill, and because of his illness, may injure himself or others if not immediately restrained.

Any individual with respect to whom such certification has been issued may not be admitted on the basis thereof at any time after the expiration of three days from the date of such examination. The superintendent of the state hospital admitting the individual shall forthwith make a report thereof to the director of mental health.

Sec. 3. Hospitalization without Medical Certification; Emergency Procedure.—When any health officer or police officer has reason to believe that an individual is mentally ill and because of his illness may injure himself or others if allowed to remain at liberty while awaiting an examination and certification by a physician, such health or police officer may take the individual into custody, apply to a state hospital for his admission and transport him thereto. The application for admission shall state the circumstances under which the individual was taken into custody and the reasons for the officer's belief. The superintendent of the state hospital admitting the individual shall forthwith make a report thereof to the director of mental health.

Sec. 4. Hospitalization upon County Court Order; Legal Procedure; Legal Capacities.—Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application and the certificate or statement hereinafter provided with the clerk of the county court of the county of which the individual is a resident or where he may be found, by his parents or parent, guardian, spouse, adult next of kin or friend, or by
a physician, a health officer or public welfare caseworker familiar with the case of the individual, or the head of any institution in which such individual may be. Such applicant shall file with his application the certificate of a physician stating that in his opinion the individual is mentally ill or mentally retarded and should be hospitalized or a statement by the applicant that the individual has refused to submit to examination by a physician.

Upon receipt of an application, the clerk shall give notice thereof to the individual and to the individual's spouse, parents or parent or guardian, or if the individual does not have a spouse, parents or parent or guardian, to the individual's adult next of kin. Such notice shall be given within fifteen days after receipt of the application by the clerk and shall be transmitted to such person or persons at his or their last known address by registered or certified mail, return receipt requested.

As soon as practicable after notice of the commencement of proceedings is given, the mental hygiene commission shall appoint two physicians to examine the individual and report to the mental hygiene commission their findings as to the mental condition of the individual and his need for custody, care or treatment in a hospital.

If the designated physicians report to the mental hygiene commission that the individual has refused to submit to an examination, the mental hygiene commission shall order him to submit to such examination. Such an order may be enforced by the issuance of a warrant ordering the individual to be taken into custody pending examination by the designated physicians. All such warrants shall be signed by the clerk on order of the mental hygiene commission and directed to the sheriff of the county or to any constable of any district thereof, or to a special constable appointed for the purpose and named therein.

If the report of one or both of the designated physicians is to the effect that the individual is mentally ill or mentally retarded, the mental hygiene commission shall forth-
with fix a date for and have the clerk of the county court
give notice of the hearing to the individual, the applicant
or applicants, and to the individual’s spouse, parents or
parent or guardian, or if the individual does not have
a spouse, parents or parent or guardian, to the individual’s
adult next of kin. Such notice shall be transmitted to
such person or persons at his or their last known address
by registered or certified mail, return receipt requested,
and shall be received by such person or persons not less
than five days prior to the date of the hearing.

The individual, the applicant, and all persons entitled
to notice of such hearing, shall be afforded an opportunity
to appear at the hearing, to testify, and to present and
cross-examine witnesses, and the mental hygiene com-
mission may in its discretion receive the testimony of
any other person. The individual shall not be required
to be present, and all persons not necessary for the con-
duct of the proceedings shall be excluded, except that
the mental hygiene commission shall admit and hear
persons having a legitimate interest in the proceedings.
The hearings shall be conducted in as informal a manner
as may be consistent with orderly procedure. The mental
hygiene commission shall receive all relevant and mater-
ial evidence which may be offered and shall not be bound
by the rules of evidence. The mental hygiene commis-
sion shall appoint a guardian ad litem who shall be a
competent attorney, for the individual, and said guardian
shall be present at the hearing and protect the interests
of the individual. The mental hygiene commission may
allow such guardian ad litem a reasonable fee for his
services which shall be paid by the county court to the
extent that funds are made available in the county
budget.

If, upon completion of the hearing and consideration
of the record, the mental hygiene commission finds that
the individual is mentally ill or mentally retarded, and:

(1) Because of his illness or retardation is likely to
injure himself or others if allowed to remain at liberty,
or

(2) Is in need of custody, care or treatment in a hos-
pital and, because of his illness or retardation lacks suffi-
cient insight or capacity to make responsible decisions
with respect to his hospitalization, and

(3) Is a resident of the county in which the hearing
is held, the mental hygiene commission may order his
hospitalization for an indeterminate period or for a tem-
porary observation period not exceeding six months.

If the order is for a temporary period the mental hy-
giene commission may at any time prior to the expira-
tion of such period, on the basis of report by the super-
intendent of the state hospital in which the patient is
confined and such further inquiry as may seem appro-
priate, order indeterminate hospitalization of the patient
or dismissal of the proceeding.

If the mental hygiene commission finds that the in-
dividual is not mentally ill or mentally retarded, the
proceeding shall be dismissed. If the commission finds
that the individual is mentally ill or mentally retarded
but because of such illness or retardation is not likely
to injure himself or others if allowed to remain at liberty,
the proceeding shall be dismissed. If the commission
finds that the individual is mentally ill or mentally re-
tarded and that because of such illness or retardation
is not likely to injure himself or others if allowed to
remain at liberty and that such individual has sufficient
insight or capacity to make responsible decisions with
respect to his hospitalization, the proceeding shall be
dismissed.

If the mental hygiene commission is satisfied that hos-
pitalization should be ordered but finds that the individual
is not a resident of the county in which the hearing is
held, a transcript of the evidence adduced at the hearing
of such person, properly certified by the clerk of the
county court, shall forthwith be forwarded to the clerk
of the county court of the county of which such person
is a resident, who shall immediately present such tran-
script to the mental hygiene commission of said county.

If the mental hygiene commission of the county of the
residence of the individual is satisfied from the evidence
contained in such transcript that such individual should
be hospitalized as determined by the standards set forth
above, the mental hygiene commission shall order the
appropriate hospitalization as though the person had been brought before the mental hygiene commission in the first instance. This order shall be transmitted forthwith to the clerk of the county court of the county in which the hearing was held, who shall execute said order promptly.

In lieu of ordering the patient to a state hospital, the mental hygiene commission may order him delivered to some responsible person who will agree to take care of him, and take from such responsible person a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the mental hygiene commission, payable to the state of West Virginia, with condition to restrain and take proper care of such person until the further order of the court or judge. But if the person found to be a mentally ill or mentally retarded person is not dangerous to himself or to others, or is found harmless, he may be delivered to any responsible person who will agree to take proper care of him without such bond, if in the judgment of the commission the same may be proper.

If the person found to be mentally ill or mentally retarded by the mental hygiene commission is a resident of another state, this information shall be forthwith given to the director of mental health, who shall make appropriate arrangements for his transfer to the state of his residence, except as qualified by the interstate compact on mental health.

The superintendent of the state hospital admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admission to the director of mental health.

All expenses incurred in this proceeding, including the fees of the designated physicians, shall be borne by the county of which the patient is a resident.

The entry of an order ordering hospitalization for an indeterminate period shall relieve the patient of legal capacity.

The clerk of the county court in which an order directing hospitalization is entered shall immediately upon
entry thereof forward a certified copy of same to the clerk of the county court of the county of which the patient is a resident.

Sec. 5. Judicial Review.—Any person adversely affected by any order of commitment entered by the mental hygiene commission under this article may seek review thereof by appeal to the appropriate circuit court, and jurisdiction is hereby conferred upon such court to hear and entertain such appeals upon application made therefor in the manner and within the time provided by law for civil appeals generally.

Any person hospitalized pursuant to section four of this article shall be entitled to have his case reviewed by the mental hygiene commission which committed him. Such review shall be obtained by a petition filed therein by such person or by that of his spouse, relative, guardian or friend. Upon receipt of any such petition, the commission shall conduct or cause to be conducted proceedings as specified in said section four: Provided, That no such re-examination shall be had if the petition is filed sooner than six months after entry of the order of hospitalization or sooner than one year after the filing of a previous petition of re-examination in accordance with the provisions of this section.

Sec. 6. Examination of Newly Admitted Patients; Failure to Examine; Disposition of Patients after Examination; Demands for Release.—The superintendent of the state hospital shall arrange for preliminary psychiatric examination of every patient hospitalized pursuant to the provisions of sections one, two or three of this article. If such examination is not completed within five days after the date of admission, or if the physician designated by the superintendent cannot certify that in his opinion the patient is mentally ill or mentally retarded and is likely to injure himself or others if allowed to be at liberty or because of his mental illness or mental retardation lacks sufficient capacity to continue hospitalization of his own volition, the patient shall be immediately discharged or permitted to change his status to that of voluntary hos-
MENTALLY ILL PERSONS

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15 month the patient shall be immediately released on per-
14 period, the patient shall be immediately released or per-
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Sec. 7. Hospitalization by an Agency of the United
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Sec. 6. Hospitalization and thereafter treated according to the provisions
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such individual is admitted pursuant to the order of such
mental hygiene commission to any hospital or institution
established, maintained or operated by any agency of
the United States within or without the state, he shall
be subject to the rules and regulations of such agency.
The chief officer of any hospital or institution operated
by such agency and in which the individual is so hospi-
talized, shall with respect to such individual be vested
with the same powers as the superintendents of state
hospitals or the director of mental health within this
state with respect to detention, custody, transfer, condi-
tional release, or discharge of patients. Jurisdiction is
retained in the appropriate mental hygiene commission
of this state at any time to inquire into the mental condi-
tion of an individual so hospitalized, and to determine
the necessity for continuance of his hospitalization, and
every order of hospitalization issued pursuant to this
section is so conditioned.

Article 6. Commitment of Inebriates and Criminally Mentally Ill.

Section
1. Commitment of inebriates.
2. Guardian ad litem to be appointed.
3. Witnesses.
4. Disposition of inebriates.
5. Transportation; temporary detention.
6. Release of inebriates; no forfeiture of legal capacity.
7. Commitment and admission of criminally mentally ill persons.
8. Return of criminally mentally ill person upon discharge from hospital.

Section 1. Commitment of Inebriates.—If any indi-
vidual in a county reasonably suspects any person
therein to be an inebriate, he may make complaint under
oath to the clerk of the county court, giving such infor-
mation and stating such facts therein as may be required,
and he shall further furnish to said clerk the certificate
of a physician showing the condition of such person. The
complaint and certificate shall be delivered to the clerk
of the county court, whose duty it shall be to issue a
warrant ordering the person named in such complaint
and certificate to be brought before the county mental
hygiene commission at a time and place named therein
so that his condition may be inquired into. All such
warrants shall be signed by the clerk of the county court
and have impressed thereon the seal thereof; and may be
addressed to the sheriff of the county or to any constable
of any district thereof, or to a special constable appointed
for the purpose and named therein; but if any relative
or friend of the person so suspected will serve such
warrant and cause such person to be brought before the
commission, he may be allowed to do so. The officer or
person to whom the warrant is addressed shall take such
person into custody and bring him or her before the com-
mission at the time and place named therein.

Whenever a person apparently an inebriate is so violent
as to endanger his or her own safety, or the safety of oth-
ers, any law enforcement officer may, with or without a
warrant, take such person into protective custody.

When such person is brought before the county mental
hygiene commission, the commission shall follow the
procedures set forth in sections two, three, four and five
of this article.

Sec. 2. Guardian Ad Litem to Be Appointed.—Before
proceeding with the hearing of the matter, the commis-
sion shall appoint a guardian ad litem, who shall be a
competent attorney, for such person, and such guardian
shall be present at the hearing and manage the case on
behalf of the person suspected. Such attorney shall be
paid by the county court. Such person and his counsel
shall have the right to cross-examine any witnesses.

Sec. 3. Witnesses.—The person suspected, the com-
plainant and all other persons having a legitimate and
proper interest therein shall be afforded an opportunity
to appear at the hearing, to testify and present and cross-
examine witnesses, and the commission may in its dis-
cretion receive the testimony of any other person. Among
the witnesses there shall be included two physicians who
shall separately or together make an examination of such
person, preferably before the hearing, and each physician
shall make out a certificate of the result of the examina-
tion, which certificate shall be signed and sworn to by
each physician and shall be considered as evidence by the
commission.
Such person shall not be required to be present at this hearing unless it be deemed advisable by the commission to better protect his interests. All persons not necessary for the conduct of the hearing shall be excluded, but the commission shall admit and hear persons having a legitimate and proper interest in the hearing. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure in a physical setting not likely to have a harmful effect on the mental condition of the person suspected. The commission shall receive all legitimate and material evidence which shall be offered and shall not be bound by the rules of evidence.

Sec. 4. Disposition of Inebriates.—(a) If, upon completion of the hearing and consideration of the record, the commission finds that the person suspected is an inebriate and:

1. Is in need of custody, care or treatment in a hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization, and
2. Is a resident of the county in which the hearing is held, the commission may order such person to be committed to a state hospital, or any institution hereafter established for inebriates, for a minimum period of thirty days. If the commission finds that the person suspected is not an inebriate or that subparagraph (1) is not applicable, then the proceeding shall be dismissed. If the commission is satisfied that such person should be committed but finds that the person is not a resident of the county in which the hearing is held, the commission shall proceed as set forth in subsection (b) hereof.

(b) If the person found to be an inebriate and to be in need of custody, care or treatment as aforesaid is a resident of another county of this state, a transcript of the evidence adduced at the hearing of such person, properly certified by the clerk of the county court, shall forthwith be forwarded to the clerk of the county court of the county of which such person is a resident, who shall immediately present such transcript to the mental hygiene commission of said county. Such commis-
sion shall give full faith and credit to the evidence contained in such transcript, and, if satisfied that such person is an inebriate and is in need of such custody, care or treatment, shall order the person to be committed to a state hospital, or other institution hereafter established for inebriates, for a minimum period of thirty days, as though the person had been brought before it in the first instance. This order shall be transmitted forthwith to the county clerk of the county court of the county in which the hearing was held, who shall execute said order promptly. All expenses incurred in this proceeding, as well as for the hospitalization of such inebriate, shall be borne by the county of which he is a resident.

Sec. 5. Transportation; Temporary Detention.—Whenever a person has been ordered to be hospitalized under the provisions of section four of this article, the commission shall, upon the request of a person having a proper interest in the individual's hospitalization, permit such person to arrange for the individual's transportation to the state hospital by such means as may be suitable for his mental and physical condition. In lieu of such request, the commission may deliver the inebriate to the state hospital in any manner which it may deem proper.

Pending his removal to a state hospital, an inebriate taken into custody or ordered to be hospitalized may be detained in his home, or any other suitable facility provided by the county court; but he shall not, except because of a lack of such facility or because of an extreme emergency, be detained in a nonmedical facility used for the detention for individuals charged with or convicted of penal offenses.

Sec. 6. Release of Inebriates; No Forfeiture of Legal Capacity.—After expiration of said minimum thirty-day period, the inebriate shall not be released until, in the opinion of the superintendent of the state hospital, he has received the maximum benefit from such hospitalization. In all cases dealing with the commitment of inebriates, the provisions of article seven of this chapter relating to the release, discharge and readmission of mentally ill and mentally retarded persons shall apply. An inebriate shall
not forfeit his legal capacity by virtue of being committed as an inebriate.

Sec. 7. Commitment and Admission of Criminally Mentally Ill Persons.—If any person charged with or convicted of crime be found, in the court before which he is charged or was convicted, to be mentally ill, and if such court shall order him to be confined in one of the state hospitals, he shall be received and confined in it. The sheriff or other officer of the court by which the order is made shall immediately proceed to ascertain whether a vacancy exists in a state hospital; and until it is ascertained that there is a vacancy, such person shall be kept in the jail of the county of such court.

Sec. 8. Return of Criminally Mentally Ill Person upon Discharge from Hospital.—When any person charged with crime confined in a state hospital has recovered from his mental illness, the superintendent shall give notice thereof to the clerk of the court by whose order he was confined and deliver him to the proper officer upon order of the court.

When any person convicted of a crime and sentenced to the penitentiary confined in a state hospital shall have recovered from such mental illness, he shall be forthwith returned to prison. Any time spent in such state hospital shall be computed as part of the term for which he was sentenced. If the sentence of such convict expires while such convict is in the state hospital, then upon his recovery he shall be discharged from said state hospital.

Article 7. Release, Discharge and Readmission of Patients; Escapees.

Section
1. Discharge.
2. Released as unimproved.
3. Readmission of patients.
4. Return of escapees; veterans.

Section 1. Discharge.—The superintendent of a state hospital shall continually review the case of each individual confined in such hospital and shall as frequently as practicable cause a complete staff examination of every patient, and whenever it is determined that the con-
dition justifying involuntary hospitalization no longer obtains, the superintendent shall discharge the patient and immediately make a report thereof to the mental hygiene commission, or the clerk of the county court of the county in which the involuntary hospitalization was ordered, and to the county clerk of the county wherein the patient is a resident. This discharge restores said patient to legal capacity.

Sec. 3. Released as Unimproved.—The superintendent of a state hospital may release a patient as unimproved when any responsible person requests the patient's release and is willing and able to take proper care of the patient outside the state hospital, taking from such responsible person a bond in the penalty of at least five hundred dollars, with sufficient security to be approved by the superintendent, payable to the state of West Virginia, conditioned to restrain and take proper care of such patient until the further order of the superintendent. Reports shall be made by those in charge of said patient at least once every six months to the superintendent of the state hospital. No discharge shall be given to said patient until he has returned to the state hospital for examination by the superintendent and staff thereof and it has been determined that he is no longer in need of hospitalization.

Where such discharges or releases are granted as provided in sections one, two and three of this article, the superintendent of the state hospital shall report the same to the director of mental health and to the mental hygiene commission, or the clerk of the county court, which ordered the involuntary hospitalization, as the case may be, and to the county clerk of the county of which the patient is a resident.

Sec. 4. Readmission of Patients.—While any patient is out of the state hospital under the provisions of section two of this article, he may be at any time readmitted to the hospital on the basis of the original commitment. If there is reason to believe that it is to the best interest of the patient to be hospitalized, the superintendent of the state hospital may issue an order for the immediate rehos-
mentality of the patient. This order shall be sent to the mental hygiene commission or to the clerk of the court which ordered his admission, as the case may be. A copy of such order shall also be sent to the clerk of the county court of the county of the patient's residence. If the original hospitalization was ordered by the commission, any member of such commission may endorse the superintendent's order and authorize any health officer or police officer to take the patient into custody and transport him to the state hospital where the order originated.

Sec. 5. Return of Escapees; Veterans.—If any person confined in a state hospital escapes therefrom, the superintendent thereof shall issue a notice, giving the name and description of the person escaping, and requesting his apprehension and return to the state hospital, and may offer such reward for the return of such person as the director of mental health may authorize. The superintendent may issue a warrant directed to the sheriff of the county in which the patient is a resident, commanding him to arrest and transport such escaped person back to the state hospital, which warrant the sheriff may execute in any part of the state. If such person goes to another state, the superintendent shall notify the director of mental health, and he shall take such action as he may deem proper for the return of such person to the state hospital.

If any veteran duly committed to a veterans' hospital or other veterans' institution, either within or without the state, escape or elope therefrom and any person make complaint, under oath, to the clerk of the county court of the county from which such veteran was so committed upon the order of the mental hygiene commission, or to the clerk of the circuit court by which such veteran was so committed, giving such information and stating such facts therein as may be required, or if any veteran duly committed to a veterans' hospital or other veterans' institution, either within or without the state, escape or elope therefrom and the superintendent or chief officer of such hospital or institution issues notice to the clerk of the county court of the county from which such vet-
eran was so committed upon the order of the mental hy-
which such veteran was so committed, giving the name
and description of such veteran and requesting his ap-
prehension and return to such hospital or institution, the
clerk of the county court or circuit court, as the case may
be, upon receipt of such complaint or of such notice, may
issue a warrant directed to the sheriff of the county from
which the veteran was so committed commanding him to
arrest and transport such veteran back to such hospital
or institution, which warrant the sheriff may execute in
any part of the state.

The sheriff or other person making any arrest under
this section shall be paid such compensation as is pro-
vided for like services in other cases, and such additional
compensation in any case as the director of mental health
may think reasonable and just.

The foregoing provisions shall likewise apply to any
veteran released from a veterans' hospital or other vet-
erans' institution, either within or without the state, on
trial visit or on parole whose conduct becomes such as to
warrant his return to such hospital or institution.

**Article 8. Maintenance of Mentally Ill or Mentally Retarded Patients.**

**Section 1. Maintenance of Patients; Reimbursement.**

1. Maintenance of patients; reimbursement.
2. When and how counties to pay.
3. Care of patients in boarding homes.

The cost of the maintenance of patients admitted to the
state hospitals shall be paid out of funds appropriated
for the respective state hospitals, but the state hospitals,
through the director of mental health, shall have a right
of reimbursement for all or any part of such maintenance,
in no case to exceed five dollars per day, from each pa-
tient or from the committee or guardian of the estate of
the patient, or if that be insufficient, then from the pa-
tient's husband, wife, children, father and mother, or any
of them. If a relative so liable does not reside in this
state and has no estate or debts due him within the state
by means of which the liability can be enforced against
MENTALLY ILL PERSONS

him, the other relatives shall be liable as provided by this section. In exercising this right of reimbursement, the director of mental health may, whenever it is deemed just and expedient to do so, exonerate any person chargeable with such maintenance from the payment thereof in whole or in part, if the director finds that such person is unable to pay or that payment would work an undue hardship on him or on those dependent upon him.

There shall be no discrimination on the part of the state hospital as to food, care, protection, treatment or rehabilitation, between patients who pay for their maintenance and those who are unable to do so.

It shall be the responsibility of the director of mental health to determine the ability of the patient or of his relatives to pay for his maintenance.

*Sec. 2. When and How Counties to Pay.—If the state hospital 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 state hospital the difference between the amount, if any, collected by the institution and the sum of one hundred fifty dollars. [subject, however, to the provisions of section two-a].

At every levy term of each county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of such state hospital, on or before the tenth day of January of each year, shall certify to the auditor a list of all the patients in the state hospital during the whole or any part of the preceding year for which the counties are to pay, showing on such

*Effect of 1965 Amendments: This section was twice amended by the 1965 regular session of the Legislature. Chapter 98, passed March 13, 1965, and made effective ninety days from passage, made several substitutions of state hospitals in lieu of former reference to mental institutions and deleted a former third paragraph which restricted application of the section to “the state mental hospitals proper, and not to the clinics attached thereto.” Chapter 99, also passed March 13, 1965, and made effective July 1, 1965, amended this section by adding at the end of the first paragraph thereof “subject, however, to the provisions of section two-a,” the words inserted in brackets at the end of the section. In the section as set out above, effect has been given to both of the 1965 acts.
list under the name of the county, the number from each
county and length of time they were in the state hospital
during the year, and showing the amount due from each
county for each patient, and the total amount due from
each county for the year. As soon as such list is received
by the auditor he shall charge to each county the amount
appearing to be due from the certificates of the superin-
tendents. Within ten days after the receipt of such cer-
tificates the auditor shall make out a copy thereof for
each county and certify the same to the county court
thereof, which list shall show the name of each patient in
such state hospital from the county during the year, the
length of time he was in such state hospital during the
year, the amount charged for each patient, and the total
amount charged on account of all such patients from the
county; and such total amount shall constitute a debt
against the county due the state. Whenever there is in
the state treasury a sum of money due any county from
any source, the same shall be at once applied on the debt
aforesaid against the county, and the fact of such appli-
cation of such fund shall be reported by the auditor to the
county court of the county, which report shall be a re-
cipt for the amount therein named.

Sec. 3. Care of Patients in Boarding Homes.—The di-
rector of mental health may, upon the recommendation
of the superintendent of the state hospital, provide care
in a suitable boarding home for any patient in a state
hospital, if the condition of the patient is such that his
and the public welfare will not be prejudiced thereby.
A patient in a boarding home shall be deemed to be a
patient of the state hospital from which he was removed
and shall, on the approval of the superintendent, be placed
under the supervision of a psychiatric social worker em-
ployed by the state hospital. All patients in such homes
shall be visited at least once every three months, and if
upon the visitation they are found to be abused, neglected
or improperly cared for, they shall be returned to the
state hospital or placed in a better boarding home. The
cost of the boarding home care shall be paid by the state
hospital from which he was removed.
Article 9. Licensing of Hospitals.

Section 1. License from Director of Mental Health; Regulations.

No hospital, center or institution, or part thereof, to provide in-patient care and treatment for the mentally ill, or mentally retarded, or both, shall be established, maintained or operated by any political subdivision or by any person, persons, association or corporation unless a license therefor shall be first obtained from the director of mental health. The application for such license shall be accompanied by a plan of the premises to be occupied, and such other data and facts that the director may require. He may make such terms and regulations in regard to the conduct of such hospital, center or institution, or part thereof, as he may think proper and necessary. He, or any person authorized by him, shall have authority to investigate and inspect such hospital, center or institution, or part thereof; and the director of mental health may revoke the license of any such hospital, center or institution, or part thereof, for good cause after reasonable notice to the superintendent or other person in charge thereof.

Article 11. Committee; Disposition of Property.

Section 1. To be appointed by county court.

When a person is found to be mentally ill or mentally retarded by the county mental hygiene commission the county court shall appoint a committee for him.

Sec. 2. Bond; Refusal to Act or Failure to Qualify; Appointment of Another; Committal to Sheriff. — The county court, when making the appointment of such committee, shall take from him a bond in such penalty and with such surety as it shall deem sufficient, with condition that the person so appointed will well and truly account for and pay over to the person entitled thereto all
property and moneys which may come into his hands by virtue of such appointment, and with such other conditions as the court may require. If any person so appointed as committee refuses the trust or shall fail for ten days succeeding his appointment to give bond as aforesaid, the court, on the motion of any party interested, or at its own instance, may appoint some other person as committee, taking from him bond as above provided, or may commit the estate of such mentally ill or mentally retarded person to the sheriff of the county, who shall act as such committee without giving any bond as such, and he and the sureties on his official bond shall be liable for the faithful performance of the trust.

Sec. 3. Appraisement of Estate.—The county court, whenever any committee is appointed for a mentally ill or mentally retarded person, shall appoint appraisers and cause to be made, returned and recorded an appraisement of the property, both real and personal, of any such person in the same manner, to the same extent, within the same time, and subject to the same regulations and conditions as required by law for the estate of a deceased person.

Sec. 5. Mortgage, Lease or Sale of Realty.—If the personal estate of such mentally ill or mentally retarded person be insufficient for the discharge of his debts, or if such estate or the residue thereof after payment of the debts, and the rents and profits of his real estate, be insufficient for his maintenance and that of his family, if any, the committee of such mentally ill or mentally retarded person may proceed, as provided in article one, chapter thirty-seven of this code, to obtain authority to mortgage, lease or sell so much of the real estate of such mentally ill or mentally retarded person as may be necessary for the purposes aforesaid, or any of them; setting forth in the bill or petition the particulars and the amount of the estate, real and personal, the application which may have been made of any personal estate, and an account of the debts and demands existing against the estate.
Article 12. Offenses.

Section 1. Malicious Making of Medical Certificate or Complaint as to Mental Condition.—Any physician who shall sign a certificate respecting the mental condition of any person without having made the examination as provided for by this chapter, or shall make any statement in any such certificate maliciously for the purpose of having such person declared mentally ill, mentally retarded or an inebriate, and any person who shall maliciously make application to any circuit court or mental hygiene commission for the purpose of having another person declared mentally ill, mentally retarded, or an inebriate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one year, or both fined and imprisoned at the discretion of the court.

Sec. 2. Trespass on Grounds of State Hospitals.—The enclosed premises and the lands adjoining the same belonging to any one of the state hospitals are hereby declared private grounds; and if any person be found thereon without authority, permission or good excuse, he shall be deemed a trespasser, and, on conviction thereof, shall be fined not exceeding twenty-five dollars; and if it shall appear that he was thereon for any unlawful or immoral purpose, in addition to being fined, he shall be imprisoned not exceeding sixty days.

Sec. 3. Miscellaneous Offenses.—If any person shall entice any patient from any state hospital who has been legally committed thereto, or attempt to do so; or shall counsel, cause, influence or assist, or attempt to do so, any such patient to escape or attempt to escape therefrom, or harbor or conceal any such patient who has escaped therefrom; or shall, without the permission of the superintendent of any such hospital, give or sell to any such patient, whether on the premises thereof or elsewhere, any money, firearms, drugs, cigarettes, tobacco, or any
other article whatsoever; or shall receive from the hands of any such patient anything of value, whether belonging to the state or not; or shall cause or influence, or attempt to cause or influence, any such patient to violate any rule or to rebel against the government or discipline of such hospital; or shall tease, pester, annoy, or molest any such patient, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than ten nor more than one hundred dollars, or imprisoned not exceeding six months, or, in the discretion of the court, both fined and imprisoned. If any person shall aid or abet the commission of any of the foregoing offenses, or aid or abet an attempt to commit the same, he shall be guilty of the same as if he were the principal, and be punished as above provided. In the trial of an indictment for committing any of the above-named offenses, the accused may be found guilty of an attempt to commit the same, or of aiding or abetting another in committing or in an attempt to commit the same. If any person, not her husband, shall have sexual intercourse with any female patient who is a patient of any of said state hospitals, he shall be guilty of a felony, and, on conviction thereof, shall be confined in the penitentiary not less than ten nor more than fifteen years; and if such female patient be under sixteen years of age, he shall be imprisoned not less than ten nor more than twenty years.

Article 13. Laws Repealed; Severability.

Section 2. Severability.

Section 2. Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or its application, and to this end the provisions of this chapter are declared to be severable.
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; and to further amend said article eight by adding thereto a new section, designated section two-a, all relating to the establishment by county courts of local mental health programs and deducting the cost of such programs from the annual county debt to the state of West Virginia for the maintenance of resident patients at state mental institutions.

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; and that said article eight be further amended by adding thereto a new section, designated section two-a, to read as follows:

Article 8. Maintenance of Mentally Ill Patients.

Section 2. When and how counties to pay.

2-a. Local mental health programs; approval; credits to amount due state under preceding section.

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, subject, however, to the provisions of section two-a.

At every levy term of each county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of such institution, on or before the tenth day of January of each year, shall certify to the auditor a list of all the patients in the institution
during the whole or any part of the preceding year for
which the counties are to pay, showing on such list un-
der the name of the county, the number from each county
and length of time they were in the institution during
the year, and showing the amount due from each county
for each patient, and the total amount due from each
county for the year. As soon as such list is received by
the auditor he shall charge to each county the amount
appearing to be due from the certificates of the super-
tendents. Within ten days after the receipt of such
certificates the auditor shall make out a copy thereof
for each county and certify the same to the county court
thereof, which list shall show the name of each patient
in such hospital from the county during the year, the
length of time he was in such institution during the year,
the amount charged for each patient, and the total amount
charged on account of all such patients from the county;
and such total amount shall constitute a debt against
the county due the state. Whenever there is in the state
treasury a sum of money due any county from any source,
the same shall be at once applied on the debt aforesaid
against the county, and the fact of such application of
such fund shall be reported by the auditor to the county
court of the county, which report shall be a receipt for
the amount therein named.

The provisions of this section shall apply only to the
state mental hospitals proper, and not to the clinics at-
tached thereto.

Sec. 2-a. Local Mental Health Programs; Approval;
Credits to Amount Due State under Preceding Section.—
Any county court which elects to establish a local mental
health program and has a completed comprehensive pro-
gram ready for implementation, and which program is ap-
proved in advance by the state director of mental health,
shall be allowed to deduct from its annual debt for the
maintenance of resident patients in state mental institu-
tions, as set forth in section two, an amount equal to the
moneys annually expended by said county court for the
establishment and maintenance of said approved local
mental health program.
Any county court which desires to establish a local mental health program may make application for approval of such program to the director of mental health on forms to be provided by the director and in accordance with procedures and standards which have been established by the director.

On or before the fifth day of January of each year, each county court which has established an approved program shall certify to the director a detailed statement of its expenditures made for such program on a form to be provided by the director. The director shall have the authority to delete or refuse to approve any expenditures made by the county courts which were not made in accordance with the approved comprehensive plan for that county.

On or before the fifteenth day of January of each year the director of the department of mental health shall certify to the auditor a statement of the approved expenditures made by each county which has elected to establish a local mental health program. The auditor shall deduct such certified sums from the amount determined to be due the state of West Virginia, as provided in section two: Provided, That any amount due which is not used in the operation of such a local mental health program in the fiscal year for which it was made available to provide mental health services to its residents shall continue to be paid into the state treasury: Provided further, That any such approved comprehensive mental health program must be fully implemented within one year from the date of approval by the state director of mental health.

CHAPTER 100

(Com. Sub. for Senate Bill No. 137—By Mr. Holden and Mr. Jackson)

[Passed March 11, 1965; in effect July 1, 1965. Approved by the Governor.]
one, as amended, by amending and reenacting section
eight, article one thereof, sections eight and nine, article
two-a thereof; by adding thereto a new article, design-
ated article two-b; and by amending and reenacting sec-
tion one-d, article four thereof, all relating to the director
of the department of mines and his salary; appointment
and qualifications of mine inspectors, their salaries, ex-
penses, and removal; surface mining maps, plans and loca-
tions; appointment and qualifications of surface mining
supervisor and inspectors, and their compensation and ex-
penses; underground clay mining, qualification and em-
ployment of clay mine foreman and assistants, and regula-
tions in connection with underground clay mines; and
qualification and appointment of oil and gas inspector and
supervising inspector, and expenses and removal thereof.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended by
amending and reenacting section eight, article one thereof;
sections eight and nine, article two-a thereof; by adding thereto
a new article, designated article two-b; and by amending and
reenacting section one-d, article four thereof, all to read as
follows:

Article
1. Administration; Enforcement.
2-a. Surface Mining.
4. Oil and Gas Wells.

Article 1. Administration; Enforcement.

Section
8. Same; eligibility for appointment; qualifications; salary and ex-
penses; removal.

Section 8. Same; Eligibility for Appointment; Qualifi-
cations; Salary and Expenses; Removal.—(a) No per-
son shall be eligible for appointment as a mine inspec-
tor after the effective date of this article unless, at the
time of his probationary appointment he: (1) Is a citizen
of West Virginia, in good health, not less than thirty
nor more than fifty-five years of age, and of good char-
acter, reputation and temperate habits; (2) has had at
least ten years' practical experience in coal mines, at least
five years of which, immediately preceding his original appointment, shall have been in mines in this state: Provided, That graduation from the school of mines of West Virginia University or any other accredited college of mining engineering shall be considered the equivalent of two years' practical experience; (3) has had practical experience with dangerous gases found in coal mines; and (4) has a good theoretical and practical knowledge of mines, mining methods, mine ventilation, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as a mine inspector an eligible applicant shall submit to a written and oral examination by the mine inspectors' examining board and furnish such evidence of good health, character and other facts establishing eligibility as the board may require. If the board finds after investigation and examination that an applicant: (1) Is eligible for appointment and (2) has passed all written and oral examinations, with a grade of at least ninety per cent, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the director of the department of mines. No candidate's name shall remain in the register for more than three years without requalifying.

(c) Salaries of district inspectors shall not be less than eighty-one hundred dollars nor more than ninety-nine hundred dollars per annum; assistant inspectors-at-large not less than eighty-four hundred dollars nor more than ten thousand two hundred dollars per annum; inspectors-at-large not less than eighty-seven hundred dollars nor more than ten thousand eight hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector shall be fixed by the director of the department of mines, subject to the approval of the mine inspectors' examining board. In fixing salaries of mine inspectors, the director of the department of mines shall consider ability, performance of duty and experience. No reimbursement for traveling expenses shall be made except upon an itemized account of such expenses submitted by the inspector, who
shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) A mine inspector, after having received a permanent appointment shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause.

Proceedings for the removal of a mine inspector may be initiated by the director of the department of mines whenever he has reasonable cause to believe and does believe that adequate cause exists, warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the board by the director of the department of mines, setting forth with particularity the facts alleged. Not less than twenty reputable citizens, who are operators or employees in mines in the state, may petition the director of the department of mines for the removal of a mine inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts, which, if true, warrant the removal of the inspector, the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the director finds that there is substantial evidence which, if true, warrants removal of the inspector, he shall file a petition with the board requesting removal of the inspector.

On receipt of a petition by the director of the department of mines seeking removal of a mine inspector the board shall promptly notify the inspector to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days thereafter. There shall be attached to the copy of the notice served upon the inspector a copy of the petition filed with the board.

At the time and place designated in said notice, the board shall hear all evidence offered in support of the petition and on behalf of the inspector. Each witness shall be sworn and a transcript shall be made of all evidence taken and proceedings had at any such hearing. No continuance shall be granted except for good cause shown.

The chairman of the board and the director of the de-
partment of mines shall have power to administer oaths and subpoena witnesses.

Any mine inspector who shall wilfully refuse or fail to appear before the board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to waive immunity from prosecution on account of any relevant matter about which he may be asked to testify at any such hearing before the board, shall forfeit his position.

If, after hearing, the board finds that the inspector should be removed, it shall enter an order to that effect. The decision of the board shall be final and shall not be subject to judicial review.

Article 2-a. Surface Mining.

Section 8. Maps, plans and locations.

Section 8. Maps, Plans and Locations.—Except as otherwise provided in the code of West Virginia, one thousand nine hundred thirty-one, as amended, applications shall be accompanied by a United States geological survey topographic map on which the operator has indicated the location of the operation. A monument as prescribed by the department of mines shall be placed in an approved location near the operation. If operations under a single permit are not geographically continuous, the operator shall locate additional monuments and submit additional location maps before mining on other areas. On or prior to the beginning of the ninth month after the date of the issuance of any surface mining permit, five copies of a six months' progress map shall be furnished the department of mines. This map shall contain information identical to that required for both the anniversary and completion maps which are required by this article. Within sixty days following the anniversary date of the permit, the operator shall furnish the department of mines five copies of a map, prepared by a registered professional civil engineer, mining engineer or land surveyor, showing the area
disturbed by operations. Such map shall be furnished no
later than sixty days following the anniversary date of
the permit. Such map shall also show completed reclamation
work. Maps shall include a geologic survey sketch
showing the location of the operation and be properly
referred to a permanent landmark, and all work shall
have an accuracy of not less than one in three hundred.
If no land has been disturbed by operations during the
preceding year, the operator shall notify the department
of mines of this fact. A final map shall be submitted with-
in three months after completion of mining operations.
Failure to submit maps or notices at specified times shall
cause the permit to be suspended.

Sec. 9. Surface Mining Supervisor and Inspectors; Appointment and Qualifications; Compensation and Expenses.
—Not more than six surface mining inspectors and a state
surface mining supervisor shall be appointed by the di-
rector of the department of mines. All such appointees
shall be citizens of West Virginia, in good health, not less
than thirty nor more than fifty-five years of age, of good
character and reputation, and temperate in habits. Each
of them shall have had at least five years’ practical experi-
ence in surface mining in West Virginia. The surface min-
ing supervisor shall be paid not less than seven thousand
dollars and not more than eight thousand five hundred
dollars per annum, and the surface mining inspectors shall
be paid not less than six thousand seven hundred dollars
and not more than seven thousand five hundred dollars
per annum. Each shall be allowed reasonable traveling
expenses when itemized by the claimant who shall verify
upon oath that such expenses were actually incurred in
the discharge of his official duties for the department of
mines. Within the limits provided in this section, the
salary of the supervisor and of each inspector shall be
fixed by the director of the department of mines, and in
fixing such salaries the director shall consider ability,
performance of duty, responsibility and experience of
each. All such salaries and expenses shall be paid from
the department of mines funds.

Section 1. Definition.—In this article the term “mine” shall include the shafts, slopes, drifts or inclines connected with excavations penetrating clay seams or strata, which excavations are ventilated by one general air current or division thereof, and the surface structures or equipment connected therewith which contribute directly or indirectly to the underground mining of clay.

Section 2. Clay Mine Foreman; When to Be Employed; Qualifications; Assistants.—In every underground clay mine where five or more persons are employed in a period of twenty-four hours, the operator shall employ a mine foreman who shall be a competent and practical person holding a certificate of competence for said position issued to him by the department of mines after an examination by such department. In order to receive a certificate of competence qualifying a foreman in an underground clay mine, the applicant shall take an examination prescribed by the director of the department of mines, be a citizen of this state, of good moral character and temperate habits, having had at least three years’ experience in the underground working of clay mines.

Section 3. Regulations for the Protection of the Health and Safety of Employees.—The director of the department of mines may from time to time promulgate reasonable rules and regulations for the protection of the health and safety of the persons working in or about underground clay mines, to the extent the same are not more onerous or restrictive than the laws of this state intended to safeguard the life and health of persons working in underground coal mines contained in article two of this chapter.

Article 4. Oil and Gas Wells.

Section 1-d. Same; eligibility for appointment; qualifications; salary; expenses; removal.

Section 1-d. Same; Eligibility for Appointment; Qualifications; Salary; Expenses; Removal.—(a) No person shall
be eligible for appointment as an oil and gas inspector or supervising inspector unless, at the time of his proba-
tionary appointment he (1) is a citizen of West Virginia, in good health, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in the oil and gas industry, at least five years of which, immediately preceding his original appointment shall have been in the oil and gas industry in this state:

Provided, That a diploma in geology or in mining or petroleum engineering from West Virginia University, or any similarly accredited school shall be considered the equivalent of two years' practical experience; and (3) has good theoretical and practical knowledge of oil and gas drilling and production methods, practices and techniques, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as an oil and gas inspector or supervising inspector, an eligible applicant shall submit to a written and oral examination by the oil and gas inspectors' examining board and shall furnish such evidence of good health, character and other facts establishing eligibility as such board may require. If such board finds after investigation and examination that an applicant (1) is eligible for appointment and (2) has passed all written and oral examinations, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the deputy director for oil and gas. No candidate's name shall remain on the register for more than three years without requalifying.

(c) The salary of the supervising inspector shall be not less than five thousand six hundred dollars per annum, nor more than eight thousand dollars per annum, and reasonable traveling expenses. Salaries of inspectors shall not be less than five thousand six hundred dollars per annum, nor more than seven thousand four hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector and of the supervising inspector shall be fixed by the deputy director for oil and gas, subject to the approval of the director of the department of mines and oil and gas inspectors' examining board. In fixing salaries of the oil
and gas inspectors and of the supervising inspector, the
deputy director for oil and gas shall consider ability, per-
formance of duty, and experience. No reimbursement for
traveling expenses shall be made except upon an itemized
account of such expenses submitted by the inspector or
supervising inspector, as the case may be, who shall
verify, upon oath, that such expenses were actually in-
curred in the discharge of his official duties.

(d) An inspector or the supervising inspector, after
having received a permanent appointment, shall be re-
moved from office only for physical or mental impairment,
incompetency, neglect of duty, drunkenness, malfeasance
in office, or other good cause.

Proceedings for the removal of an oil and gas inspector
or the supervising inspector may be initiated by the
deputy director for oil and gas or the director of the de-
partment of mines whenever either has reasonable
grounds to believe and does believe that adequate cause
exists warranting removal. Such a proceeding shall be
initiated by a verified petition, filed with the oil and gas
inspectors' examining board by the deputy director for
oil and gas or the director, setting forth with particularity
the facts alleged. Not less than twenty reputable citizens
engaged in oil and/or gas drilling and production opera-
tions in the state may petition the deputy director for oil
and gas or the director of the department of mines for the
removal of an inspector or the supervising inspector. If
such petition is verified by at least one of the petitioners,
based on actual knowledge of the affiant, and alleges facts
which, if true, warrant the removal of the inspector or
supervising inspector, the deputy director for oil and gas
or the director of the department of mines shall cause an
investigation of the facts to be made. If, after such in-
vestigation, the deputy director for oil and gas or the di-
rector finds that there is substantial evidence which, if
true, warrants removal of the inspector or supervising
inspector, he shall file a petition with the oil and gas in-
spectors' examining board requesting removal of the in-
spector or supervising inspector.
On receipt of a petition by the deputy director for oil and gas or by the director of the department of mines seeking removal of an inspector or the supervising inspector, the oil and gas inspectors' examining board shall promptly notify the inspector or supervising inspector, as the case may be, to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days nor more than thirty days thereafter. There shall be attached to the copy of the notice served upon the inspector or supervising inspector a copy of the petition filed with such board.

At the time and place designated in said notice, the oil and gas inspectors' examining board shall hear all evidence offered in support of the petition and on behalf of the inspector or supervising inspector. Each witness shall be sworn and a transcript shall be made of all evidence taken and proceedings had at any such hearing. No continuance shall be granted except for good cause shown.

The chairman of the board, the deputy director for oil and gas, and the director of the department of mines shall have power to administer oaths and subpoena witnesses.

Any inspector or supervising inspector who shall wilfully refuse or fail to appear before such board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to accept a grant of immunity from prosecution on account of any relevant matter about which he may be asked to testify at such hearing before such board, shall forfeit his position.

If, after hearing, the oil and gas inspectors' examining board finds that the inspector or supervising inspector should be removed, it shall enter an order to that effect. The decision of the board shall be final and shall not be subject to judicial review.
CHAPTER 101

(House Bill No. 921—By Mr. Bailey)

An Act to amend and reenact section nine, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to levy of execution, etc., upon a vehicle for which application for a certificate of title has been filed with the department of motor vehicles; requiring officer to take vehicle into actual custody in order to obtain a recorded lien with the effect of constructive notice; relating to report by levying officer and action of the department; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section nine, article four-a, 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:

Article 4-a. Liens and Encumbrances on Vehicles to Be Shown on Certificate of Title; Notice to Creditors and Purchasers.

Section 9. Levy of execution, etc.—A levy made by virtue of an execution, fieri facias or other proper court order, upon a vehicle for which application for a certificate of title has been filed with the department, shall constitute a recorded lien, with the effect of constructive notice thereof to all persons, subsequent to holders of liens or encumbrances theretofore filed with the department, only from and after the time when the officer making such levy files a report to and with the department of motor vehicles, on forms provided therefor by the department, that such levy has been made and that the vehicle thus levied upon has been seized by and is in the actual custody of such officer; and the provisions of any other article, chapter or section of this code to the contrary notwithstanding, the docketing or recording of any such execution, fieri facias or other court order in the
office of the clerk of the county court of any county in this state shall not constitute constructive notice thereof as to any such vehicle.

Such report by such officer shall show among other things the full names of the parties to the proceeding upon which the execution, fieri facias or court order is based; the identity of the court, judge or justice of the peace or other judicial officer from which said execution, fieri facias or other court order was issued; the amount required for the satisfaction thereof; the date thereof; the date and hour when received by the officer; the date, hour and minute of the levy, attachment or other execution of said process and the taking into actual custody of said vehicle; the date returnable; the make, year, body style of the vehicle to which the lien of said execution, fieri facias or court order relates as well as the name of the person or persons whose interest or ownership therein is intended to be affected by the lien of such execution, fieri facias or court order. Such report shall also show, if known, the serial number of such vehicle, the current West Virginia registration card number and current West Virginia registered owner thereof and current West Virginia license plate number, and if any item in this sentence enumerated for listing on such report is unknown to the reporting officer the report shall state that such item is unknown to the officer. Such report shall be dated, signed and certified by the reporting officer and such certification shall constitute an official act on his part. The department shall by endorsement upon or attachment to its records note the officer's report and the day and hour and the minute received upon its record copy of the certificate of title thereby affected; should such lien be thereafter satisfied or should the vehicle thus levied upon and seized be thereafter released by such officer, he shall immediately report that fact to the department of motor vehicles and the department shall in a like manner note such fact. Any owner who after such levy and seizure by an officer and before the report thereof by the officer to the department shall fraudulently assign or transfer his title to or interest in such vehicle or cause the certificate of title thereto to be
assigned or transferred or cause a lien or encumbrance to be shown upon such certificate of title shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned in jail for not less than ten days nor more than twelve months.

The actual possession of the levying or attaching officer of the law or the actual possession of some person, other than the judgment or attachment debtor, holding such property for the officer, shall constitute notice of the lien, if any, of the execution, fieri facias, or other court order under which he levies and seizes or otherwise takes possession.

For any vehicle as to which an involuntary lien has been reported and noted by the department and for which there has been no report of release or satisfaction by the levying or seizing officer, if application be made for the transfer of title thereto or issuance of new certificate of title therefor to the current registered owner or to someone claiming by assignment of title certificate from such registered owner or if application be made pursuant to the provisions of this article for the endorsement upon the certificate of title to such vehicle of a lien or encumbrance created by the voluntary act of the owner and the issuance of a new certificate of title showing the same, such involuntary lien, for which the department's records show no report of satisfaction or release, and the information furnished in the officer's report thereof together with the date, hour and minute of receipt of such report shall be endorsed upon such new certificate of title issued pursuant to any of such applications.

CHAPTER 102
(Com. Sub. for House Bill No. 519—By Mr. Watson)

{Passed March 2, 1965; in effect ninety days from passage. Approved by the Governor.}

AN ACT to amend and reenact sections two and three, article two, chapter seventeen-b of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, relating to persons who are exempt from being licensed by the department of motor vehicles as operators or chauffeurs; to persons who may not be licensed by the department of motor vehicles as operators or chauffeurs; raising the age for a regular operator’s license from sixteen to eighteen years; providing for junior or probationary operator’s licenses for persons between the ages of sixteen and eighteen years; specifying that such junior or probationary operator’s licenses may be reasonably conditioned or restricted; requiring parental or guardian consent for the issuance of a junior or probationary operator’s license; and providing for the revocation of junior or probationary operator’s licenses for operating a motor vehicle in violation of the conditions or restrictions imposed upon such licenses or for convictions of moving violations against traffic regulations and laws of the road.

Be it enacted by the Legislature of West Virginia:

That sections two and three, 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:

Article 2. Issuance of License, Expiration and Renewal.

Section 2. What persons are exempt from license.

Section 3. What persons shall not be licensed; exceptions.

Section 2. What Persons Are Exempt from License.—

2 The following persons are exempt from license hereunder:

4 (1) Any person while operating a motor vehicle in the armed services of the United States while in the performance of his official duties;

7 (2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid operator’s license issued to him in his home state or country may operate a motor vehicle in this state only as an operator for a period not to exceed ninety days in any one calendar year;

13 (3) A nonresident who is at least sixteen years of age, who has in his immediate possession a valid operator's license
issued to him in his home state or country and who is
employed in this state, or owns, maintains or operates a
place or places of business in this state, or engages in
any trade, profession or occupation in this state, in addi-
tion to the driving privileges extended under subdivi-
sion (2) of this section, may operate a motor vehicle
in this state only as an operator in traveling to and from
his place or places of employment, place or places of
business or place or places at which he engages in such
trade, profession or occupation and in the discharge of
the duties of his employment, business, trade, profession
or occupation if such duties are such that if performed
by a resident of the state of West Virginia over the age
of eighteen years such resident would not be required un-
der the provisions of this chapter to be licensed as a
chauffeur;

(4) A nonresident who is at least eighteen years of
age and who has in his immediate possession a valid
chauffeur's license issued to him in his home state or
country may operate a motor vehicle in this state either
as a chauffeur subject to the age limits applicable to
chauffeurs in this state, or as an operator subject to the
limitations imposed on nonresident operators in subdivi-
sions (2) and (3) of this section;

(5) Any person who is a student, properly enrolled
and registered in an accredited school, college or univer-
sity in this state, who is at least sixteen years of age and
who has in his immediate possession a valid operator's
license issued to him in his home state, notwithstanding
the limitations of subdivisions (2) and (3) of this sec-
tion may operate a motor vehicle in this state only as an
operator: Provided, That the state of which he is a resi-
dent shall extend the same privileges to residents of this
state. This exemption shall be cancelled immediately
when such student is graduated from school, college or
university or is expelled or ceases to be a student.

Sec. 3. What Persons Shall Not Be Licensed; Excep-
tions.—The department shall not issue any license here-
under:

(1) To any person, as an operator, who is under the
Provided, That under rules and regulations to be established by the commissioner and in accordance with the provisions hereinafter set forth in this subdivision (1), a junior or probationary operator's license may be issued to any person between the ages of sixteen and eighteen years, who is not otherwise disqualified by law, upon application therefor on a form prescribed by the commissioner and successful completion of all examinations and driving tests required by law for the issuance of an operator's license to a person eighteen years of age or older. The commissioner may impose reasonable conditions or restrictions on the operation of a motor vehicle by a person holding such junior or probationary operator's license, which conditions or restrictions shall be printed on each such license. In addition to all other provisions of this chapter for which a regular operator's or chauffeur's license may be revoked, suspended or cancelled, whenever a person holding such a junior or probationary operator's license operates a motor vehicle in violation of the conditions or restrictions set forth on such license, or has a record of two convictions for moving violations of the traffic regulations and laws of the road, which convictions have become final, the junior or probationary license of such person shall be permanently revoked, with like effect as if such person had never held a junior or probationary operator's license: Provided, That such junior or probationary operator's license shall be revoked upon one final conviction for any offense specified in section five, article three of this chapter. Under no circumstances shall such a license be revoked for convictions of offenses in violation of any regulation or law governing the standing or parking of motor vehicles. A person whose junior or probationary operator's license has been revoked shall not thereafter receive a junior or probationary operator's license, but such person, upon attaining the age of eighteen, shall be eligible, unless otherwise disqualified by law, for examination and driver testing for a regular operator's license or chauffeur's license. No person shall receive a junior or probationary operator's license unless the application therefor is ac-
 companied by a writing, duly acknowledged, consenting
to the issuance of such junior or probationary operator's
license and executed (a) by the parents of the applicant,
or (b) if only one parent is living, then by such parent,
or (c) if the parents be living separate and apart, by the
one to whom was awarded the custody of the applicant,
or (d) if there is a guardian entitled to the custody of
the applicant, then by such guardian. Upon attaining
the age of eighteen years, a person holding an unrevoked
junior or probationary operator's license shall, upon pay-
ment of the prescribed fee, be entitled to receive a regular
operator's license or chauffeur's license without further
examination or driver testing;

(2) To any person, as a chauffeur, who is under the
age of eighteen years;

(3) To any person, as an operator or chauffeur, whose
license has been suspended, during such suspension, nor
to any person whose license (other than a junior or pro-
bationary operator's license) has been revoked, except
as provided in section eight, article three of this chapter;

(4) To any person, as an operator or chauffeur, who
is an habitual drunkard, or is addicted to the use of nar-
cotic drugs;

(5) To any person, as an operator or chauffeur, who
has previously been adjudged to be afflicted with or suf-
ering from any mental disability or disease and who
has not at the time of application been restored to compe-
tency by judicial decree or released from a hospital for
the mentally incompetent, upon the certificate of the
superintendent of such institution that such person is
competent and not then unless the commissioner is satis-
fied that such person is competent to operate a motor
vehicle with safety to persons or property;

(6) To any person, as an operator or chauffeur, who
is required by this chapter to take an examination, un-
less such person shall have successfully passed such ex-
amination;

(7) To any person who is required under the pro-
visions of the motor vehicle safety responsibility laws of
AN ACT to amend article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto four new sections, designated sections fifty-six, fifty-seven, fifty-eight and fifty-nine; and to amend and reenact section four, article seventeen of said chapter; and to further amend said article seventeen by adding thereto a new section, designated section eleven-b, all relating to the height, length and loads of vehicles.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto four new sections, designated sections fifty-six, fifty-seven, fifty-eight and fifty-nine; that section four, article seventeen of said chapter be amended and reenacted; and that article seventeen be further amended by adding thereto a new section, designated section eleven-b, all to read as follows:

Article

1. Words and Phrases Defined.
17. Size, Weight and Load.


Section
56. Axle group.
57. Tandem axle.
Section 56. Axle Group.—“Axle group” means an assem- 
semble of two or more consecutive axles considered to- 
gether in determining their combined load effect on a 
bridge or pavement structure. The determination of what 
constitutes an axle group may include any or all the axles 
on the vehicle or combination of vehicles.

Sec. 57. Tandem Axle.—“Tandem axle” means any two 
or more consecutive axles whose centers are more than 
forty inches but not more than ninety-six inches apart, 
and are individually attached to and/or articulated from 
a common attachment to the vehicle including a connect- 
ing mechanism designed to equalize the load between 
axles.

Sec. 58. Tandem Axle Weight.—“Tandem axle weight” 
means the total weight transmitted to the road by two 
or more consecutive axles whose centers may be included 
between parallel transverse planes spaced more than 
forty inches and not more than ninety-six inches apart, 
extending the full width of the vehicle.

Sec. 59. Connecting Mechanism.—“Connecting mecha- 
nism” means an arrangement of parts interconnecting two 
or more consecutive axles to the frame of a vehicle in 
such a manner as to equalize the load between axles.

Article 17. Size, Weight and Load.

Section 4. Height and length of vehicles and loads.
11-b. Authority of state road commissioner to increase height and 
length limitations upon highways designated by him.

Section 4. Height and Length of Vehicles and Loads.—
(a) No vehicle including any load thereon shall exceed 
a height of twelve feet six inches, except as provided in 
section eleven-b of this article, and except that vehicles 
used as automobile transports including any load thereon 
shall not exceed a height of thirteen feet six inches, but 
the owners of such automobile transports shall be respon- 
sible to the state road commissioner for any damage to 
bridges or other road structures and to municipalities and 
utility companies for any damage to wires, traffic devices
or other structures, and to any person suffering property
damage when any such damage is proximately caused
by the height of such vehicle or vehicles and load being
in excess of twelve feet six inches.

(b) No motor vehicle including any load thereon shall
exceed a length of thirty-five feet extreme overall dimen-
sion, inclusive of front and rear bumpers, except that a
bus, truck or trackless trolley coach equipped with three
axles shall not exceed an overall length, inclusive of front
and rear bumpers, of forty feet.

(c) No combination of vehicles coupled together shall
consist of more than two units and no such combination
of vehicles including any load thereon shall have an over-
all length, inclusive of front and rear bumpers, in excess
of fifty feet, except as provided in section eleven-b of
this article, and except as otherwise provided in respect
to the use of a pole trailer as authorized in section five
of this article: Provided, however, That the limitation
that no combination of vehicles coupled together shall
consist of more than two units shall not apply to a com-
bination of vehicles coupled together by a saddle mount
device used to transport motor vehicles in a drive-away
service when no more than two saddle mounts are used:
And provided further, That equipment used in said com-
bination meets the requirements of the safety regulations
of the interstate commerce commission.

Sec. 11-b. Authority of State Road Commissioner to
Increase Height and Length Limitations upon Highways
Designated by Him.—If, in the opinion of the state road
commissioner, the design, construction and safety of any
highway, or portion thereof, are such that the maximum
height or length limitations prescribed in section four (a)
and (c) of this article can be increased without undue
risk of damage to other vehicles lawfully using such high-
way or portion thereof, to bridges or other road struc-
tures, and to municipal and utility company facilities,
wi res, traffic devices or other structures, the commissioner
may, by order, increase the height or length limitations
or both the height and length limitations of vehicles
which may be operated upon any such highway, or portion
thereof, designated by him in such order and may estab-
lish therein the maximum height and/or length limitations which shall thereafter be applicable to the highway or portion thereof so designated by him: Provided, however, That the maximum height of any vehicle including any load thereon shall not exceed thirteen feet six inches, and the maximum length of any combination of vehicles including any load thereon shall not exceed fifty-five feet, except as otherwise provided in this article with respect to the size of vehicles: And provided further, That no such order of the commissioner shall establish any height or length limitation in excess of or in conflict with any height or length limitation prescribed by or pursuant to acts of Congress with respect to federal-aid highway systems.

CHAPTER 104

(Senate Bill No. 150—By Mr. Carson, Mr. President, and Mr. Barnett)

[Passed March 6, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections nineteen, twenty-six and thirty-one, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to lighting equipment and brakes on motor vehicles.

Be it enacted by the Legislature of West Virginia:
That sections nineteen, twenty-six and thirty-one, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 15. Equipment.

Section

19. Additional lighting equipment.
26. Special restrictions on lamps.
31. Brakes.

Section 19. Additional Lighting Equipment.—(a) Any motor vehicle may be equipped with not more than two
side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion.

(d) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red.

Sec. 26. Special Restrictions on Lamps.—(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front-direction signals which projects a beam of light of an intensity greater than three hundred candle power shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(b) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this chapter.
c) Except as authorized in section nineteen, flashing lights are prohibited on motor vehicles, except on an authorized emergency vehicle, school bus, snow removal equipment, or on any vehicle as a means for indicating a right or left turn.

Sec. 31. Brakes.—(a) Brake Equipment Required.—
(1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one brake which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of three thousand pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer or semitrailer hereinafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels, with the following exceptions: (1) That trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles, the wheels of one such axle need not be equipped with brakes, and (2) any motorcycle or motor-driven cycle, and except that any semitrailer of less than one thousand five hun-
dred pounds gross weight need not be equipped with brakes.

(5) In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

(6) Every such vehicle and combination of vehicles, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that a failure of any one part shall not leave the vehicle without operative brakes.

(7) The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(b) Performance Ability of Brakes.—Every motor ve-
icle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material, upon application of the service (foot) brake, within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

<table>
<thead>
<tr>
<th>Feet to stop from 20 miles per hour</th>
<th>Deceleration in feet per second</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicles or combinations of vehicles having brakes on all wheels</td>
<td>30</td>
</tr>
<tr>
<td>Vehicles or combinations of vehicles not having brakes on all wheels</td>
<td>40</td>
</tr>
</tbody>
</table>

(c) Maintenance of Brakes.—All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

CHAPTER 105

(House Bill No. 818—By Mr. Payne)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight; article two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the change of boundaries of cities, towns or villages.

Be it enacted by the Legislature of West Virginia:

That section eight, article two, 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 8. Change of boundary of city, town or village.
Section 8. Change of Boundary of City, Town or Village.—Five per cent or more of the freeholders residing in any city, town or village desiring to change the corporate limits thereof, may file their petition in writing with the council thereof, setting forth the change proposed in the metes and bounds of such corporation, and asking that a vote be taken upon the proposed change. Such petition shall be verified and shall be accompanied by an accurate survey showing the territory embraced within the new boundaries. The council, upon bond in penalty prescribed by the council with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters residing in such city, town or village to be taken upon the proposed change at a time and place therein to be named in the order, not less than twenty nor more than thirty days from the date thereof, and if it be proposed to include any additional territory within such corporate limits, the council shall, at the same time, order a vote of all the qualified voters residing in such additional territory, and of all persons, firms or corporations owning any part of such territory, whether they reside therein or not, to be taken upon the question on the same day, at some convenient place on or near such additional territory: Provided, That the additional territory to be included shall conform to the requirements of section one of this article, and the determination that the additional territory does so conform shall be reviewable by the circuit court on certiorari to the council. The election shall be held, superintended and conducted, and the result thereof ascertained, certified and returned, in the same manner and by the same persons as elections for city, town or village officers. The ballots cast on such question shall have written or printed on them the words:

☐ For Change of Corporate Limits
☐ Against Change of Corporate Limits

If a majority of all the votes so cast within such corporation be in favor of the proposed change, and no
additional territory is proposed to be included therein, the corporate limits of such city, town or village shall thereafter be as proposed by such petition. But, if additional territory is proposed to be included in such corporate limits, such change shall not take effect unless a majority of all the votes cast by persons eligible to vote in such additional territory shall also be cast in favor of such change. Any firm or corporation may vote by its manager, president, or executive officer duly designated in writing by such firm or corporation.

The council may by ordinance provide for the annexation of additional territory without ordering a vote on the question, if sixty per cent of the qualified voters residing in such additional territory and of all persons, firms or corporations owning any part of such territory whether they reside therein or not, file with council their petition to be annexed.

When an election is held in any city, town or village respecting a change in the boundary thereof, another such election relating to the same territory or any part thereof shall not be held for a period of one year.

The provisions of this and the following section shall provide the exclusive procedure for effecting a change in the boundary of every city, town or village except municipalities which have adopted a home rule charter under the provisions of chapter eight-a of the code: Provided, however, That any city, town or village, otherwise authorized by said chapter eight-a or by special charter, may utilize the procedures respecting minor boundary adjustments set forth in section twenty-five, article six of said chapter eight-a.

CHAPTER 106

(House Bill No. 525—By Mr. Bailey and Mr. Black)

[Passed March 9, 1965; in effect ninety days from passage. Approved by the Governor.]
thousand nine hundred thirty-one, as amended, relating
to holding quadrennial election of officers of municipal
 corporation.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Election, Appointment and Qualification of Officers.

Section

4. Regular elections.
12. Terms of officers.

Section 4. Regular Elections.—After the first election
of officers in such corporation all regular elections for
officers shall be held biennially on the first Tuesday in
June: Provided, That the first regular election held in
such corporations after this section becomes effective shall
be held on the first Tuesday in June: Provided further,
That elections may be held quadrennially on the first Tues-
day of June in any such corporation upon submission to
the voters and approval of such proposition.

Sec. 12. Terms of Officers.—The sergeant and superin-
tendent of roads, streets and alleys shall continue in
office during the pleasure of the council.

Except as otherwise provided, the terms of all officers
elected after the first election in municipalities holding
biennial elections shall commence on the first day of July
following their election and shall be for two years, and in
municipalities holding quadrennial elections the terms of
all officers shall commence on the first day of July follow-
ing their election and shall be for four years.

All municipal officers, whether elected at first or regular
elections, or appointed as herein provided, shall hold
their offices until their successors are elected or appointed
and qualified according to law, unless sooner removed
from office according to law. Officers in office when this
code becomes effective shall hold their offices until the
next regular election held pursuant to section four of
this article, and subject to the provisions of the preceding
sentence.
CHAPTER 107

(House Bill No. 754—By Mr. Nelson)

[Passed March 4, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation of municipal councilmen.

Be it enacted by the Legislature of West Virginia:

That section two, 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:

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section 2. Compensation of officers and employees.

Section 2. Compensation of Officers and Employees.—

2 In any municipal corporation of this state, where no provision is made by legislative charter or otherwise for compensation to municipal officers and employees, the mayor, recorder, superintendent of roads, streets and alleys, members of the council and policemen of such corporation, may each receive compensation for his services, to be fixed by the council, by proper ordinance, which shall not be increased or diminished during the term for which they shall have been elected or appointed. The compensation of each member of the council, other than the mayor and recorder, shall not exceed the sum of twenty-five dollars for each meeting of the council held at which such member is in actual attendance; and, in no event, shall a councilman, other than the mayor and recorder, receive compensation in any one fiscal year in excess of the sum of three hundred dollars.
AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-b, relating to the creation of regional planning commissions and the prescribing of their powers and duties.

Be it enacted by the Legislature of West Virginia:

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

Article 4-b. Regional Planning.

Section 1. Statement of Intent.—The Legislature recognizes the social and economic interdependence of the people residing within a region of the state and the common interest they share in its future development. The Legislature further recognizes that plans and decisions made by local governments within a region with respect to land use, circulation patterns, capital improvements and the like, affect the welfare of neighboring...
It is, therefore, the purpose of this article to provide a means for: (1) Formulation and execution of objectives and policies necessary for the orderly growth and development of a region as a whole; and (2) coordination of the objectives, plans and policies of the separate units of government comprising the area.

Sec. 2. Creation of a Regional Planning Commission.—A regional planning commission may be established pursuant to the following procedures and with the approval of the commissioner of commerce:

(a) Two or more municipalities, two or more counties, or one county or two or more counties and a municipality or municipalities within the county or counties may, by agreement among their respective governing bodies, create or reorganize a regional planning commission: Provided, That a municipality or county not having a planning commission shall not participate in the creation or reorganization of a regional planning commission: Provided further, That (1) in the case of municipalities, the largest one within the region shall be a party to the agreement; and (2) the total number of both counties and municipalities participating in the agreement shall equal fifty per cent or more of the total number of counties and municipalities within the region. The agreement shall be effected through the adoption by the governing body of each participating government, acting individually, of an appropriate resolution. A copy of such agreement shall be filed with the commissioner of commerce.

(b) Any additional county or municipality within the region may become a party to the original agreement or a new agreement reorganizing the commission.

Sec. 3. Definition of Region.—“Region,” as used in this article, shall mean a specific geographic area in which a regional planning commission shall have jurisdiction, which area shall be fixed and determined by the commissioner of commerce and be stipulated with his approval in the agreement by which the commission is established or reorganized: Provided, however, That no territory within a municipality or county not having a planning
Sec. 4. Membership and Organization of Commission; Meetings.—Except as provided below, membership of a regional planning commission shall consist of representatives from each participating government or stipulated combinations thereof, in number to be specified in the agreement: Provided, however, That at least one member of the planning commission and one member of the governing body of each participating government shall be members of the commission, and all members of the commission shall be qualified by knowledge and experience in matters pertaining to the planning and development of cities, counties or regions with the exception of the member or members of the governing body of each participating governmental unit. A commission may appoint not to exceed two members from the general public, such members to have demonstrated outstanding leadership in community affairs. The terms of the members of a commission, the manner of their appointment or removal, and the filling of any vacancies on a commission, as well as any additional qualifications for membership on a commission, shall be specified in the agreement. A representative of the state government may be designated by the governor to attend meetings of a commission.

Members of a commission shall serve without compensation, but shall be reimbursed for expenses incurred in pursuit of their duties on the commission. A commission shall elect a chairman from among its members, and shall establish its own rules and such committees as it deems necessary to carry on its work. Such committees may have as members persons other than members of the commission. A commission shall meet as often as necessary, but not less than four times a year.

Sec. 5. Annual Budget; Appropriations; Depositories; Expenditures.—A regional planning commission shall adopt an annual budget, to be submitted to the participating governments which shall each contribute to the financ-
ing of the commission according to a formula specified in
the agreement, and each such government is hereby au-
thorized to appropriate and expend funds for services ren-
dered it by the commission. Money received by a com-
mission shall be deposited in such depository as the com-
misson may determine in the agreement and be paid out
in such manner as the commission may determine.

Sec. 6. Financial Aid; Contracts; Reports.—A regional
planning commission is authorized to accept and expend
funds and grants provided for the purposes of this article
by the government of the United States or its depart-
ments or agencies, by departments and agencies of this
state or of any other state, or by one or more municipali-
ties, counties or other political subdivisions of this state
or of any other state, or by any other agency whose inter-
ests are in harmony with the purposes of this article,
including planning commissions, all in accordance with
any federal requirements and under any conditions state
laws may provide, and to contract with respect thereto,
either separately, jointly, or cooperatively, if the con-
tract is approved by the attorney general, and to provide
such information and reports as may be necessary to
secure such financial aid. In this connection, a commis-
sion is hereby expressly authorized to participate in any
federal planning assistance program.

Sec. 7. Cooperation by and with other Planning Com-
misions, Governmental Units and Officials; Authority
of Political Subdivisions to Expend Funds.—To effectuate
the purposes of this article, a regional planning commis-
sion and the planning commissions of participating gov-
ernments in the region may cooperate with regional plan-
ingen commissions for other regions or the planning com-
missions of participating governments therein, with the
governing or administrative bodies and officials of any
municipality, county, or other political subdivision, in-
cluding those in other states, with federal and state de-
partments, agencies, and officials, including those of other
states, and with any other agency whose interests are in
harmony with the purposes of this article, with a view to
coordinating and integrating the planning for the cooper-
Municipalities, counties, and other political subdivisions within this state are authorized to appropriate and expend funds for services they obtain through cooperative arrangements made pursuant to the provisions of this section.

Sec. 8. Director and Staff.—A regional planning commission may appoint a director, who shall be qualified by training and experience and shall serve at the pleasure of the commission. The director will be the chief administrative and planning officer and regular technical advisor of the commission, and will appoint and remove the staff of the commission. When authorized by the regional planning commission, such director may make agreements with planning commissions of participating governments for temporary transfer or joint use of staff employees, and may contract for professional or consultant services from other governmental and private agencies.

In case no director is appointed, a commission may exercise the powers granted a director by this section as well as the other powers granted to it by this article.

Sec. 9. Powers and Duties of Regional Planning Commissions Generally.—A regional planning commission shall:

(a) Prepare, and from time to time revise, amend, extend or add to a plan or plans for the development of
the region. Such plans shall be based on studies of physical, social, economic and governmental conditions and trends, and shall aim at the coordinated development of the region in order to promote the general health, welfare, convenience and prosperity of its people. The plans shall embody the policy recommendations of the regional planning commission, and may include, but shall not be limited to:

(1) A statement of the objectives, standards and principles sought to be expressed in the plan.

(2) Recommendations for the most desirable pattern and intensity of general land use within the region in the light of the best available information concerning natural environmental factors, the present and prospective economic and demographic bases of the region, and the relation of land use within the region to land use in adjoining areas. The land use pattern shall include provision for open as well as urban, suburban, and rural development.

(3) Recommendations for the general circulation pattern for the region, including land, water and air transportation and communication facilities, whether used for movement within the region or to and from adjacent areas.

(4) Recommendations concerning the need for and proposed general location of public and private works and facilities, which by reason of their function, size, extent or for any other cause are of a regional, as distinguished from purely local, concern.

(5) Recommendations for the long-range programming and financing of capital projects and facilities.

(6) Such other recommendations as it may deem appropriate concerning current and impending problems as may affect the region.

(b) Prepare, and from time to time revise, recommended ordinances and regulations which would implement the regional plan.

(c) Prepare studies of the region's resources, both natural and human, with respect to existing and emerging problems of industry, commerce, transportation, popula-
tion, housing, agriculture, public service, local governments and any other matters which are relevant to regional planning.

(d) Collect, process and analyze, at regular intervals, the social and economic statistics for the region which are necessary to planning studies, and make the results of such collection, processing and analysis available to the general public.

(e) Participate with other governmental agencies, educational institutions and private organizations in the coordination of regional research activities described under paragraphs (c) and (d) of this section.

(f) Cooperate with, and provide planning assistance to counties, municipalities, and county and municipal planning commissions within the region, and coordinate regional planning with the planning activities and plans of the state and of the counties and municipalities within the region, as well as neighboring areas, including those in adjoining states, and the programs of federal departments and agencies.

(g) Provide information to officials, departments, agencies, and instrumentalities of federal, state and local governments, and to the public at large, in order to foster public awareness and understanding of the objectives of the regional plan and the functions of regional and local planning, and in order to stimulate public interest and participation in the orderly, integrated development of the region.

(h) Receive and review for compatibility with regional plans all proposed comprehensive land use, circulation, and public facilities plans and projects, ordinances and regulations, official maps and building codes of local governments in the geographic area and all amendments or revisions of such plans, regulations and maps, and make recommendations for their modification where deemed necessary to achieve such compatibility.

(i) Review applications of participating governments for capital project financial assistance from state and federal governments, and comment upon their consistency with the regional development plan; and review and com-
)(j) Exercise all other powers necessary and proper for the discharge of its duties.

In making a comprehensive plan, the plan may be for all or part of the territory in the region, or for all or part of the territory in the region and any territory adjacent to the region, including that without the state, which, in the opinion of the commission, bears a substantial relation to the planning for territory within the region: Provided, That any plan for a part of the region shall be for territory which does not begin and terminate within the boundaries of any single participating government.

In making a plan, a commission shall give consideration to any comprehensive or general development plan existing in any participating government.

During the preparation of the plan, a commission shall periodically consult with the planning commissions of the various participating governments involved in the plan and make every effort to develop a plan which will meet with the approval of the planning commissions of such governments.

Sec. 10. Certification and Implementation of Regional Plans.—All comprehensive regional plans, including zoning ordinances and subdivision regulations, prepared pursuant to this article, after adoption by the regional planning commission shall be certified by the commission to all planning commissions of participating governments within the region.

Sec. 11. Adoption of Plan by Local Planning Commissions and Governing Bodies; Amendments to Plan.—A plan shall not be considered the comprehensive plan or a part thereof for any participating government until it has been adopted by its governing body in accordance with the provisions of sections eighteen through twenty-two of article five of this chapter, and when so adopted it shall supersede any previous comprehensive plan or any part of such plan inconsistent therewith of the participating gov-
ernment. Before rejecting or amending a plan as certified by the commission, the planning commission or the governing body of the participating government shall refer the plan to the regional planning commission which prepared it for its recommendations in regard to such rejection or amendment, but any report of such commission after such a reference shall be advisory only.

Amendments to a regional plan, including ordinances and regulations, shall be adopted in the same manner as provided herein for the adoption of the original plan, except that if the planning commission or governing body of a participating government desires an amendment it may request the regional planning commission to prepare an amendment and certify it to the local planning commission as herein provided.

After the adoption or rejection of a regional plan, a commission shall from time to time re-examine the plan with the view of keeping it up to date.

After the adoption of such plan by a participating government, its planning commission shall thereafter act in effectuating the plan in that jurisdiction.

Sec. 12. Cooperation by Local Governments.—Any county or municipality within the geographic area of the region may, and all participating governments and their planning commissions shall, file with the regional planning commission all current and proposed plans, zoning ordinances, official maps, building codes, subdivision regulations, and project plans for capital facilities and amendments to and revisions of any of the foregoing, as well as copies of their regular and special reports dealing with planning matters. Each county or municipality within the geographic area of the region shall afford the regional planning commission having jurisdiction therein a reasonable opportunity to comment upon any such proposed plans, zoning and subdivision ordinances, regulations and capital facilities projects and shall consider such comments, if any, prior to adopting any such plan, ordinance, regulation or project.

Sec. 13. Annual Report.—A regional area planning commission shall submit an annual report to the commis-
AN ACT to amend and reenact section fourteen, article five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to administrative powers and duties of planning commissions.

Be it enacted by the Legislature of West Virginia:

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

Article 5. Urban and Rural Planning and Zoning.

Section 14. Administrative Powers and Duties.—To effectuate the purposes of this article, the commission shall have the power and duty to:

1. Exercise general supervision of and make regulations for the administration of the affairs of the commission.
2. Prescribe uniform rules pertaining to its investigations and hearings.
3. Supervise the fiscal affairs and responsibilities of the commission.
4. Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the commission, such compensation to be in conformity to and in compliance with salaries and compensations theretofore fixed by the governing body of a city or county court of such cities or counties. Delegate to employees authority to perform ministerial acts in all cases except where final action of the commission is necessary.

5. Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the commission.

6. Make recommendations and an annual report to the governing body of a city or county court concerning the operation of the commission and the status of planning within its jurisdiction.

7. Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this article.

8. Adopt a seal, and certify to all official acts.

9. Invoke any legal, equitable or special remedy for the enforcement of the provisions of the article or ordinance or its action taken thereunder.

10. Prepare and submit an annual budget in the same manner as other departments of city and county government and shall be limited in all expenditures to the provisions made therefor by the governing body of such city or the county court of such county.

11. If deemed advisable, establish an advisory committee or committees.

12. Delegate to a committee composed of one or more members of the commission the power to hold any public hearings or conferences required or permitted by this article to be held by the commission. If the hearing or conference is held by a committee, a written record of the substance of the hearing or conference shall be made and preserved with the records of the commission for not less than five years. The committee shall have authority only to conduct the hearing and report to the commission.
CHAPTER 110

(House Bill No. 814—By Mr. Nelson and Mr. Casey)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

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 and the adoption of comprehensive or technical codes by reference.

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:

Article 3. Home Rule Charters; Ordinances.

Section 10. Ordinance Procedure.

The governing body shall enact an ordinance in the cases specified in 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. At least five days before the meeting at which such ordinance is finally adopted the governing body shall cause notice of the proposed adoption of said ordinance to be published in at least one newspaper of general circulation in said city for at least one publication, stating the subject matter of such ordinance and the time and place of the proposed final vote on adoption, and the place or places within the city where such ordinance may be inspected by the public;

3. An ordinance shall not be finally passed until after three days from the date of the publication and until all interested parties have been given an opportunity
to attend a meeting of the council and be heard with respect to such ordinance.

(4) An ordinance shall not be materially amended at the same meeting at which finally passed.

The governing body of any municipality may adopt building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, or any other technical codes dealing with general public health, safety or welfare, or a combination of the same, by ordinance, in the manner herein prescribed. Before any such code shall be adopted, it shall be either printed or typewritten and shall be presented in pamphlet form to the governing body of the municipality at a regular meeting, and copies shall be made available for public inspection. The ordinance adopting such code shall not set out said code in full, but shall merely identify the same. The vote on passage of said ordinance shall be the same as on any other ordinance. After its adoption, such code or codes shall be certified to by the chief executive officer and shall be filed as a permanent record in the office of the clerk, who shall not be required to transcribe and record the same in the ordinance book as other ordinances. It shall not be necessary that such ordinance adopting such code or the code itself be published in full, but before final passage of such ordinance, notice of the proposed adoption of such code shall be given by publication as herein provided for other ordinances, which notice shall state where, within the city, the code or codes will be available for public inspection.

A home rule charter may prescribe a procedure for the enactment of ordinances in greater detail than prescribed by this section, but the provisions of this section shall be required. A governing body may enact an ordinance under suspension of the rules prescribed by this section only in the case of a pressing public emergency making a procedure in accordance with the section dangerous to the public health, safety, or morals, and by affirmative vote of two thirds of the members elected to the governing body. The nature of the emergency shall be set out in full in the ordinance.
AN ACT to amend and reenact section seven, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to additional powers, duties and services of the director of the department of natural resources.

Be it enacted by the Legislature of West Virginia:

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

Article 1. Organization and Administration.

Section 7. Additional powers, duties and services of director.

Section 7. Additional Powers, Duties and Services of Director.—In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

(1) With the advice of the commission, prepare and administer, through the various divisions created by this chapter, a long-range comprehensive program for the conservation of the natural resources of the state which best effectuates the purpose of this chapter and which makes adequate provisions for the natural resources laws of the state;

(2) Sign and execute in the name of the state by the "Department of Natural Resources" any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships or individuals;

(3) Conduct research in improved conservation methods and disseminate information matters to the residents of the state;
(4) Conduct a continuous study and investigation of
the habits of wildlife, and for purposes of control and
protection to classify by regulation the various species
into such categories as may be established as necessary;

(5) Prescribe the locality in which and the manner and
method by which the various species of wildlife may be
taken, or chased, unless otherwise specified by this
chapter;

(6) Fix by regulation the open seasons and the bag,
creel, size, age, weight and sex limits with respect to wild-
life in this state;

(7) Hold at least six meetings each year at such times
and at such points within the state, as in the discretion of
the director may appear to be necessary and proper for
the purpose of giving interested persons in the various
sections of the state an opportunity to be heard concerning
open seasons for their respective areas, before such sea-
sons and bag limits are fixed;

(8) Suspend open hunting seasons upon any or all
wildlife in any or all counties of the state with the prior
approval of the governor in case of an emergency such as
a drought, forest fire hazard or epizootic of disease among
wildlife. The suspension shall continue during the exist-
ence of the emergency and until rescinded by the director.
Suspension, or reopening after such suspension, of open
seasons may be made upon twenty-four hours' notice by
delivery of a copy of the order of suspension or reopening
to the wire press agencies at the state capitol;

(9) Supervise the fiscal affairs and responsibilities of
the department;

(10) Designate such localities as he shall determine to
be necessary and desirable for the perpetuation of any
species of wildlife;

(11) Enter private lands to make surveys or inspec-
tions for conservation purposes, to investigate for viola-
tions of provisions of this chapter, to serve and execute
warrants and processes, to make arrests and to otherwise
effectively enforce the provisions of this chapter;

(12) Acquire for the state in the name of the “Depart-
ment of Natural Resources” by purchase, condemnation,
lease or agreement, or accept or reject for the state, in
the name of the department of natural resources, gifts,
donations, contributions, bequests or devises of money,
security or property, both real and personal, and any
interest in such property, including lands and waters,
which he deems suitable for the following purposes:
(a) For state forests for the purpose of growing timber,
demonstrating forestry, furnishing or protecting watersheds or providing public recreation;
(b) For state parks or recreation areas for the purpose
of preserving scenic, esthetic, scientific, cultural, archaeological or historical values or natural wonders, or pro-
viding public recreation;
(c) For public hunting, trapping, or fishing grounds or
waters for the purpose of providing areas in which the
public may hunt, trap or fish, as permitted by the provi-
sions of this chapter, and the rules and regulations issued
hereunder;
(d) For fish hatcheries, game farms, wildlife research
areas and feeding stations;
(e) For the extension and consolidation of lands or
waters suitable for the above purposes by exchange of
other lands or waters under his supervision;
(f) For such other purposes as may be necessary to
carry out the provisions of this chapter;
(13) Capture, propagate, transport, sell or exchange
any species of wildlife as may be necessary to carry out
the provisions of this chapter;
(14) Sell, with the approval in writing of the governor,
timber for not less than the value thereof, as appraised by
a qualified appraiser appointed by the director, from all
lands under the jurisdiction and control of the director,
except those lands that are designated as state parks. The
appraisal shall be made within a reasonable time prior to
any sale, reduced to writing, filed in the office of the direc-
tor and shall be available for public inspection. When the
appraised value of the timber to be sold is more than five
hundred dollars, the director, before making sale thereof,
shall receive sealed bids therefor, after notice by publica-
tion once a week for at least two weeks in two newspapers
of general circulation published nearest the lands involved. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with, and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold, shall be paid to the treasurer of the state of West Virginia, and shall be credited to the department and used exclusively for the purposes of this chapter;

(15) Sell or lease with the approval in writing of the governor, coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The director, before making sale or lease thereof, shall receive sealed bids therefor, after notice by publication once a week for at least two weeks in two newspapers of general circulation published nearest the lands involved. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performance of the sales contract or lease as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise the bids. The proceeds arising from any such sale or lease shall be paid to the treasurer of the state of West Virginia and shall be credited to the department and used exclusively for the purposes of this chapter;

(16) Exercise the powers granted by this chapter for
the protection of forests, and regulate fires and smoking
in the woods or in their proximity at such times and in
such localities as may be necessary to reduce the danger
of forest fires;
(17) Cooperate with departments and agencies of state,
local and federal governments in the conservation of
natural resources and the beautification of the state;
(18) Report to the governor each year all information
relative to the operation and functions of his department
and he shall make such other reports and recommenda-
tions as may be required by the governor, including an
annual financial report covering all receipts and disburse-
ments of the department for each fiscal year, and he shall
deliver such report to the governor on or before the first
day of December next after the end of the fiscal year so
covered. A copy of such report shall be delivered to each
house of the Legislature when convened in January next
following;
(19) Keep a complete and accurate record of all pro-
ceedings, record and file all bonds and contracts taken or
entered into, and assume responsibility for the custody
and preservation of all papers and documents pertaining
to his office, except as otherwise provided by law;
(20) Offer and pay, in his discretion, rewards for infor-
mation respecting the violation, or for the apprehension
and conviction of any violators, of any of the provisions of
this chapter;
(21) Require such reports as he may deem to be neces-
sary from any person issued a license or permit under the
provisions of this chapter, but no person shall be required
to disclose secret processes or confidential data of com-
petitive significance;
(22) Purchase as provided by law all equipment neces-
sary for the conduct of his department;
(23) Conduct and encourage research designed to fur-
ther new and more extensive uses of the natural resources
of this state and to publicize the findings of such research;
(24) Encourage and cooperate with other public and
private organizations or groups in their efforts to publicize
the attractions of the state;
Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the department for any and all purposes specified in this chapter, and he shall account for and report on all such receipts and expenditures to the governor;

Cooperate with the state historian and other appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value, and to take such steps as may be necessary in establishing such monuments or parks as he deems advisable;

Maintain in his office at all times, properly indexed by subject matter, and also, in chronological sequence, all rules and regulations made or issued under the authority of this chapter. Such records shall be available for public inspection on all business days during the business hours of working days as prescribed by the state board of public works;

Delegate the powers and duties of his office, except the power to execute contracts, to appointees and employees of the department, who shall act under the direction and supervision of the director and for whose acts he shall be responsible;

Conduct schools, institutes and other educational programs, apart from or in cooperation with other governmental agencies, for instruction and training in all phases of the natural resources program of the state; and

Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.
AN ACT to amend and reenact section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the taking of game animals.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Game and Fish.

Section 5. Unlawful methods of hunting and fishing.

Section 5. Unlawful Methods of Hunting and Fishing.—Except as authorized by the director, it shall be unlawful at any time for any person to:

1. (1) Shoot at or to shoot any wild bird or animal unless it is plainly visible to him;

2. (2) Dig out, cut out, or smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge, except as may be authorized by regulations promulgated by the director or by law;

3. (3) Make use of, or take advantage of, any artificial light in hunting for, or taking any wild animals or wild birds, except that artificial lights such as are ordinarily carried in the hand or on the person may be used for the purpose of taking raccoon, opossum or skunk; or to throw or cast the rays of a spotlight, headlight, or other artificial light, from any vehicle, on any animal or game bird, or attempt to do so, while having in his or their possession or under their control, or in any vehicle or conveyance in which they may be traveling, a cased or uncased firearm or other implement whereby any wild
animal or wild bird could be killed, even though such animal be not shot at, injured or killed. The provisions of this subdivision shall not apply if it shall be proven that the headlights of a motor vehicle while traveling on a highway in the usual way, cast a light upon such animal, on or adjacent to such highway, and there was no attempt or intent to locate such animal;

(4) Hunt for, take, kill, wound or shoot at wild animals or wild birds from an airplane, or other airborne conveyance, an automobile, or other land conveyance, or from a motor-driven water conveyance, except as may be authorized by regulations promulgated by the director;

(5) Take any beaver or muskrat by any means other than by trap;

(6) Catch, capture, take or kill by seine, net, bait, trap or snare or like device of any kind, any wild turkey, ruffed grouse, pheasant or quail;

(7) Destroy or attempt to destroy needlessly or wilfully the nest or eggs of any wild bird or have in his possession such nest or eggs unless authorized to do so under regulations or under a permit by the director;

(8) Except as provided in section six of this article, carry an uncased or loaded gun in any of the woods of this state except during the open firearms hunting season for game animals and nonmigratory game birds within any county of the state, unless he has in his possession a permit in writing issued to him by the director: Provided, however, That this section shall not prohibit hunting or taking of unprotected species of wild animals and wild birds and migratory game birds, during the open season, in the open fields, open water and open marshes of the state;

(9) Except as provided in section six of this article, carry an uncased or loaded gun after the hour of five o’clock antemeridian on Sunday in any woods or on any highway, railroad right of way, public road, field or stream of this state, except at a regularly used rifle, pistol, skeet, target or trap shooting ground or range and nothing contained in section eighteen, article eight, chapter sixty-one of the code shall prohibit the use of a
gun by a licensed hunter before the hour of five o'clock antemeridian on Sunday;

(10) To have in his possession a loaded firearm or a firearm from the magazine of which all shells and cartridges have not been removed, in or on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided by law or regulation. Except as hereinafter provided, between five o'clock postmeridian of one day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm, being lawfully carried in accordance with the foregoing provisions, shall be so carried only when in a case or taken apart and securely wrapped. During the period from July first to September thirtieth, inclusive, of each year, the foregoing requirements relative to carrying certain unloaded firearms shall be permissible only from eight-thirty o'clock postmeridian to five o'clock antemeridian, eastern standard time;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock antemeridian on Sunday any wild animals or wild birds: Provided, however, that traps previously and legally set may be tended after the hour of five o'clock antemeridian on Sunday, if the person so doing shall not have firearms or long bow of any description in his possession;

(12) Hunt with firearms or long bow while under the influence of intoxicating liquor;

(13) Possess a ferret;

(14) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(15) Have in his possession or about his premises, without the written permission of the director, any hunting or fishing paraphernalia which cannot be used lawfully in this state for hunting or fishing, and any conservation officer shall remove and destroy such hunting and fishing paraphernalia, whenever found in this state, and the person or persons claiming ownership shall have no recourse at law against such confiscation and destruction;
(16) Catch, take, kill, or attempt to catch, take or kill any fish at any time by any means other than by rod, line, and hooks with natural or artificial lures unless otherwise authorized by law or regulation issued by the director: Provided, however, That snaring of any species of suckers, carp, fallfish and creek chubs through the ice shall at all times be lawful;

(17) Employ or hire, or induce or persuade, by the use of money or other things of value, or by any means, any person to hunt, take, catch or kill, any wild animal or wild bird except those species on which there is no closed season, or to fish for, catch, take or kill any fish, amphibian or aquatic life which is protected by the provisions of this chapter or regulations of the director, or the sale of which is prohibited;

(18) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds included in the terms of conventions between the United States and Great Britain and between the United States and United Mexican States for the protection of migratory birds and game mammals concluded, respectively, August sixteen, one thousand nine hundred sixteen, and February seven, one thousand nine hundred thirty-six, except during the time and in the manner and numbers prescribed by the federal Migratory Bird Treaty Act and regulations made thereunder;

(19) Kill, take, catch, or have in his possession living or dead, any wild bird, other than a game bird; or expose for sale, or transport within or without the state any such bird, except as aforesaid. No part of the plumage, skin or body of any protected bird shall be sold or had in possession for sale, except mounted or stuffed plumage, skin, bodies or heads of such birds legally taken and stuffed or mounted, irrespective of whether such bird was captured within or without this state, except the English or European sparrow (Passer domesticus), starling (Sturnus vulgaris), sharp-shinned hawk (Accipiter striatus), Cooper's hawk (Accipiter cooperii), goshawk (Accipiter gentilis), crow (Corvus brachyrhynchos) and cowbird (Molothrus ater), which shall not be protected and the killing thereof at any time is lawful;
(20) Use dynamite or any like explosives or poisonous mixture placed in any waters of the state for the purpose of killing or taking fish. Any person violating the provisions of this subdivision shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned for not less than six months nor more than three years, and, in the discretion of the court, may be fined not more than five hundred dollars;

(21) Have both a bow and a gun in the fields or woods at the same time;

(22) Have a crossbow in the woods or fields or use a crossbow to hunt for, take or attempt to take any wildlife;

(23) Take or attempt to take turkey, bear, elk or deer with any arrow unless the same is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(24) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow, or an arrow which would affect wildlife by any chemical action;

(25) Shoot an arrow across any public highway or from aircraft, motor-driven watercraft, motor vehicle or other land conveyance;

(26) Permit any dog owned by him or under his control to chase, pursue or follow upon the track of any game animal or game bird, either day or night, between the first day of May and the fifteenth day of August next following: Provided, however, That dogs may be trained on game animals and game birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner or by his bona fide tenant or tenants or upon the grounds or lands of another person with his written permission or on public lands, at any time: Provided further, That the person training said dogs does not have firearms or other implements in his possession during the closed season on such game animals and game birds, whereby game animals or game birds could be taken or killed; and

(27) Conduct or participate in a field trial, water race or wild hunt hereafter referred to as trial: Provided,
however, That any person, group of persons, club or organization may hold such trial at any time of the year upon obtaining such permit as is provided for in section fifty-six of this article. The person responsible for obtaining said permit shall prepare and keep an accurate record of the names and addresses of all persons participating in said trial, and make same readily available for inspection by any conservation officer upon request.

CHAPTER 113

(Senate Bill No. 50—By Mr. Tompos)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article five, and sections three, four and nineteen-a, article five-a, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to general powers and duties of the chief of the division of water resources and the water resources board with respect to water resources and pollution, and to disposition of moneys collected by the director of natural resources resulting from loss of game-fish or aquatic life.

Be it enacted by the Legislature of West Virginia:

That section five, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections three, four and nineteen-a, article five-a of said chapter, be amended and reenacted, all to read as follows:

Article

5. Water Resources.
5-a. Water Pollution Control Act.

Article 5. Water Resources.

Section

5. General powers and duties of chief of division and board with respect to water resources.

Section 5. General Powers and Duties of Chief of Division and Board with Respect to Water Resources.—
(a) In addition to all other powers and duties of the chief of the department's division of water resources, as prescribed in this article or elsewhere by law, the chief, under the supervision of the director, shall have and may exercise the following powers and authority and shall perform the following duties:

(1) To conduct, or contract for the conducting of, scientific investigations, experiments and research, and to collect data, concerning the water resources of the state;

(2) To advise all users of water resources as to the availability of water resources and the most practicable method of water diversion, use, development and conservation; and

(3) To cooperate with federal officers and agencies, other state agencies and officers, interstate agencies, and other interested persons in the conservation, improvement and development of water resources, and to this end, the department may receive moneys from such agencies, officers and persons on behalf of the state: Provided, That the department shall pay all moneys so received into a special fund hereby created in the state treasury, which fund shall be expended under the direction of the chief solely for the purpose or purposes for which the grant, gift or contribution shall have been made.

(b) In addition to all other powers and duties of the water resources board, as prescribed in this article or elsewhere by law, the board shall have and may exercise the following powers and authority and shall perform the following duties:

(1) To enter into compacts and agreements concerning this state's share of waters in watercourses where a portion of such waters is contained within the territorial limits of this state or of a neighboring state or states, subject to the approval of the Legislature; and

(2) To promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers, duties and responsibilities vested in the board and the chief by the provisions of this article and otherwise by law.
(c) The board, any member thereof and the chief, and their duly authorized representatives shall have the power and authority to enter at all reasonable times upon any private or public property for the purpose of making surveys, examinations, investigations and studies needed in the gathering of facts concerning the water resources of the state and their use, subject to responsibility for any damage to the property entered. Upon entering, and before making any survey, examination, investigation and study, such person shall immediately present himself to the occupant of the property. Upon entering property used in any manufacturing, mining or other commercial enterprise, or by any municipality or governmental agency or subdivision, and before making any survey, examination, investigation and study, such person shall immediately present himself to the person in charge of the operation, and if he is not available, to a managerial employee. All persons shall cooperate fully with the person entering such property for such purposes. Upon refusal of the person owning or controlling such property to permit such entrance or the making of such surveys, examinations, investigations and studies, the board or the chief may apply to the circuit court of the county in which such property is located, or to the judge thereof in vacation, for an order permitting such entrance or the making of such surveys, examinations, investigations and studies; and jurisdiction is hereby conferred upon such court to enter such order upon a showing that the relief asked is necessary for the proper enforcement of this article: Provided, however, That a dwelling occupied for residential purposes shall not be entered without a search warrant.

(d) The board is hereby authorized to hire one or more individuals to serve as hearing examiners on a full or part-time basis. Such individuals may be attorneys at law admitted to practice before any circuit court of this state. All such hearing examiners shall be individuals authorized to take depositions under the laws of this state.
Article 5-a. Water Pollution Control Act.

Section 3. General powers and duties of chief of division and board with respect to water pollution.

4. Cooperation with other governments and agencies.

19-a. Civil liability; natural resources game-fish and aquatic life fund; use of funds.

Section 3. General Powers and Duties of Chief of Division and Board with Respect to Water Pollution.—

(a) In addition to all other powers and duties of the chief of the department's division of water resources, as prescribed in this article or elsewhere by law, the chief, under the supervision of the director, shall have and may exercise the following powers and authority and shall perform the following duties:

1. To encourage voluntary cooperation by all persons in controlling and reducing the pollution of the waters of this state, and to advise, consult and cooperate with all persons, all agencies of this state, the federal government or other states, and with interstate agencies in the furtherance of the purposes of this article, and to this end and for the purpose of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, the department may receive moneys from such agencies, officers and persons on behalf of the state: Provided, That the department shall pay all moneys so received into a special fund hereby created in the state treasury, which fund shall be expended under the direction of the chief solely for the purpose or purposes for which the grant, gift or contribution shall have been made;

2. To encourage the formulation and execution of plans by cooperative groups or associations of municipal corporations, industries, and other users of waters of the state, who, jointly or severally, are or may be the source of pollution of the same waters, for the control and reduction of pollution;

3. To encourage, participate in, or conduct or cause to be conducted studies, scientific or other investigations, research, experiments and demonstrations relating to water pollution, and the causes, control and reduction thereof, and to collect data with respect thereto, all as
36 may be deemed advisable and necessary to carry out
37 the purposes of this article;
38 (4) To study and investigate all problems concerning
39 water flow, water pollution and the control and reduc-
40 tion of such pollution, and to make reports and recom-
41 mendations with respect thereto;
42 (5) To collect and disseminate information relating to
43 water pollution and the control and reduction thereof;
44 (6) To develop a public education and promotion pro-
45 gram to aid and assist in publicizing the need and secur-
46 ing support for pollution control and abatement;
47 (7) To sample ground and surface water with sufficient
48 frequency to ascertain the standards of purity or quality
49 from time to time of the waters of the state;
50 (8) To develop programs for the control and reduction
51 of the waters of the state;
52 (9) To exercise general supervision over the adminis-
53 tration and enforcement of the provisions of this article,
54 and all orders issued pursuant to the provisions of this
55 article; and
56 (10) In cooperation with the college of engineering
57 at West Virginia university, to conduct studies, scientific
58 or other investigations, research, experiments and
59 demonstrations in an effort to discover economical and
60 practical methods for the elimination, disposal, control
61 and treatment of sewage, industrial wastes, and other
62 wastes, and the control and reduction of water pollution.
63 and to this end, the chief may cooperate with any public
64 or private agency and receive therefrom, on behalf of
65 the state, and for deposit in the state treasury, any moneys
66 which such agency may contribute as its part of the
67 expenses thereof, and all gifts, donations or contributions
68 received as aforesaid shall be expended by the chief ac-
69 cording to the requirements or directions of the donor
70 or contributor without the necessity of an appropriation
71 therefor, except that an accounting thereof shall be made
72 in the fiscal reports of the department.
73 (b) In addition to all other powers and duties of the
74 water resources board, as prescribed in this article or
75 elsewhere by law, the board shall have and may exercise
the following powers and authority and shall perform
the following duties:

(1) To cooperate with any interstate agencies for the
purpose of formulating, for submission to the Legisla-
ture, interstate compacts and agreements relating to the
control and reduction of water pollution; and

(2) To promulgate rules and regulations, in accordance
with the provisions of chapter twenty-nine-a of this code,
to implement and make effective the powers, duties and
responsibilities vested in the board and the chief by the
provisions of this article and otherwise by law: Provided,
That all such rules and regulations shall be consistent
with the declaration of public policy set forth in section
one of this article.

(c) The board is hereby authorized to hire one or
more individuals to serve as hearing examiners on a full
or part-time basis. Such individuals may be attorneys
at law admitted to practice before any circuit court of
this state. All such hearing examiners shall be indi-
viduals authorized to take depositions under the laws of
this state.

(d) The board, any member thereof and the chief,
and their duly authorized representatives, shall have
the power and authority to make investigations, inspec-
tions and inquiries concerning compliance with the pro-
visions of this article, any order made and entered in
accordance with the provisions of this article, any rule
or regulation promulgated by the board, and with the
terms and conditions of any permit issued in accordance
with the provisions of section seven of this article. In
order to make such investigations, inspections and in-
quiries, the board, any member thereof and the chief,
and their duly authorized representatives, shall have the
power and authority to enter at all reasonable times upon
any private or public property, subject to responsibility
for any damage to the property entered. Upon entering,
and before making any investigation, inspection and in-
quiry, such person shall immediately present himself to
the occupant of the property. Upon entering property
used in any manufacturing, mining or other commercial
enterprise, or by any municipality or governmental
agency or subdivision, and before making any investigation, inspection and inquiry, such person shall immediately present himself to the person in charge of the operation, and if he is not available, to a managerial employee. All persons shall cooperate fully with the person entering such property for such purposes. Upon refusal of the person owning or controlling such property to permit such entrance or the making of such inspections, investigations and inquiries, the board or the chief may apply to the circuit court of the county in which such property is located, or to the judge thereof in vacation, for an order permitting such entrance and the making of such inspections, investigations and inquiries; and jurisdiction is hereby conferred upon such court to enter such order upon a showing that the relief asked is necessary for the proper enforcement of this article: Provided, however, That a dwelling occupied for residential purposes shall not be entered without a search warrant.

(e) The board is hereby authorized and empowered to investigate and ascertain the need and factual bases for the establishment of public service districts as a means of controlling and reducing pollution from unincorporated communities and areas of the state, and to present reports and recommendations thereon to the county court or courts of the areas concerned, together with a request that such county court or courts create a public service district, or districts, as therein shown to be needed and required and as provided in article thirteen-a, chapter sixteen of this code.

Sec. 4. Cooperation with Other Governments and Agencies.—The division of water resources is hereby designated as the water pollution control agency for this state for all purposes of the Federal Water Pollution Control Act, Public Law 660, 84th Congress, approved July ninth, one thousand nine hundred fifty-six, as amended by Public Law 87—88, 87th Congress, approved July twentieth, one thousand nine hundred sixty-one, and subsequent amendatory provisions thereof, all hereinafter called the “federal act,” and is hereby authorized to take all action necessary or appropriate to secure to this state the benefits of said act. In carrying out the purposes of
this section, the chief, in addition to any other action
which may be necessary or appropriate, is hereby author-
ized to cooperate with the surgeon general of the United
States public health service, other agencies of the federal
government, other states, interstate agencies and other
interested parties in all matters relating to water pollu-
tion, including the development of programs for con-
trolling and reducing water pollution and improving the
sanitary conditions of waters; to apply for and receive,
on behalf of this state, funds made available to the divi-
sion under the aforesaid federal act by any agency of
the federal government, on condition that all moneys
received from any federal agency as herein provided shall
be paid into the state treasury and shall be expended,
under the direction of the chief, solely for the purpose
or purposes for which the grant or grants shall have
been made; to approve projects for which application
for loans or grants under the federal act is made by any
municipality (including any city, town, district or other
public body created by or pursuant to the laws of this
state and having jurisdiction over the disposal of sewage,
industrial wastes, or other wastes) or agency of this
state or by any interstate agency; and to participate
through his authorized representatives in proceedings
under the federal act to recommend measures for the
abatement of water pollution originating in this state.
The governor is hereby authorized, in his discretion, to
give consent on behalf of this state to requests by the
secretary of the United States department of health, edu-
cation, and welfare to the attorney general of the United
States for the bringing of actions for the abatement of
such pollution. Whenever a federal law requires the
approval or recommendation of a state agency or any
political subdivision of the state in any matter relating
to the water resources of the state, the director, subject
to approval of the Legislature, is hereby designated as
the sole person to give the approval or recommendation
required by the federal law, unless the federal law spe-
cifically requires the approval or recommendation of
some other state agency or political subdivision of the
state.
Sec. 19-a. Civil Liability; Natural Resources Game-Fish and Aquatic Life Fund; Use of Funds.—If any loss of game-fish or aquatic life results from a person’s or persons’ failure or refusal to discharge any duty imposed upon him by this article, the West Virginia department of natural resources shall have a cause of action on behalf of the state of West Virginia to recover from such person or persons causing such loss a sum equal to the cost of replacing such game-fish or aquatic life. Any moneys so collected by the director shall be deposited in a special revenue fund entitled “Natural Resources Game-Fish and Aquatic Life Fund” and shall be expended as hereinafter provided. The fund shall be expended to stock waters of this state with game-fish and aquatic life. Where feasible, the director shall use any sum collected in accordance with the provisions of this section to stock waters in the area in which the loss resulting in the collection of such sum occurred. Any balance of such sum shall remain in said fund and be expended to stock state-owned and operated fishing lakes and ponds, wherever located in this state, with game-fish and aquatic life.

CHAPTER 114

(Com. Sub. for Senate Bill No. 215—By Mr. Gainer)

Passed March 12, 1965, in effect ninety days from passage. Approved by the Governor.

AN ACT to amend and reenact section four, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of conservation officers.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
Article 7. Law Enforcement, Procedures and Penalties.

Section 4. Powers and Duties of Conservation Officers.

—Conservation officers and all other persons authorized to enforce the provisions of this chapter shall be under the supervision and direction of the director in the performance of their duties as herein provided. The authority, powers and duties of the conservation officers shall be state-wide and they shall have authority to:

(1) Arrest on sight, without warrant or other court process, any person or persons detected by them in the violation of any of the provisions of this chapter, but no such arrests shall be made where any form of administrative procedure is prescribed by this chapter for the enforcement of any of the particular provisions contained herein;

(2) Carry such arms and weapons as may be prescribed by the director in the course and performance of their duties, upon giving the bond required by the provisions of section five, article seven, chapter sixty-one of this code, but no license or other authorization shall be required of such officers for this privilege;

(3) Search and examine, in the manner provided by law, any boat, vehicle, automobile, conveyance, express or railroad car, fish box, fish bucket or creel, game bag or game coat, or any other place in which hunting and fishing paraphernalia, wild animals, wild birds, fish, amphibians or other forms of aquatic life could be concealed, packed or conveyed whenever they have reason to believe that they would thereby secure or discover evidence of the violation of any provisions of this chapter;

(4) Execute and serve any search warrant, notice or any process of law issued under the authority of this chapter or any law relating to wildlife, forests, and all other natural resources, by a justice of the peace or any court having jurisdiction thereof, or copies of orders made and entered by the chief of the division of water resources, or, without fee, any subpoena or subpoena duces tecum issued in accordance with the provisions of article five-a of this chapter, in the same manner, with the same authority,
and with the same legal effect, as any constable or sheriff can serve or execute such warrant, notice or process;

(5) Require the operator of any motor vehicle or other conveyance, on or about the public highways or roadways, or in or near the fields and streams of this state, to stop for the purpose of allowing such officers to conduct game-kill surveys;

(6) Summon aid in making arrests or seizures or in executing any warrants, notices or processes, and they shall have the same rights and powers as sheriffs have in their respective counties in so doing;

(7) Enter private lands or waters within the state while engaged in the performance of their official duties hereunder: Provided, That in connection with all surveys, examinations, inspections, inquiries, investigations and studies needed in the gathering of facts concerning water resources and their use or the pollution thereof under article five or article five-a of this chapter, such conservation officers and all other persons authorized to enforce the provisions of this chapter, shall act pursuant to and under the direction of the chief of the division of water resources or the state water resources board, and such officers and other persons shall be subject to the provisions of subparagraph (c) of section five, article five, and subparagraph (d) of section three, article five-a of this chapter;

(8) Arrest on sight, without warrant or other court process, subject to the limitations set forth in subparagraph (1) of this section, any person or persons committing a criminal offense in violation of any law of this state in the presence of any such officer on any state lands and waters under lease by the department of natural resources and all national forest lands, waters and parks within the boundaries of the state of West Virginia, and, in addition to any authority conferred in the other subparagraphs of this section, execute all warrants of arrest on such state and national lands, waters and parks, consistent with the provisions of article one, chapter sixty-two of this code; and

(9) Do all things necessary to carry into effect the provisions of this chapter.
AN ACT to amend article nine, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-b, relating to the creation of the West Virginia New York world's fair pavilion fund.

Be it enacted by the Legislature of West Virginia:

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

Article 9. Department of Commerce.

Section 3-b. West Virginia New York world's fair pavilion fund.

Section 3-b. West Virginia New York World's Fair Pavilion Fund.—For the purpose of carrying out the provisions of this section, there is hereby created a special revenue fund in the state treasury entitled the “West Virginia New York World's Fair Pavilion Fund,” which fund shall remain in existence only until the end of the fiscal year, one thousand nine hundred sixty-six.

The commissioner of the department of commerce shall have the duty of administering, managing and controlling said fund and shall make expenditures therefrom in accordance with the provisions of article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended. Requisitions for expenditures from said fund shall be signed by said commissioner and approved by the director of said pavilion and all of such requisitions shall require the signature of both of said officials.

The fund may be expended for repairs, alterations, renovations, operation, maintenance and additions to the West Virginia pavilion at the New York world's fair including but not limited to the payment of regular current expense items, salaries, promotional expenses and all other ex-
penses necessary and proper to operate and maintain said
pavilion in a good and businesslike manner. There may
also be expended from this fund such sums as may be
required for the demolition of said pavilion and the clear-
ing of said site: Provided, That there shall not be ex-
pected from the fund hereby created any sum or sums of
money for expenses, liabilities, loans, liens, contracts, or
any other indebtedness of whatever kind or character
made or incurred prior to January one, one thousand nine
hundred sixty-five, other than for electric utility service.

The state auditor is hereby directed and authorized to
transfer to this fund all unencumbered appropriated bal-
ances in any accounts now standing to the credit of the
West Virginia New York world's fair pavilion, and in
addition said auditor is hereby directed and authorized
to transfer to this special revenue account all balances
on hand in any income account accumulated in the opera-
tion of said pavilion, including the balance remaining in
that certain account currently held by the state treasurer
of the state of West Virginia to the credit of the West
Virginia pavilion.

All of such transfer and any and all subsequent appro-
priations by the Legislature as well as all income to said
pavilion from exhibitors' fees, concessions, or from what-
ever source shall be deposited in this special revenue fund
and all of said sums may be expended for the purpose
aforestated.

Any balances remaining in this special revenue fund
on June thirtieth, one thousand nine hundred sixty-five,
shall remain in this fund and may be expended for the
foregoing purposes.

CHAPTER 116
(Senate Bill No. 190—By Mr. Martin)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article ten, chapter fifty-six of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated section seven, relating to the holding of hearings and entering of orders in any county of a circuit court.

Be it enacted by the Legislature of West Virginia:

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


Section

7. Right of circuit judge to hold hearings and entering orders in any county of circuit unless objection filed; jury cases excepted.

Section 7. Right of Circuit Judge to Hold Hearings and Entering Orders in Any County of Circuit unless Objection Filed; Jury Cases Excepted.—In any (a) appeal from or to review the judgment, order or ruling of any court of record or administrative agency, (b) appeal from a justice of the peace court, (c) ex parte proceeding, (d) adoption proceeding, (e) change of name proceeding, (f) summary procedure or proceeding, (g) eminent domain proceeding, (h) juvenile proceeding, (i) action wherein an extraordinary remedy is sought, such as mandamus, prohibition, certiorari, habeas corpus, quo warranto, or information in the nature of quo warranto, and (j) civil action instituted under the rules of civil procedure for trial courts of record, the judge of a judicial circuit may hold hearings, including but not limited to pre-trial conferences, and enter orders in any county of his circuit although he is not physically present in the county in which such action, appeal or proceeding was instituted or is pending, unless there is objection thereto in writing, filed by one of the parties prior to such hearing or the entry of such order: Provided, That in any appeal, action or proceeding in which a jury trial has been demanded or exists as a matter of right, trial by jury shall be held only in the county wherein such appeal, action or proceeding is pending.
AN ACT to amend and reenact section two, article two-a; section three, article three, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article three of said chapter by adding thereto two new sections, designated sections four-b and four-c, relating to the powers and duties of the medical licensing board, examinations by the medical licensing board, the practice of medicine and surgery in the state of West Virginia, and the formation of medical corporations; providing certain limitations on medical corporations; and providing penalties.

Be it enacted by the Legislature of West Virginia:

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

Article 2-a. Medical Licensing Board.

Section 2. Powers and Duties.—The medical licensing board of West Virginia shall assume, carry on, and succeed, to all the duties, rights, powers, obligations and liabilities heretofore belonging to, exercised by, or assumed by the public health council, with regard to the licensure of physicians and surgeons, and chiropodists.

The medical licensing board shall examine all qualified applicants for license to practice medicine and surgery,
and chiropody, and it shall license all such applicants
who are qualified under applicable statutes and who
pass any examination that may be required by statute
or by any legally adopted rule or regulation. The board
shall also have authority to authorize medical corpora-
tions in accordance with the provisions and subject to
the limitations of article three of this chapter to practice
medicine and surgery through duly licensed physicians
and surgeons.

The said board shall have the power to make such ex-
amination of all applicants appearing before it for any
type of license as may be necessary to determine that
the applicant is qualified. The said board shall also have
the power to revoke or suspend any license or certificate
of authorization issued by it, for cause, after having given
the person whose license or medical corporation whose
certificate of authorization is sought to be revoked or
suspended, an opportunity to be heard in the manner pro-
vided by section eight, article one, chapter thirty of this
code. It shall have the power to reinstate any license or
certificate of authorization revoked or suspended by it.

The said board is authorized and empowered to hold
and conduct hearings and investigations on the issuance,
suspension, revocation, or reinstatement of licenses or
certificates of authorization.

The said board shall have the power to hire, fix the
compensation of, and discharge such employees as are
necessary for the performance of the powers and duties
vested in the said board by law.

Article 3. Physicians and Surgeons.

Section 3. Examination by Medical Licensing Board.—

2 The medical licensing board of West Virginia shall ex-
amine all qualified applicants for license to practice
medicine and surgery in this state, and shall examine
the application of medical corporations provided for in section four-b of this article, and issue certificates of license, and in the case of proposed medical corporations certificates of authorization, to all applicants who are legally entitled to receive the same; and said certificates shall be signed by the chairman of the said board and by the director of health as secretary thereof.

Sec. 4-b. Medical Corporations; Application for Registration; Fee; Notice to Secretary of State of Issuance of Certificate; Action by Secretary of State.—When two or more physicians or surgeons duly licensed to practice medicine in the state of West Virginia wish to form a medical corporation, such physicians or surgeons shall file a written application with the medical licensing board, on a form prescribed by the board, and shall furnish proof satisfactory to the board that all of the signers of such application are such duly licensed physicians or surgeons. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

If the board finds that all of the signers of such application are such duly licensed physicians or surgeons, the board shall notify the secretary of state that a certificate of authorization has been issued to the individuals signing such application.

When the secretary of state receives notification from the state medical board that certain persons have been issued a certificate of authorization, he shall attach such authorization to the corporation application and upon compliance by the corporation with chapter thirty-one of this code shall notify the incorporators that such corporation, through duly licensed physicians and surgeons, may engage in the practice of medicine and surgery.

Sec. 4-c. Same; Rights and Limitations Generally; Biennial Registration; Fee; When Practice to Cease; Admissibility and Effect of Certificate Signed by Secretary of Medical Licensing Board; Penalty; Severability.—(1) A medical corporation may practice medicine and surgery only through individual physicians and surgeons duly licensed to practice medicine or surgery in the state of West Virginia, but such physicians and surgeons may be
employees rather than shareholders of such corporation, and nothing herein contained shall be construed to require a license for or other legal authorization of any individual employed by such corporation to perform services for which no license or other legal authorization is otherwise required. Nothing contained in this article is meant or intended to change in any way the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient relationship nor is it meant or intended to change in any way the personal character of the physician-patient relationship. A corporation holding such certificate of authorization shall register biennially, on or before the thirtieth day of June, on a form prescribed by the medical licensing board, and shall pay an annual registration fee of fifty dollars.

(2) A medical corporation holding a certificate of authorization shall cease to engage in the practice of medicine and surgery upon being notified by the medical licensing board that any of its shareholders is no longer a duly licensed physician or surgeon, or when any shares of such corporation have been sold or disposed of to a person who is not a duly licensed physician or surgeon: Provided, That the personal representative of a deceased shareholder shall have a period, not to exceed twelve months from the date of such shareholder's death, to dispose of such shares; but nothing contained herein shall be construed as affecting the existence of such corporation or its right to continue to operate for all lawful purposes other than the practice of medicine and surgery.

(3) No corporation shall practice medicine or surgery, or any of its branches, or hold itself out as being capable of doing so, without a certificate from the medical licensing board; nor shall any corporation practice medicine or surgery or any of its branches, or hold itself out as being capable of doing so, after its certificate has been revoked, or if suspended, during the term of such suspension. A certificate signed by the secretary of the medical licensing board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such certificate to practice medicine or surgery or any of its branches in the state
has been issued to any such corporation specified therein or that such certificate has been revoked or suspended shall be admissible in evidence in all courts of this state and shall be prima facie evidence of the facts stated therein.

(4) Any officer, shareholder or employee of such corporation who participates in a violation of any provision of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding one thousand dollars.

(5) If any provision of sections four-b or four-c of this article is held to be invalid, such invalidity shall not affect the other provisions of said sections which can be given effect without such invalid provision, and to this end the provisions of said sections are severable.

CHAPTER 118
(Senate Bill No. 40—By Mr. Mullins, by request)

[Passed February 10, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the biennial registration of physicians and surgeons.

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

Article 3. Physicians and Surgeons.

Section 4-a. Biennial registration of physicians and surgeons.

Section 4-a. Biennial Registration of Physicians and Surgeons.—Every person who, on or before the thirty-first day of August, one thousand nine hundred forty-nine, is licensed as a physician or surgeon to practice medicine and surgery in this state, shall, on or before the said thirty-first day of August, one thousand nine hundred forty-nine, make application to the medical licensing
board for registration, and shall be registered by the said board, as the holder of such license, which registration shall be for the period ending on the thirtieth day of June, one thousand nine hundred fifty-one. On or before the said thirtieth day of June, one thousand nine hundred fifty-one, and biennially thereafter, on or before the thirtieth day of June of each biennial period, every person licensed as a physician or surgeon in this state, shall apply to the said board for registration, or a renewal of registration, as such license holder: Provided, That no registration shall be required of any holder of a certificate of licensure for the biennial period, or any portion thereof, during which such certificate is issued.

Each applicant for registration or renewal thereof shall remit to the board, with his application, a fee of five dollars.

The failure of any person to comply with the provisions of this section shall operate automatically, and without further proceedings, to cancel the certificate of such person, and the license issued thereunder. Continued practice by any such person after such cancellation of his certificate and license shall constitute practicing without a license, and any person so practicing shall be subject to all of the penalties provided by law for practicing without a license.

Any certificate and license cancelled pursuant to the provisions of this section, and not for any other reason, shall be reinstated by the said board upon submission to it of an application for registration by the person whose certificate has been cancelled, together with current and delinquent fees, and ten dollars reinstatement fee.

CHAPTER 119

(Com. Sub. for House Bill No. 601—By Mr. Lohr)

[Passed March 11, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and seven, article five, chapter thirty of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to the appointment, qualifications, authority, powers and duties of the West Virginia board of pharmacy, and its powers with respect to refusal to issue, suspend or revoke a license or certificate of registration.

Be it enacted by the Legislature of West Virginia:

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

Article 5. Pharmacists and Drugstores.

Section

2. Board of pharmacy; appointment, qualifications and terms of members; powers and duties generally.
7. Refusal to issue; suspension or revocation of certificate of registration.

Section 2. Board of Pharmacy; Appointment, Qualifications and Terms of Members; Powers and Duties Generally.—There shall be a state board of pharmacy, known as the “West Virginia Board of Pharmacy,” which shall consist of five practicing pharmacists, who shall be appointed by the governor by and with the advice and consent of the senate. Each member of the board, at the time of his appointment, shall be a citizen and registered pharmacist of this state, and actively engaged in the practice of pharmacy.

The members of the board in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. On or before the first day of July, one thousand nine hundred thirty-one, and on or before the first day of July of each year thereafter, the governor shall appoint one member to serve for a term of five years, commencing on said first day of July, and any member shall be eligible for reappointment.

The board, in addition to the authority, powers and duties granted to the board by this chapter and chapter sixteen of the code, shall have the authority to: (a) Regulate the practice of the profession of pharmacy; (b)
regulate the employment of apprentices and interns in pharmacy; (c) appoint, within the limit of appropriations, inspectors who shall be registered pharmacists and who shall act as agents of the board within the provisions of this chapter and chapter sixteen of the code and such rules and regulations as the board shall promulgate; and (d) adopt rules of professional conduct appropriate to the establishment and maintenance of high standards of integrity and dignity in a profession.

Sec. 7. Refusal to Issue; Suspension or Revocation of Certificate of Registration. — The board of pharmacy shall have the power to withhold, revoke or suspend any license or any certificate issued under this article after giving reasonable notice and an opportunity to be heard to any person who has:

(1) Become unfit or incompetent to practice pharmacy by reason of: (a) Acts of gross immorality; (b) habitual intoxication; (c) habitual use of narcotics or habit-forming drugs; (d) insanity; (e) any abnormal physical or mental condition which threatens the safety of persons to whom such person might sell or dispense prescriptions, drugs, or devices, or for whom he might manufacture, prepare or package, or supervise the manufacturing, preparation, or packaging of prescriptions, drugs, or devices.

(2) Been convicted in any of the courts of this state, the United States of America, or any other state, of a felony or any crime involving moral turpitude.

(3) Violated any of the provisions of this chapter or chapter sixteen of the code.

(4) Failed to comply with the rules of professional conduct adopted pursuant to subparagraph (d) of section two of this article.

(5) Promoted to the public in any manner any one drug which may only be dispensed pursuant to a prescription over any other of such drugs.

(6) Solicited professional practice directly or indirectly by promoting professional ability, experience, integrity, or professional qualifications.
AN ACT to amend and reenact article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of the practice of registered professional nursing; providing penalties; and providing for injunctive relief.

Be it enacted by the Legislature of West Virginia:

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

Article 7. Nurses.

Section 1. Definitions.—As used in this article the term:

(a) "Board" shall mean the West Virginia board of examiners for registered professional nurses;

(b) The practice of "registered professional nursing" shall mean the performance for compensation of any...
service requiring substantial specialized judgment and skill based on knowledge and application of principles of nursing derived from the biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts, or the supervision and teaching of other persons with respect to such principles of nursing, or in the administration of medications and treatments as prescribed by a licensed physician or a licensed dentist, or the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others.

Sec. 2. License Required to Practice.—In order to safeguard life and health, any person practicing or offering to practice registered professional nursing in this state for compensation shall hereafter be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided. After the thirtieth day of June, one thousand nine hundred sixty-five, it shall be unlawful for any person not licensed under the provisions of this article to practice or to offer to practice registered professional nursing in this state, or to use any title, sign, card or device to indicate that such person is a registered professional nurse.

Sec. 3. Board of Examiners for Registered Professional Nurses; Appointment, Term and Qualifications of Members; Reappointment; Vacancies; Removal; Compensation. —The governor shall appoint, by and with the advice and consent of the senate, a board consisting of five members who shall constitute and be known as the West Virginia board of examiners for registered professional nurses: Provided, however, That the present members of the West Virginia state board of examiners for registered nurses in office on the effective date of this article shall, unless sooner removed, continue to serve as members of the board hereby created until their respective terms of membership shall have expired and their successors are appointed under the provisions of this article. Appointments hereunder shall be made by the governor, by and with the
advice and consent of the senate, from lists submitted to
the governor by the West Virginia nurses’ association.
Such lists shall contain the names of at least three persons
eligible for membership for each membership or vacancy
to be filled and shall be submitted to the governor on or
before the first day of June of each year and at such other
time or times as a vacancy on the board shall exist. Ap-
pointments under the provisions of this article shall be for
a term of five years each or for the unexpired term, if any,
of the present members. Any member may be eligible for
reappointment, but no member shall serve longer than
two successive terms. Vacancies shall be filled in the same
manner as is provided for appointment in the first in-
stance. The governor may remove any member for
neglect of duty, for incompetence, or for unprofessional
or dishonorable conduct.

Each member of the board hereafter appointed shall
(a) be a citizen of the United States and a resident of
this state, (b) be a graduate from an accredited educa-
tional program in this or any other state for the prepara-
tion of practitioners of registered professional nursing,
or be a graduate from an accredited college or university
with a major in the field of nursing, (c) be a graduate from
an accredited college or university, (d) be a registered
professional nurse licensed in this state or eligible for
licensure as such, (e) have had at least five years of ex-
perience in teaching in an educational program for the
preparation of practitioners of registered professional
nursing, or in a combination of such teaching and either
nursing service administration or nursing education ad-
ministration, and (f) have been actually engaged in reg-
istered professional nursing for at least three years pre-
ceeding his or her appointment or reappointment.

Each member of the board shall receive twenty dollars
for each day actually spent in attending meetings of the
board, or of its committees, and shall also be reimbursed
for actual and necessary expenses.

Sec. 4. Organization and Meetings of Board; Quorum;
Powers and Duties Generally; Executive Secretary;
Funds.—The board shall meet at least once each year and
shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:

(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;

(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;

(c) Provide for surveys of such educational programs at such times as it may deem necessary;

(d) Accredit such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;

(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;

(f) Examine, license and renew the licenses of duly qualified applicants;

(g) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;

(h) Keep a record of all proceedings of the board;

(i) Make a biennial report to the governor;

(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;

(k) Define the duties and fix the compensation for the executive secretary; and

(l) Employ such other persons as may be necessary to carry on the work of the board.

The executive secretary shall possess all of the qualifications prescribed in section three for members of the board, except that he or she shall (a) have had at least
eight years of experience in the practice of registered professional nursing since graduation from a college or university, at least five of which shall have been devoted to the teaching in or to the administration of an educational program for the preparation of practitioners of registered professional nursing, or to a combination of such teaching and administration, and (b) shall have been actively engaged in the practice of registered professional nursing for at least five years preceding his or her appointment by the board.

All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the general funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the general funds of this state.

Sec. 5. Schools of Nursing; Accreditation; Standards; Surveys and Reports; Failure to Maintain Standards.—An institution desiring to be accredited by the board for the preparation of practitioners of registered professional nursing shall file an application therefor with the board, together with the information required and a fee of fifty dollars. It shall submit written evidence that: (a) It is prepared to give a program of nursing education which meets the standards prescribed by the board; and (b) it is prepared to meet all other standards prescribed in this article and by the board.

Instruction and practice may be secured in one or more institutions approved by the board. Such institution or institutions with which the school is to be affiliated shall be surveyed by the executive secretary of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited school to prepare practitioners of registered professional nursing are met, it shall approve the school as an accredited school. From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive secretary, to survey all such schools.
Written reports of such surveys shall be submitted to the board. If the board determines that any such accredited school is not maintaining the standards required by this article and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools.

Sec. 6. Qualifications and Examinations of Persons Seeking Licensure; Applications; Practitioners Licensed in Another State; Present Practitioners; Fees; Temporary Permits.—To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she (a) is of good moral character; (b) has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and (c) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board.

The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the applicant shall, in addition to the other requirements of this section, present to the board such other evidence of his or her qualifications as the board may prescribe.

The board may, upon application, issue a license to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country if in the opinion of the board the applicant meets the qualifications required of registered professional nurses at the time of graduation.

The board shall, upon application, issue a license, designated as a “waiver license,” to practice registered profes-
sional nursing to any person who shall submit to the board written evidence, verified by oath, that the applicant: (a) Is of good moral character; (b) has practiced professional nursing in this state for at least three years during the five-year period immediately preceding the effective date of this article; and (c) has completed a registered professional nursing education program which, at the time of the applicant's completion of such program, was either accredited by the West Virginia state board of examiners for registered nurses and which would have rendered the applicant eligible to take an examination for licensure under the provisions of chapter ninety-six of the acts of the Legislature, one thousand nine hundred forty-five, or which at the time of the applicant's completion of such program was accredited by the duly constituted licensing authority of the state, territory or country wherein such program was conducted and which would have made the applicant eligible to take an examination for licensure in such state, territory or country: Provided, however, That no license shall be issued by the board under the provisions of this paragraph unless the applicant therefor shall have filed his or her written application with the board prior to the thirtieth day of June, one thousand nine hundred sixty-seven.

Any person holding a valid license designated as a “waiver license” pursuant to the provisions of the next preceding paragraph may, at any time after the issuance of such license, submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such “waiver license.” The provisions of this section relating to examination and fees and the provisions of all other sections of this article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.

Any person applying for a license to practice registered professional nursing, including a “waiver license,” under the provisions of this article shall, with his or her application, pay to the board a fee of thirty dollars, except that the fee to be paid by any person applying for a license by endorsement hereunder shall be fifteen dollars. In the event it shall be necessary for the board to re-examine
any applicant for a license, an additional fee of ten dol-

lars shall be paid to the board by the applicant for each

subject in which re-examination shall be necessary: Pro-

vided, however, That the total of such additional fees

shall in no case exceed thirty dollars for any one ex-

amination.

Any person holding a license heretofore issued by the

West Virginia state board of examiners for registered

nurses and which license is valid on the date this article

becomes effective shall be deemed to be duly licensed

under the provisions of this article for the remainder of

the period of any such license heretofore issued. Any

such license heretofore issued shall also, for all purposes,

be deemed to be a license issued under this article and

to be subject to the provisions hereof.

The board shall, upon receipt of a duly executed ap-

plication for licensure and of the accompanying fee of

thirty dollars, issue a temporary permit to practice reg-

istered professional nursing to any applicant who has

received a diploma from a school of nursing approved

by the board pursuant to this article after the date the

board last scheduled a written examination for persons

eligible for licensure: Provided, however, That no such

temporary permit shall be renewable nor shall any such

permit be valid for any purpose subsequent to the date

the board has announced the results of the first written

examination given by the board following the issuance

of such permit.

Sec. 7. Licensure of Aliens.—No license to practice

registered professional nursing shall be issued to any

person who is not a citizen of the United States of Amer-

ica unless such person has legally declared his or her

intention of becoming a citizen. Any license which may

be issued to any such person shall terminate and become

void at the end of five years from the date of such declara-
tion of intention if the holder of such license has not

then become a citizen. A license so terminated may be

reissued by the board at any time thereafter upon its

receipt of evidence of citizenship and an explanation of

the delay satisfactory to the board. Every person apply-
ing for a license pursuant to this section shall, with his
or her application for a license, submit for the board’s inspection his or her declaration of intention to become a citizen of the United States.

All other provisions of this article shall be applicable to any application for or license issued pursuant to this section.

Sec. 8. Renewal of Licenses; Reinstatement; Fees; Penalties; Inactive List.—The license of every person licensed and registered under the provisions of this article shall be annually renewed except as hereinafter provided. On or before January first, one thousand nine hundred sixty-six, the board shall mail an application for renewal of license to every known active nurse who has ever been licensed as a registered nurse in this state. At such time or times as the board in its discretion may determine each year thereafter, the board shall mail a renewal application to every person whose license was renewed during the previous year and every such person shall fill in such application blank and return it to the board with a renewal fee of three dollars within thirty days after receipt of said renewal application. Upon receipt of the application and fee, the board shall verify the accuracy of the application and, if the same be accurate, issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice registered professional nursing for the period stated on the certificate of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment to the board of the renewal fee hereinabove provided and a reinstatement fee of three dollars. Any person practicing registered professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall send a written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive
list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered professional nursing in this state. When the person desires to resume active practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.

Sec. 9. Contents of License or Certificate.—Each license or certificate issued by the board shall bear a serial number, the full name of the applicant, the date of expiration of any such license and the date of issuance of any such certificate, the seal of the board, and shall be signed by the executive secretary of the board.

Sec. 10. Use of Title “Registered Nurse” and Abbreviation Thereof.—Any person who holds a license to practice registered professional nursing in this state shall have the right to use the title “registered nurse” and the abbreviation “R. N.” No other person shall assume such title or use such abbreviation or any other words, letters, signs or devices to indicate that the person using the same is a registered professional nurse.

Sec. 11. Denial, Revocation or Suspension of a License; Grounds for Discipline.—The board shall have the power to deny, revoke or suspend any license to practice registered professional nursing issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

(a) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to practice registered professional nursing; or
(b) Has been convicted of a felony; or
(c) Is unfit or incompetent by reason of negligence, habits or other causes; or
(d) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
(e) Is mentally incompetent; or
(f) Is guilty of conduct derogatory to the morals or standing of the profession of registered nursing; or
(g) Is practicing or attempting to practice registered professional nursing without a license or reregistration; or
(h) Has wilfully or repeatedly violated any of the provisions of this article.

Sec. 12. Exceptions.—This article shall not be construed to prohibit:
(a) The furnishing of nursing assistance in an emergency; or
(b) The practice of nursing incidental to a program of study by students enrolled in a nursing education program accredited by the board; or
(c) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division or agency thereof, while in the discharge of his or her official duties.

Sec. 13. Prohibitions and Penalties.—It shall be a misdemeanor for any person, including any corporation or association, to:
(a) Sell or fraudulently obtain or furnish any nursing diploma, license or record or aid or abet therein; or
(b) Practice registered professional nursing under cover of any diploma, license or record illegally or fraudulently obtained or signed or issued or under fraudulent representation; or
(c) Practice registered professional nursing unless duly licensed to do so under the provisions of this article; or
(d) Use in connection with his or her name any designation tending to imply that he or she is licensed to practice registered professional nursing unless duly licensed so to practice under the provisions of this article; or
(e) Practice registered professional nursing during the time his or her license issued under the provisions of this article shall be suspended or revoked; or
(f) Conduct a nursing education program for the preparation of registered professional nursing practitioners unless such program has been accredited by the board; or
(g) Otherwise violate any provisions of this article.
Upon conviction, each such misdemeanor shall be punishable by a fine of not less than twenty-five nor more than two hundred fifty dollars.

Sec. 14. Injunction or Other Relief against Unlawful Acts.—The practice of registered professional nursing by any person who has not been licensed under the provisions of this article, or whose license has expired or has been suspended or revoked, is hereby declared to be inimical to the public health and welfare and to be a public nuisance. Whenever in the judgment of the board any person has engaged in, is engaging in or is about to engage in the practice of registered professional nursing without holding a valid license hereunder, or has engaged, is engaging or is about to engage in any act which constitutes, or will constitute, a violation of this article, the board may make application to the appropriate court having equity jurisdiction for an order enjoining such practices or acts, and upon a showing that such person has engaged, is engaging or is about to engage, in any such practices or acts, an injunction, restraining order, or such other order as the court may deem appropriate shall be entered by the court.

The remedy provided in this section shall be in addition to, and not in lieu of, all other penalties and remedies provided in this article.

Sec. 15. Administration of Anesthetics.—In any case where it is lawful for a duly licensed physician or dentist practicing medicine or dentistry under the laws of this state to administer anesthetics, such anesthetics may lawfully be given and administered by any person (a) who has been licensed to practice registered professional nursing under this article, and (b) who holds a diploma or certificate evidencing his or her successful completion of the educational program of a school of anesthesia duly accredited by the American association of nurse anesthetists: Provided, That such anesthesia is administered by such person in the presence and under the supervision of such physician or dentist.

Sec. 16. General Law Applicable.—Except to the extent that the provisions of this article may be inconsistent
3 therewith, the board shall conform to the requirements
4 prescribed in article one of this chapter.

Sec. 17. Severability.—If any provision of this article
2 or the application thereof to any person or circumstance
3 shall be held invalid, the remainder of the article and
4 the application of such provision to other persons or cir-
5 cumstances shall not be affected thereby.

CHAPTER 121

(House Bill No. 719—By Mr. Speaker, Mr. White)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, three, four,
five and six, article eleven; and to further amend said ar-
ticle by adding thereto five new sections, designated sections
seven, eight, nine, ten and eleven, all of chapter thirty of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to the licensing of
chiropody-podiatry.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five and six, article
eleven, be amended and reenacted; and that said article be
further amended by adding thereto five new sections, desig-
nated sections seven, eight, nine, ten and eleven, all of chapter
thirty of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, to read as follows:

Article 11. Chiropodists-Podiatrists.

Section
1. License required; present practitioners.
2. Definition of chiropody-podiatry; use of title “doctor.”
3. Qualifications of applicant for license.
4. Examination for license; issuance of license; reciprocity.
5. Offenses; penalties.
6. Limitations and application of article.
7. Fees.
8. Refusal to issue; suspension or revocation of license.
9. Biennial renewal of license; cancellation of certificate for failure
to renew; reinstatement; fees.
10. Separability.
11. Repeal.
Section 1. License Required; Present Practitioners.—It shall be unlawful for any person to practice or offer to practice in this state the branch of medicine known as chiropody-podiatry, as hereinafter defined, unless duly licensed so to do by the medical licensing board of this state, after examination conducted by such board, the members of which shall be members of the licensing board and include the chiropodist-podiatrist members, under rules and regulations prepared and promulgated by it, except as hereinafter provided: Provided, however, that the provisions of this section shall not apply to any person legally entitled to practice chiropody or podiatry in this state at the time of the adoption of this article: And provided further, that all persons now licensed to practice chiropody shall be permitted to use the term "chiropody-podiatry" and shall have all the rights and privileges as defined in this article.

Sec. 2. Definition of Chiropody-Podiatry; Use of Title "Doctor."—For the purpose of this article "chiropody-podiatry" shall mean the medical, mechanical or surgical treatment of the ailments of the human hand or foot, except the amputation of the foot, hand, toes or fingers, without the use of anesthetics other than local. It shall also include the fitting or recommending of appliances, devices or shoes for the correction or relief of hand or foot ailments.

Licensees under this article shall not use the title "doctor," except in connection with the word chiropody or chiropodists or podiatry or podiatrists, or the initials of the college degree held by the practitioner.

Sec. 3. Qualifications of Applicant for License.—An applicant for license shall furnish to the medical licensing board satisfactory proof that he is: (a) Twenty-one years of age or over; (b) of good moral character; (c) a graduate of a school of chiropody or podiatry registered and approved by the West Virginia medical licensing board or that he has taken and passed the examination in another state, territory or foreign country having by law requirements of qualifications equal to the requirements of this state; has been in the practice of chiropody or
podiatry for a period of at least five years in such state, 
territory or foreign country and is at the time of applica-
tion and examination in good standing in said state, terri-
tory or foreign country; (d) possessed of a minimum 
high school education recognized by the state department 
of education as being a proper standard and at least two 
years of academic work of collegiate grade in a standard 
college of arts and sciences, so recognized as being a 
proper standard by the state department of education: 
Provided, That the requirement of two years of academic 
work of collegiate grade in a standard college of arts and 
sciences shall not apply to applicants who on or before 
June seventh, one thousand nine hundred fifty-seven, had 
been accepted and entered into an approved, accredited 
college of chiropody, podiatry, or chiropody-podiatry, 
pursued his studies and after said date received his de-
gree.

Sec. 4. Examination for License; Issuance of License; 
Reciprocity.—The medical licensing board shall conduct 
examinations for license to practice chiropody-podiatry 
at the times and places designated by it for conducting 
examinations for licenses to practice medicine. Exami-
nations shall be in English, and in writing, and shall be 
of a scientific and practical character. They shall cover 
the subjects of general and special anatomy, physiology, 
hygiene and sanitation, physics, chemistry, biology, em-
bryology, histology, pathology, physical therapy, bacteri-
ology, minor surgery, materia medica and therapeutics, 
foot orthopedics and surgery, dermatology and syphilol-
ogy, roentgenology, physical diagnosis, didactic and clini-
cal chiropody-podiatry. Upon the successful completion 
of such examination by an applicant, the medical licens-
ing board shall issue to such applicant a license to practice 
“chiropody-podiatry”: Provided, however, That the said 
board or a majority thereof, may accept in lieu of an 
examination of applicants under this article, the certifi-
cate of license to practice chiropody or podiatry or chiro-
pody-podiatry legally granted by the licensing authority 
of another state, territory or any foreign country whose 
standard of qualifications for the practice of chiropody 
or podiatry or chiropody-podiatry is equivalent to that
Sec. 5. Offenses; Penalties.—(a) Whoever, not being lawfully authorized to practice chiropody, podiatry, or chiropody-podiatry within the state of West Virginia, holds himself out as a practitioner of chiropody, podiatry, or chiropody-podiatry or in any way advertises himself as such, or practices or attempts to practice such profession or professions; (b) or whoever obtains or attempts to obtain a license or permit to practice in the profession of chiropody, podiatry, or chiropody-podiatry by fraudulent misrepresentation or in any way contrary to the provisions of this article, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars nor more than two hundred dollars, or in any case not less than forty dollars nor more than four hundred dollars, or imprisoned in the county jail not less than one nor more than six months; (c) or whoever practices or attempts to practice chiropody, podiatry, or chiropody-podiatry under a false or assumed name, or under a name other than that under which he has a license to practice chiropody, podiatry, or chiropody-podiatry; (d) or whoever impersonates another practitioner of like or different name; (e) or whoever lends his name or has professional connections with anyone convicted of any offense, as herein provided; (f) or whoever violates any of the provisions of this article for which no specific penalty is provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than two hundred dollars, or confined in the county jail not less than one nor more than four months, or both, for each and every offense, and, in addition, the medical licensing board shall suspend or revoke his license for an indefinite period, but for not less than six months. For any and all misdemeanors under this article justices of the peace have concurrent jurisdiction with circuit and criminal courts for the enforcement thereof.

A person so convicted shall not be entitled to any fee for services rendered, and, if a fee has been paid, the patient or guardian or heir may recover the same as debts of like amount are now recovered by law.
Sec. 6. Limitations and Application of Article.—Nothing contained in this article shall be construed to prevent physicians and surgeons legally practicing in this state from practicing chiropody, podiatry or chiropody-podiatry as a branch of their medical and surgical practice; nor to prevent physicians and surgeons of the United States army, air force, navy or marine hospital service from practicing chiropody-podiatry in the actual discharge of their duties as such; nor to prevent chiropodists or podiatrists living in other states and duly qualified to practice chiropody or podiatry therein from being called in consultation into this state by a chiropodist-podiatrist already entitled to practice chiropody-podiatry in this state; nor to prohibit the fitting, recommending or sale of corrective shoes, arch supports or similar mechanical appliances in commercial establishments: Provided, however, That chiropodists-podiatrists licensed hereunder shall have the same rights and privileges of physicians and surgeons of other schools of medicine insofar and insofar only as pertains to the medical, mechanical or surgical treatment of ailments of the human hand or foot.

Sec. 7. Fees.—The medical licensing board shall be entitled to charge and collect the following fees in addition to those provided in article one of this chapter: For granting to a licensed chiropodist-podiatrist from another state, territory or foreign country, a license to practice chiropody-podiatry in this state, under the provisions of section four of this article, one hundred dollars, which must accompany application; for reciprocal endorsement, ten dollars.

Sec. 8. Refusal to Issue; Suspension or Revocation of License.—The medical licensing board may refuse to grant a license to a person convicted of a felony or guilty of gross immorality or addicted to drunkenness or the habitual use of narcotic drugs, and may by legal proceedings as provided in article one of this chapter suspend or revoke a license for like cause, or for malpractice, or for fraud in procuring the license, but no such refusal, suspension or revocation shall be ordered by reason of the individual belonging to or practicing in any particular
school or system of chiropody or podiatry: Provided,
however, That malpractice as herein used means bad,
wrong or injudicious treatment of a patient, profession-
ally and in respect to the particular disease or injury,
resulting in injury, unnecessary suffering, or death to
the patient and proceeding from ignorance, carelessness,
want of professional skill, gross disregard of established
rules or principles, neglect, or a malicious or criminal
intent.

Sec. 9. Biennial Renewal of License; Cancellation of
Certificate for Failure to Renew; Reinstatement; Fees.—
Every person who on or before the thirty-first day of Au-
gust, one thousand nine hundred sixty-five, is licensed as a
podiatrist to practice chiropody-podiatry in this state,
shall, on or before the said thirty-first day of August, one
thousand nine hundred sixty-five, make application to the
medical licensing board for registration, and shall be
registered by the said board, as a holder of such license,
which registration shall be for the period ending on the
thirtieth day of June, one thousand nine hundred sixty-
seven. On or before the said thirtieth day of June, one
thousand nine hundred sixty-seven, and biennially there-
after, on or before the thirtieth day of June of each
biennial period, every person licensed as a chiropodist-
podiatrist in this state, shall apply to the said board for
registration, or a renewal of registration, as such license
holder: Provided, That no registration shall be required
of any holder of a certificate of licensure for the biennial
period, or any portion thereof, during which such certifi-
cate is issued. Each applicant for registration or renewal
thereof shall remit to the board, with his application, a
fee of five dollars.

The failure of any person to comply with the provisions
of this section after receiving thirty days' notice from the
medical licensing board, which shall be served by de-
positing in the United States mail, addressed to the mail-
ing address of the licensee, shall operate automatically,
and without further proceedings, to cancel the certificate
of such person, and the license issued thereunder. Con-
tinued practice by any such person after such cancella-
tion of his certificate and license shall constitute prac-
ticing without a license, and any person so practicing
shall be subject to all the penalties provided by law for
practicing without a license.

Any certificate and license cancelled pursuant to the
provisions of this section, and not for any other reason,
shall be reinstated by the said board upon submission to it
of an application for registration by the person whose
certificate has been cancelled, together with current and
delinquent fees, and ten dollars' reinstatement fee.

Sec. 10. Separability.—The terms of this article are de-
clared to be separable; and should any word, phrase, sen-
tence, or section be declared unconstitutional or otherwise
invalid, the remainder of this article shall not be thereby
affected, but shall remain in full force and effect.

Sec. 11. Repeal.—All articles or parts of articles in con-
flict with this article are hereby repealed to the extent of
such conflict.

CHAPTER 122
(Senate Bill No. 164—By Mr. Hylton)

(Passed March 8, 1965: in effect July 1, 1965. Approved by the Governor.)

AN ACT to amend and reenact sections seven, ten and fifteen,
article thirteen, chapter thirty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, relating
to regulation of the practice of engineering and provid-
ing for an increase in the registration fee and renewal of
certification fee.

Be it enacted by the Legislature of West Virginia:
That sections seven, ten and fifteen, article thirteen, chapter
thirty of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted to read as
follows:
Article 13. Engineers.

Section 7. Form of Application for Registration; Fee.—

Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references, of whom three or more shall have personal knowledge of his engineering experience.

The registration fee for professional engineers shall be twenty-five dollars, ten dollars of which shall accompany application, the remaining fifteen dollars to be paid upon issuance of certificate. Should the board deny the issuance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an examination fee.

Sec. 10. Expiration Date of Certificates; Renewals.—

Certificates of registration shall expire on the last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this article of the date of the expiration of his certificate and the amount of the fee that shall be required for renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of June by the payment of a uniform fee to be annually fixed by the board, the amount thereof not to exceed ten dollars. The failure on the part of any registrant to renew his certificate annually in the month of June as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of June shall be increased ten per cent for each month or fraction of a month that payment of renewal is delayed: Provided, That the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

Sec. 15. Reciprocal Registration.—(a) The board shall, upon application therefor, and the payment of a fee of
fifteen dollars, issue a certificate of registration as professional engineer to any person who holds an unexpired certificate of registration issued to him by the proper authority in any state or territory or possession of the United States or in any country in which the requirements for the registration of professional engineers are of a standard not lower than that specified in this article: Provided, That the engineering registration boards of said states, territories, possessions, or countries shall grant full and equal reciprocal registration rights and privileges to registrants of this board. Agreements for reciprocity with other states, territories, possessions, or countries may be entered into by the board at its discretion.

(b) The board shall, upon application therefor and payment of a fee of fifteen dollars, issue a certificate of registration as professional engineer to any person who holds an unrevoked card or certificate of national reciprocal registration, issued by any state, province, or country in conformity with the regulations of the national council of state boards of engineering examiners and who complies with the regulations of this board, except as to qualifications and registration fee.

CHAPTER 123
(Com. Sub. for House Bill No. 688—By Mr. Moyers and Mr. Casey)

(Passed March 5, 1965: in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact article sixteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation, organization, powers and duties of the West Virginia board of chiropractic examiners for the licensing of chiropractors and the examination, licensing, revocation and suspension of licenses, annual renewal of licenses of chiropractors, regulation of chiropractic practice, and offenses and penalties.
Be it enacted by the Legislature of West Virginia:
That article sixteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follow:


Section 1. License required; existing licenses.
2. Definitions.
3. Board of chiropractic examiners; establishment and composition; appointment, term and qualifications of members; vacancies.
4. Application for license; qualification of applicant.
5. Examinations for licenses; issuance of certificates; fee.
6. Licensing chiropractors from other states; fee.
7. Annual renewal of licenses; fee; effect of failure to renew; reinstatement.
8. Refusal to issue; suspension or revocation of license.
9. Who may practice chiropractic; title of chiropractor.
10. Use of diagnostic instruments.
11. Duty of chiropractor to observe health regulations; report to health officer and local registrar of vital statistics.
12. Chiropractor not permitted to perform certain acts; exception.
13. Offenses; penalties.
14. Duties of prosecuting attorneys and secretary of the board.
15. Separability.
16. Repeal.

Section 1. License Required; Existing Licenses.—It shall be unlawful for any person to practice or offer to practice, in this state, chiropractic, as hereinafter defined, without a license issued by the West Virginia board of chiropractic examiners: Provided, That any certificate or license heretofore issued under the laws of this state, authorizing its holder to practice chiropractic, shall in no way be affected by the enactment of this article; except that the holder of every such certificate of license shall be subject to all the provisions of this article respecting the requirements and obligations herein prescribed for the continuance in force of such certificate of license.

Sec. 2. Definitions.—The following words, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this section:
4 (a) "Board" shall mean the West Virginia board of chiropractic examiners;
5 (b) "Chiropractor" shall mean a practitioner of chiropractic;
7 (c) "Chiropractic" is hereby defined as physical diag-
nosis, nerve tracing, palpation of the segments of the
spinal column, and the adjustment of the misaligned seg-
ments of the spinal column to their normal position for
the purpose of relieving pressure upon spinal nerves.

Sec. 3. Board of Chiropractic Examiners; Establishment
and Composition; Appointment, Term and Qualifications
of Members; Vacancies.—There shall be a board, known
as the “West Virginia Board of Chiropractic Examiners,”
composed of the director of health ex officio and three
licensed chiropractors appointed by the governor, by and
with the advice and consent of the senate, from a list of
three names recommended by the West Virginia Chiro-
practors’ Society, Incorporated. Each chiropractic mem-
ber of the board shall have been a resident of and engaged
in the practice of chiropractic in this state for a period of
at least five years preceding his appointment.

The chiropractic members of the board shall be ap-
pointed for a term of office of three years. The two chiro-
practic members of the medical licensing board of West
Virginia in office on the date this article takes effect
shall become and be members of the West Virginia board
of chiropractic examiners and said chiropractors shall no
longer be members of the medical licensing board of West
Virginia. Of such two chiropractic members of the med-
ical licensing board of West Virginia, the member whose
term of office sooner expires, shall serve on the West Vir-
ginia board of chiropractic examiners, for a two-year term
ending June thirtieth, one thousand nine hundred sixty-
seven, and the other such member shall serve for a three-
year term, ending June thirtieth, one thousand nine hun-
dred sixty-eight, or until their successors have been ap-
pointed and have qualified. On or before the first day of
July, one thousand nine hundred sixty-five, the governor
shall appoint the third member to serve for a term of one
year commencing on said first day of July, and on or be-
fore the first day of July of each year thereafter, the gov-
ernor shall appoint one member to serve for a term of
three years commencing on said first day of July; and
any member shall be eligible for reappointment. When
a vacancy in the membership of the board occurs for any
cause other than the expiration of a term, the governor shall appoint a successor as a member of the board to fill the unexpired portion of the term of office of the member whose office has been vacated.

Sec. 4. Application for License; Qualification of Applicant.—Any person wishing to practice chiropractic in this state shall apply to the secretary of the board for a license so to practice. Each applicant shall establish the fact to the board that he has satisfied the following requirements: (a) That he is twenty-one years of age or over; (b) that he is of good moral character; (c) that he is a graduate of an accredited high school giving a four-year course or has an education equivalent to the same; (d) that he has attended for at least two academic years an academic college equal in standing to the West Virginia University; (e) that he is a graduate of a chiropractic school or college approved by the West Virginia board of chiropractic examiners and accredited by the American chiropractic association or the international chiropractic association which requires for graduation a resident course of not less than four academic years of nine months each, and active attendance at the same for a minimum of four thousand hours of fifty minutes each of classroom and laboratory instruction: Provided, That this requirement shall not be construed to disqualify applicants that graduated from chiropractic schools or colleges before the passage of this article which taught a resident course of at least three academic years of eight months each or a minimum of two thousand hours of fifty minutes each and required active attendance upon the same. Attendance at the academic college as set forth in requirement (d) shall be prior to completion of the chiropractic training as set forth in requirement (e): Provided, however, That this requirement of sequence of attendance at an academic college and chiropractic school or college shall not apply to those applicants who at the time of passage of this article have completed or are in the process of fulfilling the requirements set forth in (e) above; nor shall such requirement of sequence of attendance at academic col-
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Sec. 4. Licensing Chiropractors from Other States; Fee.

All applicants shall be required to secure an average grade of seventy-five per cent in all subjects.

Provided, That sixty per cent shall be the minimum grade in any of the following subjects: Anatomy and Embryology, Chiropractic Philosophy, Chiropractic Analysis and Nerve Tracing, Palpation and the Art of Adjusting.

The list of subjects may be regulated at the discretion of the board.

Sec. 5. Examinations for Licenses; Issuance of Certificates of License; Fee.

By the American Chiropractic Association of the Inter-

Grades shall be awarded as follows: Alpha, and B, C, D, F, G, H, and I.

The稍微 altered text will not be used in the generation of the natural text. The text provided is a complete and accurate representation of the document as per the natural text.
national chiropractic association with active resident attendance thereat for a minimum of four thousand hours, may, for the purpose of reciprocity and of this section, be deemed the equivalent of the provision concerning the length of attendance as included in section four-(e).

Sec. 7. Annual Renewal of Licenses; Fee; Effect of Failure to Renew; Reinstatements.—All holders of certificates of license to practice chiropractic in this state shall renew them annually on or before the first day of July of each year by payment of a renewal fee of twenty-five dollars to the West Virginia board of chiropractic examiners. The board shall notify each certificate holder by mail, at least thirty days prior to July first each year, of the necessity of renewing his (or her) certificate. The first annual renewal fee shall be due on July one, one thousand nine hundred sixty-five.

The failure to renew a certificate of license to practice chiropractic shall operate as an automatic suspension of the rights and privileges granted by its issuance.

A certificate of license suspended by a failure to make an annual renewal thereof as herein provided may be reinstated by the board upon payment of all fees that would have been paid had the certificate holder maintained his certificate in good standing, and the payment to the board of a reinstatement fee of not to exceed fifty dollars as determined by the board; but no certificate shall be reinstated after a lapse of three years. After a lapse of three years, license may be issued only after the former certificate holder subsequent to said lapse has passed the examination in this article provided.

Sec. 8. Refusal to Issue; Suspension or Revocation of License.—The board may either refuse to issue or may suspend or revoke any license to practice chiropractic in this state upon any one or more of the following grounds:

(a) The employment of fraud or deception in applying for a license or permit to practice chiropractic, or in passing the examination provided for in this article;
(b) Practicing or attempting to practice under a name other than one's own;
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10 (c) Conviction of a crime involving moral turpitude as shown by a certified copy of the record of the trial court;
11 (d) Malpractice;
12 (e) Habitual drunkenness, or habitual addiction to the use of narcotic or habit-forming drugs;
13 (f) Violation of any provision of this article regulating the practice of chiropractic but such board may not refuse to issue or may not suspend or revoke any license upon the aforesaid grounds without notification in writing to the chiropractor concerned, delivered by certified mail at his last known address, stating the action of the board and their reason or reasons for such refusal, suspension or revocation, granting unto such chiropractor a reasonable opportunity to be heard at a fair and impartial hearing before such board in accordance with the statutes of the state of West Virginia and due process of law.

Sec. 9. Who May Practice Chiropractic; Title of Chiropractor.—Every chiropractor who has complied with the provisions of this article shall thereupon be entitled to practice chiropractic in this state. The title of chiropractor shall be doctor of chiropractic and shall be designated by the letters “D.C.”

Sec. 10. Use of Diagnostic Instruments.—Any chiropractor who has complied with the provisions of this article may use any instruments for the purpose of diagnosis and analyses of diseases or abnormalities, and for this purpose only: Provided, That such instrument is used in a school approved by the American chiropractic association, the international chiropractic association, or their successors: And provided further, That the West Virginia board of chiropractic examiners has placed the same on an approved list.

Sec. 11. Duty of Chiropractor to Observe Health Regulations; Report to Health Officer and Local Registrar of Vital Statistics.—Doctors of chiropractic shall observe and be subject to all state and municipal regulations in regard to the control of infectious diseases, and to any and
all other matters pertaining to public health, and shall report to the public health officer in the same manner as is required of other practitioners. It shall further be the duty of doctors of chiropractic in this state to report to the registrar of vital statistics of his magisterial district, within ten days of its occurrence, any death which may come under his supervision, with a certificate of the cause of death and such correlative facts as may be at the time required by the state department of health.

Sec. 12. Chiropractor Not Permitted to Perform Certain Acts; Exception.—No chiropractor shall be permitted to prescribe any medicine or drugs now or hereafter included in materia medica, or to administer any such medicine or drugs; and no chiropractor shall perform any minor or major surgery, practice obstetrics or practice osteopathy, unless duly licensed to do so by the laws of this state in addition to his license to practice chiropractic.

Sec. 13. Offenses; Penalties.—Each of the following acts shall constitute a misdemeanor, punishable upon conviction by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court, and each day any person shall so violate any provision of this article shall constitute a separate and distinct offense:

(a) The obtaining of or attempt to obtain a license by the use of fraud, deceit or wilful misrepresentation;

(b) The practice, or attempting to practice, as a chiropractor without a license granted under the provisions of this article, or practicing or attempting to practice while said license is suspended, or after said license has been revoked;

(c) The use of any title to induce belief that the user of said title is engaged in the practice of chiropractic, if the user of said title has not fully complied with the provisions of this article;

(d) The buying, selling or fraudulent procurement of any diploma of, or license to practice, chiropractic;
(e) The violation of any provision of this article regulating the practice of chiropractors.

Sec. 14. Duties of Prosecuting Attorneys and Secretary of the Board.—It shall be the duty of the several prosecuting attorneys of this state to enforce the provisions of this article, and it shall be the duty of the secretary of the board, under the direction of said board, to aid such attorneys in such enforcement.

Sec. 15. Separability.—The terms of this article are declared to be separable; and should any word, phrase, sentence or section hereof be declared unconstitutional or otherwise invalid, the remainder of this article shall not thereby be affected, but shall remain in full force and effect.

Sec. 16. Repeal.—All articles or parts of articles in conflict with this article are hereby repealed to the extent of such conflict.

CHAPTER 124

(House Bill No. 827—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend article ten, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-b, relating to the establishment of a joint counties fund and the administration thereof for general relief.

Be it enacted by the Legislature of West Virginia:

That article ten, 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 five-b, to read as follows:

Section 5-b. Counties joint fund; administration of fund; election to participate; transfer of balances in county general relief fund.

Section 5-b. Counties Joint Fund; Administration of Fund; Election to Participate; Transfer of Balances in County General Relief Fund.—For a more effective administration of general relief, the counties of the state are hereby authorized to join together in the establishment of a joint fund. The fund shall be administered by the state commissioner of welfare in the same manner as the funds provided for in section seven of this article. Expenditures from this fund shall be made by the state commissioner of welfare without regard to county lines.

The county court of any county may elect to participate in the joint fund in the manner and on such forms as may be prescribed by the state commissioner of welfare. When a county court has elected to participate in said joint fund it shall not thereafter be permitted to revoke its action nor to withdraw its election to participate.

When any county court elects to participate in the joint fund it shall transfer all balances remaining in the county general relief fund to the joint fund, which fund is hereby established and any county court that elects to participate in said joint fund is hereby authorized to make a transfer of any balance remaining in said county general relief fund notwithstanding any other provisions of law to the contrary.

Any county court electing to participate in such joint fund shall, in lieu of the requirements of section five of this article, provide for the fiscal year one thousand nine hundred sixty-five—sixty-six not less than nine per cent of the total the county is legally authorized to levy for current purposes by section ten, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended. For the fiscal year one thousand nine hundred sixty-six—sixty-seven and thereafter the amount so required shall be not less than six per cent.
AN ACT to amend and reenact section six, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the specification of purposes in the order or ordinance submitting the proposition of issuing bonds to a vote.

Be it enacted by the Legislature of West Virginia:

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

Article 1. Bond Issues for Original Indebtedness.

Section 6. Bonds may be specified for more than one purpose; single or general purpose defined.

Section 6. Bonds May Be Specified for More Than One Purpose; Single or General Purpose Defined.—The order or ordinance submitting the proposition of issuing bonds to a vote may specify more than one purpose for which bonds are to be issued: Provided, That the amount of the proceeds of the issue to be used for each purpose shall also be specified therein: Provided further, That all expenditures, including but not limited to expenditures for the acquisition of sites, the construction, erection, equipping and furnishing of one or more buildings, structures, improvements or facilities, or group of buildings, structures, improvements or facilities, and the relocation, alteration, renovation or enlargement of any existing buildings, structures, improvements or facilities, or group of buildings, structures, improvements or facilities, for the same general purpose shall be construed to be a single purpose within the meaning of this section. It shall not be necessary to specify in the order or ordinance submitting the proposition the amount of the proceeds of such bond issue
20 to be used for each such site, building, structure, improve-
21 ment or facility, or group of buildings, structures, im-
22 provements or facilities, which are a part of the same
23 general purpose and it shall be sufficient compliance with
24 this section if such order or ordinance state only the gen-
25 eral purposes for which bonds are to be issued and the
26 amount of the proceeds of such issue to be used for each
27 such general purpose.

CHAPTER 126

(Senate Bill No. 98—By Mr. Moreland and Mr. Carrigan)

[Passed February 16, 1965: in effect ninety days from passage. Approved by the
Governor.]

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 sec­
tion six-a, relating to the content of an order or ordinance
submitting the proposition of issuing bonds to a vote.

Be it enacted by the Legislature of West Virginia:

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

Article 1. Bond Issues for Original Indebtedness.

Section

6-a. When proceeds of bond issue specified for one project may be
used for another project.

Section 6-a. When Proceeds of Bond Issue Specified for
One Project May Be Used for Another Project.—If the
order or ordinance submitting the proposition of issuing
bonds to a vote specifies several projects within the same
general purpose and the amount of the proceeds of such
issue to be used for each project and for any reason one
or more of said projects cannot be constructed, carried
out, or completed, the amount of money specified for such
projects and any sums remaining unused upon comple-
tion of any one of the specified projects may be allocated
by the governing body in its discretion to and expended
for any one or more of the remaining projects specified
in said order or ordinance if said order or ordinance of
submission shall contain a provision authorizing it to do so.

CHAPTER 127

(House Bill No. 821—By Mr. Speaker, Mr. White, and Mr. Cann)

|Passed March 13, 1965; in effect from passage. Approved by the Governor.|

AN ACT to amend and reenact sections two, seven and sixteen,
article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
relating to definitions, the sale or exchange and the au-
thority for refunding revenue bonds.

Be it enacted by the Legislature of West Virginia:

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

Article 2-a. Revenue Bond Refinancing.

Section

2. Definitions.
7. Sale or exchange; deposit and investment of proceeds.
16. Article complete authority for refunding bonds; construction.

Section 2. Definitions.—The following terms wherever
used or referred to in this article shall have the following
meaning, unless a different meaning plainly appears from
the context:

5. The term “public body” shall mean any city, town,
county, public service district, sanitary district or the
state of West Virginia acting through any of its agencies,
boards, commissions or departments having power to
issue revenue obligations.
The term "governing body" shall mean board, council or other body having power to borrow money on behalf of a public body.

The term "law" shall mean any act or statute, general, special or local, of this state, including, without being limited to, the charter of any public body.

The term "enterprise" shall mean any work, undertaking, or project which the public body is or may hereafter be authorized to construct and from which the public body has heretofore derived or may hereafter derive revenues, for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this article, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

The term "federal agency" shall include the United States of America, the president of the United States of America, the federal emergency administrator of public works, reconstruction finance corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated or created by or pursuant to any act or acts or joint resolution or joint resolutions of the Congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America.

The term "improving" shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving; or any one or more, or all of the foregoing.

The term "refunding bonds" shall mean notes, bonds, certificates or other obligations of a public body issued pursuant to this article, or pursuant to any other law, as supplemented by, or in conjunction with this article.

The term "refinancing" shall mean funding, refunding, paying or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations heretofore or hereafter issued to finance or to aid in financing the
acquisition, construction or improving of an enterprise
and payable solely from all or any part of the revenues
thereof, including interest thereon in arrears, the re-
demption premiums, if any, payable on the redemption
of such notes, bonds or other obligations, the interest to
accrue thereon to the payment or redemption date,
whether or not such interest is represented by coupons
or interest certificates, and the costs of issuance of the
refunding bonds.

The term “revenues” shall mean all fees, tolls, rates,
rentals and charges to be levied and collected in connec-
tion with and all other income and receipts of whatever
kind or character derived by the public body from the
operation of any enterprise or arising from any enter-
prise, and including earnings derived from investments
and bank deposits.

The term “holder of bonds” or “bondholder” or any
similar term shall mean any person who shall be the
bearer of any outstanding refunding bond or refunding
bonds registered to bearer or not registered, or the reg-
istered owner of any such outstanding bond or bonds
which shall at the time be registered other than to bearer.

Words importing the singular number shall include the
plural number in each case and vice versa, and words
importing persons shall include firms and corporations.

Sec. 7. Sale or Exchange; Deposit and Investment of
Proceeds.—The refunding bonds may be sold or exchanged
in installments at different times, or an entire issue or
series may be sold or exchanged at one time. Any issue or
series of refunding bonds may be exchanged in part or
sold in part in installments at different times or at one
time. The refunding bonds may be sold or exchanged at
any time on, before, or after the maturity of any of the
outstanding notes, bonds, certificates or other obligations
to be refinanced thereby.

If the governing body determines to exchange any re-
funding bonds, such refunding bonds may be exchanged
privately for and in payment and discharge of any of the
outstanding notes, bonds or other obligations of the pub-
lic body issued to finance or to aid in financing the ac-
quisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the public body, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.

If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at public sale, after advertisement in Bond Buyers Guide, or the Wall Street Journal, once a week for two weeks prior to date of sale, as the governing body shall deem best for the interests of the public body. Such refunding bonds may be sold in any aggregate principal sum including the principal amount outstanding of the revenue obligations of the public body being refinanced, interest in arrears and interest accrued and to accrue on such revenue obligations until payment or redemption thereof, any redemption premiums applicable to such revenue obligations, any costs of improving the enterprise, the revenues of which were pledged to the payment of such revenue obligations, and of acquiring, constructing and improving any other enterprise and the costs of issuing such refunding bonds. The proceeds of sale of the refinancing portion of a refunding bond issue shall be deposited irrevocably in trust for the purchase, redemption prior to maturity or payment at maturity of the revenue obligations being refinanced, such purchase to be at a price not exceeding the par value of such revenue obligations plus accrued interest at the time of such purchase. Such proceeds while so deposited in trust shall be invested in direct obligations of the United States of America or placed in time deposits secured by direct obligations of the United
States of America, and maturing at such times and in such amounts as shall be necessary to meet payments of principal and interest on such revenue obligations being refinanced or to redeem the same prior to the maturities thereof. Such investments may be sold at not less than the amount paid therefor, and such deposits may be withdrawn, to the extent necessary to provide moneys for the purchase of any of such revenue obligations. Earnings from such investments shall, as received, be transferred to and deposited in the sinking fund reserve or the bond and interest sinking fund established for payment of the refunding bonds.

Sec. 16. Article Complete Authority for Refunding Bonds; Construction.—This article constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body of any public body, or any board, officer, commission, department, agency, or instrumentality of the state or any public body shall be required to issue any refunding bonds or to do any act or perform anything under this article, except as may be prescribed in this article. The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect the powers conferred by any other law: Provided, however, That the principal amount of bonds authorized by this article for refunding or refinancing shall be deemed to apply to the principal amount of refunding bonds authorized by all other laws providing for the issuance and refunding of revenue bonds by public bodies, and the sale thereof, notwithstanding any contrary provisions of such other laws. This article is remedial in nature and shall be liberally construed.
AN ACT to amend and reenact section four-a, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the transfer and investment of funds of public bodies.

Be it enacted by the Legislature of West Virginia:

That section four-a, article three, chapter thirteen 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. Authorizing the transfer and investment of funds raised by levy, sale of bonds or otherwise.

Section 4-a. Authorizing the Transfer and Investment of Funds Raised by Levy, Sale of Bonds or Otherwise.—Any funds of a political subdivision or of any of the agencies, boards, commissions or departments of the state of West Virginia raised by levy, sale of bonds or otherwise and which cannot be used within a reasonable time may be transferred to the state sinking fund commission. Any funds so transferred shall be invested by the state sinking fund commission in accordance with the provisions of this article. Any such funds so transferred may be withdrawn by the public body which transferred the same as authorized by this article upon one hundred twenty days' notice in writing to the state sinking fund commission.
AN ACT to amend article ten, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fifty-one, relating to a contributing retirement system for persons in the employ of the state and affiliated political subdivisions of the state.

Be it enacted by the Legislature of West Virginia:

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

Article 10. West Virginia Public Employees Retirement Act.

Section 51. Withdrawal.

Section 51. Withdrawal.—The police department and/or fire department of any municipality of this state, which municipality is a participating employer as defined in section two (5) hereof, may withdraw its firemen and/or policemen from the West Virginia public employees retirement system provided the following conditions are met:

(1) City council, by appropriate ordinance, permits all of its policemen of its police department and/or all of its firemen of its fire department to withdraw from the system.

(2) Each member of its police department and/or fire department so withdrawing from the retirement system must execute a release of all claims against the West Virginia public employees retirement system.

(3) Before any such withdrawal shall be effective, the consulting actuary to the retirement system shall compute all past, present and future liabilities and the mu-
municipality shall pay the retirement system for all such liabilities before any withdrawal shall be effective; after an effective withdrawal, pursuant to the terms hereof, if additional liabilities of a municipality are discovered, the board of trustees shall certify such sums due the retirement system and the municipality shall thereafter forthwith pay said sum due the system.

(4) Compliance with rules and regulations as the board of trustees may from time to time promulgate supplementing the above conditions.

CHAPTER 130
(Senate Bill No. 65—By Mr. Carson, Mr. President, and Mr. McCourt)

(Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend chapter five 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 reciprocal service credit between the West Virginia public employees' retirement system and the state teachers' retirement system.

Be it enacted by the Legislature of West Virginia:

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

Article 13. Public Employees' and Teachers' Reciprocal Service Credit Act.

Section
1. Short title.
2. Definitions.
3. Credited service upon transfer between systems.
4. Reciprocal service.
5. Prior service credit.
6. Disability reciprocal credit.
7. Payment of annuities.
Section 1. Short Title.—The short title by which this article may be referred to is “Public Employees’ and Teachers’ Reciprocal Service Credit Act.”

Sec. 2. Definitions.—The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) “State system” means the West Virginia public employees’ retirement system and the state teachers’ retirement system.

(b) “Public system” means the West Virginia public employees’ retirement system.

(c) “Teacher system” means the state teachers’ retirement system.

(d) “Member” means a member of either the West Virginia public employees’ retirement system or the state teachers’ retirement system. The term “member” shall not include any person who has retired under either state system.

(e) “Accumulated contributions” means the sum of the amounts deducted from the compensations of a member and credited to his individual account in a state system, together with interest, if any, credited thereto.

(f) “Public final average salary” means a member’s final average salary computed according to the law governing the public system. In computing his public final average salary, the compensations, if any, received by him for services rendered in positions covered by the teacher system shall be used in the same manner as if the compensations were received for services covered by the public system.

(g) “Teacher average salary” means a member’s average salary computed according to the law governing the teacher system. In computing his teacher average salary, the compensations, if any, received by him for services rendered in positions covered by the public system shall be used in the same manner as if the compensations were received for services covered by the teacher system.
(h) “Reciprocal service credit” for a member of the public system who subsequently becomes a member of the teacher system, or vice versa, means the sum of his credited service in force acquired as a member of the public system and his credit service in force acquired as a member of the teacher system.

(i) “Annuity” means the annuity payable by a state system.

(j) The masculine gender includes the feminine, and words of the singular number with respect to persons include the plural number, and vice versa.

Sec. 3. Credited Service upon Transfer between Systems.—(a) Transfer from Public Service System to Teacher Service System—Notwithstanding the provisions of law governing the West Virginia public employees' retirement system, in the event a member leaves a position covered by the public system and becomes employed in a position covered by the teacher system, he shall not forfeit his credited service acquired as a member of the public system: Provided, That he returns to the public system the amount of accumulated contributions he might have withdrawn therefrom, together with interest prescribed by the said public system: Provided, however, That he has not retired under either the public system or the teacher system: Provided further, That after the effective date of this article such subsequent employment in a position covered by the teacher system must occur within a period of five years from and after the date on which such person left a position covered by the public system. Such return of accumulated contributions shall be made in accordance with such rules and regulations as the board of trustees of the public system shall from time to time adopt.

(b) Transfer from Teacher Service System to Public Service System—Notwithstanding the provisions of law governing the state teachers' retirement system, in the event a member leaves a position covered by the teacher system and becomes employed in a position covered by the public system, he shall not forfeit his credited service acquired as a member of the teacher system: Provided, That he returns to the teacher system the amount of accumu-
lated contributions he might have withdrawn therefrom, together with interest prescribed by the said teacher system: Provided, however, That he has not retired under either the public system or the teacher system: Provided further, That after the effective date of this article such subsequent employment in a position covered by the public system must occur within a period of five years from and after the date on which such person left a position covered by the teacher system. Such return of accumulated contributions shall be made in accordance with such rules and regulations as the retirement board of the teacher system shall from time to time adopt.

Sec. 4. Reciprocal Service.—In the event a member leaves a position covered by the public system and within five years thereafter becomes employed in a position covered by the teacher system, or a member leaves a position covered by the teacher system and within five years thereafter becomes employed in a position covered by the public system, in either case, the following provisions shall apply, together with such rules and regulations as the board of trustees of the public system and the retirement board of the teacher system shall from time to time mutually agree upon.

(a) A member's reciprocal service credit in force shall be used to satisfy the service requirements for retirement under the state system from which he retires.

(b) If a member, who has reciprocal service credit in force, retires under the public system, he shall receive an annuity payable by the public system and an annuity payable by the teacher system. His public system annuity shall be based upon (1) the portion of his reciprocal service credit acquired as a member of the public system, and (2) his public final average salary. His teacher system annuity shall be based upon (1) the portion of his reciprocal service credit acquired as a member of the teacher system, and (2) his teachers' retirement allowance as provided by the teachers' retirement act. His teacher system annuity shall begin as of the date he retires under the public system, but in no case prior to the date he would have been eligible to retire under the teacher system if
all his reciprocal service credit had been acquired as a member of the teacher system. Any annuities payable under this subsection shall be subject to subsection (d) of this section, and to section six.

(c) If a member, who has reciprocal service credit in force, retires under the teacher system, he shall receive an annuity payable by the teacher system and an annuity payable by the public system. His teacher system annuity shall be based upon (1) the portion of his reciprocal service credit acquired as a member of the teacher system, and (2) his teachers’ retirement allowance as provided by the teachers’ retirement act. His public system annuity shall be based upon (1) the portion of his reciprocal service credit acquired as a member of the public system, and (2) his public final average salary. His public system annuity shall begin as of the date he retired under the teacher system, but in no case prior to the date he would have been eligible to retire under the public system if all his reciprocal service credit had been acquired as a member of the public system. Any annuities payable under this subsection shall be subject to subsection (d) of this section, and to section six.

(d) (1) In the event a member, who has reciprocal service credit in force, retires under the public system, his public system annuity, computed as a straight life annuity, shall not exceed the difference between (i) the public system straight life annuity to which he would have been entitled under the law governing the public system at the time of his retirement if all his reciprocal service credit had been acquired as a member of the public system, and (ii) his annuity, computed as a straight life annuity, payable by the teacher system: Provided, That any annuity or portion of an annuity payable by teacher system resulting from voluntary deposits and/or contributions by members to teacher system shall not be considered in any way in reducing an annuity herein provided for.

(2) In the event a member, who has reciprocal service credit in force, retires under the teacher system, his teacher system annuity, computed as a straight life annuity, shall not exceed the difference between (i) the
teacher system straight life annuity to which he would have been entitled under the law governing the teacher system at the time of his retirement if all his reciprocal service credit had been acquired as a member of the teacher system, and (ii) his annuity, computed as a straight life annuity, payable by the public system: Provided, That any annuity or portion of an annuity payable by public system resulting from voluntary deposits and/or contributions by members to public system shall not be considered in any way in reducing an annuity herein provided for.

Sec. 5. Prior Service Credit.—(a) In the event a member of the public system has served in a position prior to the date the teachers' system was created, which position would be covered under the teachers' system as of the date of retirement had the teachers' system been in existence at said time, the board of trustees of the public system may grant said member prior service credit for said time worked under such rules and regulations as the public board may from time to time adopt.

(b) In the event a member of the teacher system has served in a position prior to the date the public system was created, which position would be covered under the public system as of the date of retirement had the public system been in existence at said time, the teachers' retirement board of the teacher system may grant said member prior service credit for said time worked under such rules and regulations as the teacher board may from time to time adopt.

Sec. 6. Disability Reciprocal Credit.—In the event a member, who has reciprocal service credit in force, retires under the public system on account of disability his annuity to be paid by the teacher system shall be subject to approval of his disability retirement by the retirement board of the teacher system. In the event a member, who has reciprocal service credit in force, retires under the teacher system on account of disability his annuity to be paid by the public system shall be subject to approval of his disability retirement by the board of trustees of the public system.
Sec. 7. Payment of Annuities.—The state system from which a member, with reciprocal service credit in force, retires shall be the disbursing agent for his annuities. In cases where the public system is the disbursing agent, the teacher system shall reimburse the public system for the reciprocal annuities which are payable from funds of the teacher system. In cases where the teacher system is the disbursing agent, the public system shall reimburse the teacher system for the reciprocal annuities which are payable from funds of the public system. Such reimbursements shall be made in such manner and with such frequency and shall be accompanied by such supporting data, as the board of trustees of the public system and the retirement board of the teacher system shall from time to time mutually agree upon.

CHAPTER 131
(Com. Sub. for Senate Bill No. 144—By Mr. Gainer and Mr. Jackson)

[Passed March 13, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to a compulsory retirement age for employees of the state of West Virginia, any board, commission, department, institution or spending unit; prohibiting the hiring of persons who have attained such age or are older; and providing for enforcement of the provisions of the article.

Be it enacted by the Legislature of West Virginia:

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


Section
1. Short title.
2. Definitions.
3. Compulsory retirement age.
4. Elected officials and their employees.
5. Enforcement.

Section 1. Short Title.—This article may be cited and referred to as the “Compulsory Retirement Age Act.”

Sec. 2. Definitions.—The following words and phrases when used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) “Employer” means the state of West Virginia, any board, commission, department, institution or spending unit, but shall not include the Legislature.
(b) “Employee” means any person who receives compensation in the amount of one hundred dollars or more in a calendar month from an employer as herein defined, but shall not include any person appointed by the governor with the advice and consent of the senate, nor the director of the department of health, nor the state superintendent of free schools, nor the Legislature nor any medical doctor employed by the department of mental health or the commissioner of public institutions.
(c) “Elected official” means any elected official of the state of West Virginia, and includes judges of courts of record of the state of West Virginia.

Sec. 3. Compulsory Retirement Age.—As of July one, one thousand nine hundred sixty-six, all employees, as defined in section two of this article, who have attained age seventy or who thereafter attain such age shall have their work for any employer, as defined in section two of this article, terminated: Provided, however, That the governor or the supreme court of appeals may permit a person appointed by him or it to any office or position who has reached the mandatory retirement age to continue in such office or position at his or its will and pleasure.

On and after the effective date of this article, no person seventy years of age or older shall be hired by any employer as defined in said section two.

Sec. 4. Elected Officials and Their Employees.—The provisions of this article imposing a mandatory retirement
age shall not apply to elected officials as defined in section two of this article but shall apply in all respects to all employees of such elected officials.

Sec. 5. Enforcement.—After July one, one thousand nine hundred sixty-six, each payroll submitted to the state auditor shall contain a certification by the individual submitting same that to the best of his knowledge and belief no person whose name is listed thereon is seventy years of age or older. If it is brought to the attention of the state auditor after said date that an employee as defined in section two of this article is employed by an employer as therein defined in violation of the provisions of this article, the state auditor shall not issue a warrant for payment of said employee’s services.

CHAPTER 132
(House Bill No. 681—By Mr. Speaker, Mr. White)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

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 twenty-two, relating to the authority of the state director of health to provide for the training of certain designated employees of the state department of 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 twenty-two, to read as follows:

Section 22. Training of employees.

Section 22. Training of Employees.—To insure adequate standards of public service, the state director of
health is authorized to provide technical and specialized
instruction for employees of the state department of
health.

If upon review of the personnel records of any em-
ployee of the state department of health, the director is
of the opinion that it would be in the best interest of the
state department of health to provide any such employee
with additional training or instruction, not to exceed nine
months in any four-year period, in the field or vocation
in which said employee is engaged, the director is au-
thorized, upon approval of the governor, to direct that
such employee obtain said additional training or instruc-
tion at such place as the director may deem suitable.
Designated attendance of said employees shall be comp-
pensated for as a part of regular employment. The direc-
tor is further authorized to pay out of federal funds and
such state funds as are available to match such federal
funds, any required tuition or enrollment fees.

CHAPTER 133

(Com. Sub. for House Bill No. 961—By Mr. Speaker,
Mr. White, and Mr. Nelson)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article eight-b,
relating to dangerous drugs, and providing penalties.

Be it enacted by the Legislature of West Virginia:

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

Article 8-b. Dangerous Drugs Act.

Section

1. Definitions.
Section 1. Definitions.—As used in this article:

2. The term "dangerous drug or drugs" means (a) the salts and derivatives of barbituric acid or compounds, preparations or mixtures thereof; (b) any derivative of barbituric acid which has been designated by the state board of pharmacy as being habit forming; (c) any drug which contains any quantity of amphetamine or any salt of amphetamine or any salt of an optical isomer of amphetamine or any substance which the state board of pharmacy, after investigation, has found to be, and by regulation designated as habit forming because of its stimulant effect on the central nervous system; and (d) any drug which, under the regulations promulgated in accordance with the “Federal Food, Drug and Cosmetic Act of June 25, 1938,” or any amendment thereto, is designated as dangerous or habit forming: Provided, That the term “dangerous drug” shall not include any drug the manufacture or delivery of which is regulated by the narcotic laws of the United States or of this state: Provided, however, That any drug, compound, preparation or mixture containing the salts or derivatives of barbituric acid may be exempted from the provisions of this article by regulations promulgated by the state board of pharmacy and if so exempted, shall not be subject to the provisions of this article;

3. The term "delivery" means sale, dispensing, giving or supplying in any other manner;

4. The term "patient" means, as the case may be (a) the individual for whom a dangerous drug is prescribed or to whom a dangerous drug is administered, or (b) the owner or the agent of the owner of the animal for which a dangerous drug is prescribed, or to which a dangerous drug is administered, providing that the prescribing or administering referred to in (a) and (b) hereof is in good faith and in the course of professional practice only;
(4) The term "person" includes individual, corporation, partnership and association;

(5) The term "practitioner" means a physician, dentist, or veterinarian licensed to practice his respective profession in this state;

(6) The term "professional practice of a practitioner" means treatment of patients under a bona fide practitioner-patient relationship;

(7) The term "pharmacist" means a person duly licensed as a pharmacist by the state board of pharmacy;

(8) The term "prescription" means an order for dangerous drugs or medicines or combinations or mixtures thereof, written or signed by a practitioner intended for the treatment or prevention of diseases of man or animals, and also includes orders for dangerous drugs or medicines or combinations or mixtures thereof transmitted to a pharmacist by word of mouth, telephone, telegraph, or other means of communication by a practitioner, and such prescriptions received by word of mouth, telephone, telegraph, or other legal means of communication recorded in writing by a pharmacist;

(9) The term "manufacturers" means persons who manufacture dangerous drugs, and includes persons who prepare such dangerous drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, but does not include pharmacists so preparing such dangerous drugs solely for dispensing on prescriptions received or to be received by them;

(10) The term "wholesalers" means persons engaged in the business of distributing dangerous drugs to persons included in clauses (a) and (b) of paragraph (1) of section three of this article;

(11) The term "warehousemen" means persons who, in the usual course of business, store dangerous drugs for others lawfully entitled to possess them and who have no control over the disposition of such dangerous drugs except for the purpose of storage; and

(12) The term "carriers" means persons who, in the usual course of business, transport dangerous drugs for others lawfully entitled to possess and ship them and who
have no control over the disposition of such dangerous
drugs except for the purpose of transportation.

Sec. 2. Prohibited Acts.—It shall be unlawful:
(1) To deliver any dangerous drug unless (a) such
dangerous drug is delivered by a pharmacist in good faith
upon prescription and there is affixed to the immediate
container in which such dangerous drug is delivered a
label bearing (i) the name and address of the owner of
the establishment from which the dangerous drug was
delivered; (ii) the date on which the prescription for such
dangerous drug was filled; (iii) the number of such pre-
scription as filed in the prescription files of the pharma-
cist who filled such prescription; (iv) the name of the
practitioner who prescribed such dangerous drug; (v)
the name of the patient, and if such dangerous drug was
prescribed for an animal, a statement showing the species
of the animal; and (vi) the direction for use of the dan-
gerous drug and cautionary statements, if any, as con-
tained in the prescription; and (b) in the event that such
delivery is pursuant to a prescription transmitted by
word of mouth, telephone, telegraph, or other means of
communication, such prescription is promptly reduced to
writing and filed by the pharmacist; or (c) such danger-
ous drug is delivered by a practitioner in good faith and
in the course of his professional practice only;

(2) To refill any prescription for a dangerous drug
unless such refilling is specifically authorized on the pre-
scription;

(3) For any person to possess or exhibit a dangerous
drug unless such person obtained such dangerous drug
on the prescription of a practitioner or in accordance with
clause (c), paragraph (1) of this section or from a person
licensed by the laws of any other state to prescribe or dis-
pense dangerous and other drugs;

(4) To sell, deliver or otherwise dispose of any dan-
gerous drugs in violation of this article;

(5) For any person to use to his own advantage, or
to reveal other than to a public official or employee
charged with the duty of enforcing laws relating to the
handling, sale, and distribution of dangerous drugs, or
to a court when relevant to a judicial proceeding, any
information required under the authority of this article
concerning any method or process which as a trade secret
is entitled to protection; or
(6) For any person to obtain or attempt to obtain a
dangerous drug by fraud, deceit, misrepresentation or
subterfuge; or by the forgery or alteration of a prescrip-
tion; or by the use of a false name or the giving of a false
address.

Sec. 3. Exemptions.—(1) The provisions of paragraphs
(1) and (3) of section two of this article shall not be ap-
licable to: (a) The delivery of dangerous drugs for
medical or scientific purposes only to persons included in
any of the classes hereinafter named in this paragraph
in clauses (i) through (iv), or to the agents or employees
of such persons, for use in the usual course of their busi-
ness or practice or in the performance of their official
duties, as the case may be; or (b) the possession of dan-
gerous drugs by such persons or their agents or employees
for such use; or (c) the possession or exhibition of dan-
gerous drugs by persons included in any of the classes
hereinafter named in this paragraph in clauses (v) and
(vi), or their agents or employees, in the usual course of
their business as defined in paragraphs (9) through (12)
of section one of this article; (i) pharmacists; (ii) prac-
titioners; (iii) persons who legally procure dangerous
drugs for disposition by or under the supervision of phar-
macists or practitioners employed by them, or for the
purpose of lawful research, teaching, or testing and not
for resale; (iv) hospitals and other institutions which
procure dangerous drugs for lawful administration and
which dispense the same only upon the written direction
of a practitioner; (v) manufacturers and wholesalers;
(vi) carriers and warehousemen.

(2) Nothing contained in section two of this article
shall make it unlawful for a public officer, agent or em-
ployee, or person aiding such public officer, agent or em-
ployee, in performing his official duties to possess, obtain,
or attempt to obtain a dangerous drug for the purpose
of enforcing the provisions of any law in this state or of
the United States relating to the regulation of the handling, sale or distribution of dangerous drugs and other drugs.

Sec. 4. Regulations.—The state board of pharmacy may promulgate necessary regulations for the administration of this article.

Sec. 5. Search Warrants.—Search and seizure warrants to enforce the provisions of this article shall be issued, executed and returned as provided in article one-a, chapter sixty-two of this code.

Sec. 6. Penalties.—Any person violating any provision of this article shall, upon conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for not less than one nor more than five years, or both, and for a second and each subsequent offense by a fine not exceeding ten thousand dollars, or by imprisonment for not less than two nor more than ten years, or both.

Sec. 7. Severability.—If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application, and to this end the provisions of this article are declared to be severable.

CHAPTER 134

(Com. Sub. for House Bill No. 959—By Mr. Speaker, Mr. White)

[Passed March 13, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, three, nine and twenty-three, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to county public service districts for water and sewerage service.
Be it enacted by the Legislature of West Virginia:

That sections two, three, nine 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

2. Creation of districts by county court; enlarging or reducing district; consolidation; agreements, etc., infringing upon powers of county court.
3. Powers of districts; creation of governing boards; terms of members; vacancies; organization and meetings.
9. Service rates and charges; discontinuance of service to delinquent users; requiring connections with sewer facilities; lien for delinquent fees; certain sewer disposal systems exempted.
23. Validation of acts and proceedings of public service boards.

Section 2. Creation of Districts by County Court; Enlarging or Reducing District; Consolidation; Agreements, etc., Infringing upon Powers of County Court.—The county court of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description sufficient to identify the territory to be embraced therein and the name of such proposed district, or any one hundred legal voters resident within and owning real property within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description sufficient to identify the territory to be embraced therein and the name of such proposed district. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately-owned public service properties: Provided, however, That no territory shall be included within more than one public service district organized under this article and the boundaries shall conform to or follow magisterial district lines except where less than a whole of any magisterial district is to be included, in which latter case that part of any such
boundary shall conform to other natural boundary lines, or the lines of a fixed survey: And provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting thereto.

Such petition shall be filed in the office of the clerk of the county court of the county in which the territory to constitute the proposed district is situated, and if such territory is situated in more than one county then such petition shall be filed in the office of the clerk of the county court of the county in which the major portion of such territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county courts of the other county or counties into which the territory extends. It shall be the duty of the clerk of the county court receiving such petition to present same to the county court of such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county clerk of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county court shall at the same session fix a date of hearing in such county on the creation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of such action. If the territory proposed to be included is situated in more than one county, the county court, when fixing a date of hearing, shall provide for notifying the county court and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county court of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication at least once in a newspaper of general circulation published in such county at least ten
days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid the person filing the petition shall advance or satisfactorily indemnify the payment of the costs and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county court out of contingent funds or any other funds available or made available for that purpose.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county court before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. When it shall have been thus determined that the construction or acquisition by purchase or otherwise, and maintenance, operation, improvement, and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, then such county court shall by order create such public service district, and such order shall be conclusive and final in that regard. If the court shall, after due consideration, determine that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area, or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the same, or it may enter an order amending the description of the proposed district, and create said district as amended. The clerk of the county court of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating the same: Provided, however, That if at such hearing written protest is filed by thirty per cent or more of the qualified voters registered and residing within said district, then the county court shall not take any further action in creating such district unless the creation of such district shall be approved by a majority vote of the qualified registered voters voting at a referendum to be called by
the county court for such purpose. Such referendum shall be called and held in the manner provided in the general election laws of the state of West Virginia applicable thereto and the funds therefor shall be supplied from any county funds available for such purpose, or from funds supplied from the persons who petitioned for the creation of such district. If a majority of the qualified registered electors participating in said election shall vote against the creation of said district, then such district shall not be created. If, however, a majority of the qualified registered voters participating in such referendum vote in favor of the creation of such district, then the county court shall duly enter its order creating such district.

After the creation of such district the county court may, if in its discretion it deems it necessary, feasible and proper, enlarge the said district to include additional areas, reduce the area of said district, where facilities, equipment, service or materials have not been extended, or establish or consolidate two or more such districts: Provided, That where the county court determines on its own motion by order entered of record, or there is a petition, to enlarge the district or reduce the area of the district, all of the applicable provisions of this article providing for hearing, notice of hearing and protest shall apply with like effect as if a district were being created. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county court, as set forth in this article, or conflicts with any provision of this article.

Sec. 3. Powers of Districts; Creation of Governing Boards; Terms of Members; Vacancies; Organization and Meetings.—From and after the date of the adoption of the order creating any such public service district, it shall thereafter be a public corporation and political subdivision of the state with power of perpetual succession, but without any power to levy or collect ad valorem taxes. Each such district shall have power to acquire, own and hold property, both real and personal, in its corporate name, and shall have power to sue, may be sued, may adopt an
official seal, and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of such city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it, or for the operation and improvement or extension by such district of all or any part of the existing municipally-owned public service properties of any city, incorporated town or other municipal corporation included within such district: Provided, That no such contract shall extend over a period of forty years, but provisions may be included therein for a renewal or successive renewals thereof, and shall conform to and comply with the rights of the holders of any outstanding bonds issued by such municipalities for such public service properties.

The powers of each such public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be appointed in the following manner:

Each city, incorporated town, or other municipal corporation having a population in excess of three thousand, but not exceeding eighteen thousand, shall be entitled to appoint one member of such board, and each such city, incorporated town, or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of such board for each additional eighteen thousand population. The members of said board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof, and upon the filing of a certified copy or copies of such resolution or resolutions in the office of the clerk of the county court which entered the order creating such district, such persons so appointed shall thereby become members of said board without any further act or proceedings. If the number of members of said board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the
A district shall equal or exceed three, then no further members shall be appointed to such board and such members shall be and constitute the board of said district.

If no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, then the county court which entered the order creating the district shall appoint three members of said board, who shall be persons residing within the district, which said three members shall become members of and constitute the board of said district without any further act or proceedings.

If the number of members of said board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district shall be less than three, then the county court which entered the order creating the district shall appoint such additional member or members of said board, who shall be persons residing within the district, as shall be necessary to make the number of members of said board equal three, and said additional member or members shall thereupon become members of such board; and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by such county court as aforesaid, shall be and constitute the board of said district.

It shall be proper for one person to serve as a member of the board in one or more public districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of such board, if any, to be appointed by the governing body or bodies thereof, shall be conclusively deemed to be the population stated for such city, incorporated town or other municipal corporation in the official federal census for the year one thousand nine hundred sixty.

The respective terms of office of the members of the first board shall be fixed by the county court and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four, and the term of the remaining
member or members for six years, from the first day of
the month during which such appointments are made.
The first members of the board appointed as aforesaid
shall meet at the office of the clerk of the county court
which entered the order creating the district as soon as
practicable after such appointments and shall qualify by
taking an oath of office: Provided, however, That any
member or members of the board may be removed from
their respective office by a majority vote of the registered
voters in such district. Such a vote shall be conducted
by the county court in the same manner as a county
general election, at a time and place to be specified by
the county court, after submission to the court of a duly
verified petition bearing the signatures of thirty per cent
of the persons residing in the district over the age of
twenty-one years.

Any vacancy shall be filled for the unexpired term,
and otherwise successor members of the board shall be
appointed for terms of six years, and the terms of office
shall continue until successors have been appointed and
qualified. All successor members shall be appointed in
the same manner as the member succeeded was ap-
pointed.

The board shall organize promptly following the first
appointments, and annually thereafter at its first meeting
after January one of each year, by selecting one of its
members to serve as chairman and by appointing a secre-
tary and a treasurer who need not be members of such
board. The secretary shall keep a record of all proceed-
ings of the board which shall be available for inspection
as other public records. The treasurer shall be the lawful
custodian of all funds of the public service district and
shall pay same out on orders authorized or approved by
the board. The secretary and treasurer shall perform
such other duties appertaining to the affairs of the district
and shall receive such salaries as shall be prescribed by
the board. The treasurer shall furnish bond in an
amount to be fixed by the board for the use and
benefit of the district. The members of the board, and
the chairman, secretary and treasurer thereof, shall make
available to the county court, at all times, all of its books
Sec. 9. Service Rates and Charges; Discontinuance of Service to Delinquent Users; Requiring Connections with Sewer Facilities; Lien for Delinquent Fees; Certain Sewer Disposal Systems Exempted.—The board shall have the power to make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and it shall be the duty of such board to establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued and other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where both water and sewer services are furnished to any premises the schedule of charges may be billed as a single amount 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 shall be obligated under rea-
sonable 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 facilities
to any delinquent user of either water facilities or sewer
facilities until all delinquent charges for both water
facilities and sewer facilities, including reasonable in-
terest and penalty charges, have been paid in full.

In the event that any city, incorporated town or other
municipal corporation included within the district shall
own and operate separately either water facilities or
sewer facilities, and the district shall own and operate
within such city, incorporated town or other municipal
corporation the other kind of facilities, either water or
sewer facilities, as the case may be, then the district and
such city, incorporated town or other municipal corpo-
ration shall have power to covenant and contract with
each other to shut off and discontinue, the supplying of
the kind of facilities furnished by the district or such
city, incorporated town or other municipal corporation,
as the case may be, for the nonpayment of fees and
charges for the other kind of facilities furnished by the
district or city, incorporated town or other municipal
corporation, as the case may be.

Any district furnishing sewer facilities within the dis-
trict shall also have power to require all owners, tenants
or occupants of any houses, dwellings and buildings
located near any such sewer facilities, where sewage
will flow by gravity from such houses, dwellings or
buildings into such sewer facilities, to connect with and
use such sewer facilities, and to cease the use of all other
means for the collection, treatment and disposal of sewage
and waste matters from such houses, dwellings and build-
ings where there is such gravity flow and such houses,
buildings and buildings can be adequately served by the
sewer facilities of the district, and it is hereby found, de-
termined and declared that the mandatory use of such
sewer facilities provided for in this paragraph is necessary
and essential for the health and welfare of the inhabitants and residents of such districts and of the state.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant, or occupant, and sewage will flow by gravity from such house, dwelling or building into such sewer facilities, the district shall have the immediate right and duty to charge, and such owner, tenant or occupant shall have the duty to pay from and after the date of receiving notice that such facilities are available, the rates and charges for services established under this article.

All delinquent fees, rates and charges of the district for either water facilities or sewer facilities shall be liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. When such fees, rates and charges have been delinquent for thirty days, the district shall have power to forthwith foreclose the lien on the premises served in the same manner now provided in the laws of the state of West Virginia for the foreclosure of mortgages on real property.

Anything in this section to the contrary notwithstanding, any establishment, as defined in chapter twenty, article five-a, section two, now or hereafter operating its own sewage disposal system, pursuant to a permit issued by the department of natural resources, as prescribed by chapter twenty, article five-a, section seven of this code, shall be exempt from the provisions of this section.

Sec. 23. Validation of Acts and Proceedings of Public Service Boards.—All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court of this state having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act.
CHAPTER 135

(Senate Bill No. 4—By Mr. Carson, Mr. President)

[Passed January 26, 1965; in effect from passage. Approved by the Governor.]

AN ACT to repeal article twenty-one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia water development commission.

Be it enacted by the Legislature of West Virginia:


Section 1. Repeal of statute creating the West Virginia water development commission.

Section 1. Repeal of Statute Creating the West Virginia Water Development Commission.—That article twenty-one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed.

CHAPTER 136

(Senate Bill No. 182—By Mr. Holden and Mr. Mullins)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-two, relating to the detection of phenylketonuria in newborn children.

Be it enacted by the Legislature of West Virginia:

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

**Article 22. Detection and Control of Phenylketonuria in Newborn Children.**

*Section 1. Findings.*—The Legislature finds that phenylketonuria, a genetic defect affecting body metabolism, is usually associated with mental retardation. Laboratory tests are readily available to aid in the detection of this disease and its hazards to health of those suffering thereof may be lessened or prevented by early detection and treatment. Damage from the disease, if untreated in the early months of life, is usually rapid and not appreciably affected by treatment.

*Sec. 2. Program to Combat Mental Retardation; Rules and Regulations; Facilities for Making Tests.*—The state department of health is hereby authorized to establish and carry out a program designed to combat mental retardation in our state's population due to phenylketonuria, and may adopt reasonable rules and regulations necessary to carry out such a program. The department of health shall establish and maintain facilities at its state hygienic laboratory for testing specimens for the detection of phenylketonuria. Tests shall be made by such laboratory of specimens upon request by physicians, hospital medical personnel and other individuals attending newborn infants. The state department of health is authorized to establish additional laboratories throughout the state to perform tests for the detection of phenylketonuria.

*Sec. 3. Tests for Phenylketonuria; Reports; Assistance to Afflicted Children.*—The physician attending a newborn child or any person attending a newborn child not under the care of a physician may cause to be made a test for
phenylketonuria approved by the state department of health. Any test found positive for phenylketonuria shall be promptly reported to the state department of health by the director of the laboratory performing such test.

The state department of health, in cooperation with other state departments and agencies, and with attending physicians, is authorized to provide medical, dietary and related assistance to children determined to be afflicted with phenylketonuria.

Sec. 4. Penalties for Violation of Provisions of This Article.—Any person violating the provisions of this article shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five nor more than fifty dollars. Violation of each such provision shall be considered a separate offense.

Sec. 5. Severability.—If any provision or item of this article or application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this article.

Sec. 6. Effective Date.—The effective date of this article shall be July one, one thousand nine hundred sixty-five.

CHAPTER 137
(Com. Sub. for House Bill No. 883—By Mr. Speaker, Mr. White, and Mr. Vickers)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to traveling expenses, audit by state board and dues to voluntary organizations.

Be it enacted by the Legislature of West Virginia:

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

**Article 3. Appropriations and Expenditures.**

Section 11. Traveling expenses; rules to be promulgated by board of public works; dues to voluntary organizations; recruitment expenses for institutions of higher education.

Section 11. Traveling Expenses; Rules to Be Promulgated by Board of Public Works; Dues to Voluntary Organizations; Recruitment Expenses for Institutions of Higher Education.—The board of public works shall promulgate rules and regulations concerning out-of-state travel by state officials and employees. A copy of such rules and regulations shall be filed with the auditor, and the secretary of state. It shall be unlawful for the auditor to issue a warrant in payment of any claim for out-of-state travel expenses incurred by a state officer or employee unless such claim meets all the requirements of the rules and regulations so filed.

Payment for dues or membership in annual or other voluntary organizations shall be made from the proper item or appropriation after an itemized schedule of such organizations, together with the amount of such dues or membership, has been submitted to the budget director and approved by the board of public works.

It shall be lawful for the governing board of any state institution of higher education to authorize the payment of traveling expenses incurred by any person invited to visit the campus or other facilities of such institution to be interviewed concerning his possible employment by such governing board or agent thereof.

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**CHAPTER 138**

*(House Bill No. 838—By Mr. Frazer and Mr. Mentz)*

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one-g, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto three new sections, designated section twelve, section thirteen and section fourteen, relating to the establishment of an emergency service medal and a state commendation medal and the conditions for their award.

Be it enacted by the Legislature of West Virginia:

That article one-g, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated section twelve, section thirteen and section fourteen, to read as follows:

Article 1-g. Service Medals.

Section

12. Emergency service medal.
14. Multiple awards of the emergency service medal and the state commendation medal.

Section 12. Emergency Service Medal.—Any member of the national guard of this state who shall serve in the active military service of the state in the aid of civil authorities in upholding the law and preserving order, protecting lives and property, in the aid and relief of citizens in disaster, or other similar service, duly ordered by the governor, or who shall honorably serve for thirty days in the armed forces of the United States as a member of the national guard of this state called or ordered to service therein by the president of the United States, shall, upon recommendation of the military board of the state of West Virginia, be awarded by the order of the governor and furnished at the expense of the state an emergency service medal, the design, precedence, and procurement of which shall be as ordered by the military board and approved by the governor.

Sec. 13. State Commendation Medal.—When any person shall perform especially meritorious public service or achievement or display exceptional bravery of a character sufficient to justify award of the West Virginia distinguished service medal, he may upon recommendation of any state, county, or municipal elected official, be awarded by the order of the governor and furnished at
the expense of the state a state commendation medal, the
design, precedence, and procurement of which shall be
as ordered by the governor. This medal shall not be
awarded to more than one hundred and thirty-four civil-
ians in any one calendar year.

Sec. 14. Multiple Awards of the Emergency Service
Medal and the State Commendation Medal.—In the event
any person shall render service or perform acts entitling
him to the award of the West Virginia emergency service
medal or state commendation medal, and the award of
such medal has theretofore been made to him, he shall
for each subsequent award be entitled to wear on the
ribbon of the medal, and on the ribbon bar denoting
ownership of such medal a miniature gold mountain
laurel blossom.

CHAPTER 139
(Senate Bill No. 166—By Mr. Carson, Mr. President,
and Mr. McCourt)

(Passed February 24, 1965: in effect July 1, 1965. Approved by the Governor.)

AN ACT to amend and reenact section three, article two, chap-
ter fifteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to a salary in-
crease for members of the department of public safety.

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:

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.

Section 3. Companies and Platoons and How Consti-
tuted; 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, eleven 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 advance 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 seven thousand nine hundred twenty dollars; captains shall each receive an annual salary of seven thousand twenty dollars; lieutenants shall each receive an annual salary of six thousand six hundred dollars; the master sergeants and first sergeants shall receive an annual salary of six thousand one hundred twenty dollars; sergeants shall each receive an annual salary of five thousand nine hundred sixteen dollars; corporals shall each receive an annual salary of five thousand six hundred sixteen dollars; each newly enlisted trooper shall receive a salary of three hundred sixty-three dollars per month during the period of his basic training, and upon the satisfactory completion of such training and assignment to active duty each trooper shall receive during the remainder of his first year's service a salary of four hundred thirteen dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of five thousand seventy-six dollars; during the third year of his service each trooper shall receive an annual salary of five thousand one hundred ninety-six dollars;
and during the fourth and fifth years of his service and for each year thereafter, each trooper shall receive an annual salary of five thousand three hundred sixteen dollars. Each member of the department entitled thereto by the provisions hereof shall receive an increase in salary over that hereinbefore set forth in this section, for grade and rank, based on length of service, including that heretofore and hereafter served, with the department, as follows: For each five-year period of service with the department from the date of first enlistment, each member of the department shall receive a salary increase of one hundred twenty dollars per year to be effective during his next five years of service, which increases shall be successive and cumulative until a total of five such increases shall be received.

In applying the foregoing salary schedule where salary increases are provided for length of service, members of the department in service at the time this article becomes effective shall be given credit for prior service and shall be paid such salaries as the same length of service will entitle them to receive under the provisions hereof.

Each member of the department of public safety, except the superintendent and civilian employees, shall, before entering upon the discharge of his duties, execute a bond with security in the sum of three thousand five hundred dollars payable to the state of West Virginia, conditioned for the faithful performance of his duties as such, and such bond shall be approved as to form by the attorney general, and as to sufficiency by the board of public works, and the same shall be filed with the secretary of state and preserved in his office.

CHAPTER 140

(House Bill No. 777—By Mr. Speaker, Mr. White, and Mr. Bowling)

[Passed March 8, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections twenty-seven, twenty-eight, twenty-eight-b, twenty-eight-c, twenty-eight-f,
twenty-eight-g and twenty-eight-h, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a retirement, awards and benefit system for members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections twenty-seven, twenty-eight, twenty-eight-b, twenty-eight-c, twenty-eight-f, twenty-eight-g and twenty-eight-h, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted so as to read as follows:

Article 2. Department of Public Safety.

Section
27. Death, disability and retirement fund; fees to which members entitled for benefit of fund; retirement board.
28. Retirement; awards and benefits.
28-b. Disability incurred in performance of duty; awards and benefits.
28-c. Disability from other causes; awards and benefits.
28-f. Death of member in performance of duty; dependents; awards and benefits.
28-g. Death of member from non-service connected causes; dependents; awards and benefits.
28-h. Death of member after retirement, or after serving twenty years; dependents; awards and benefits.

Section 27. Death, Disability and Retirement Fund; Fees to Which Members Entitled for Benefit of Fund; Retirement Board.—There shall be continued the death, disability and retirement fund heretofore created for the benefit of members of the department of public safety, and any dependent of a retired or deceased member thereof. Into such fund shall be paid such amounts as have heretofore been collected by the superintendent of the department of public safety on account of fees for arrest, court attendance and mileage, seizures, rewards, or from any other source permitted by law. For official services rendered in any criminal case, a member of the department of public safety shall be entitled to receive the same fees as a constable is entitled to receive for the same services pursuant to section twelve, article seventeen, chapter fifty of this code, when such fees are actually paid by or for the defendant in such criminal case, pursuant to the order made and entered therein, to the justice of the peace, the clerk of the court, or other officer
for the services of such member: Provided, That (1) such fees may be claimed and received by the member only for the account of said department; (2) all fees collected by a member pursuant to this section shall in every instance be remitted by such member to the superintendent of said department and deposited in the state treasury to the credit of said death, disability and retirement fund; and, (3) the superintendent of said department shall promulgate regulations to assure disposition, in the manner herein provided, of all fees received by members pursuant to this section: Provided, however, That under no circumstances shall any member of the department of public safety be entitled to any mileage fees for services rendered in criminal cases and under no circumstances shall any county court or municipal corporation be required to pay any fees or costs which the county court would be required to pay were the services rendered by a constable. There shall be paid into said death, disability and retirement fund all amounts arising in the future from the above-named sources and any other sources that may be designated by the superintendent of said department and permitted by law, except that no part of any fine shall be paid into said death, disability and retirement fund.

There shall be deducted from the monthly payroll of each member of the department of public safety and paid into such fund six per cent of the amount of his salary, and an additional twelve per cent of the monthly salary of each member of said department shall be paid by the state of West Virginia monthly into such fund out of the biennial appropriation for said department. All moneys payable into such fund shall be deposited in the state treasury, and the treasurer and auditor shall keep a separate account thereof on their respective books.

The moneys in this fund, and the right of a member to a retirement allowance, to the return of contributions, or to any benefit under the provisions of this article, are hereby exempt from any state or municipal tax; shall not be subject to execution, garnishment, attachment or any other process whatsoever; and shall be unassignable except as is provided in this article.
The death, disability and retirement fund shall be administered by a retirement board which shall consist of the attorney general, state treasurer, the superintendent and two members in active service of the department of public safety: Provided, That members of said retirement board shall not be entitled to receive any compensation in addition to the salary of their respective offices for any service rendered as a member of said retirement board: Provided further, That the superintendent may pay out of funds appropriated for operation of said department the reasonable expenses of members of said board necessarily incurred in connection with dispatch of any business properly before such board. The two members of said department shall be elected to membership on the retirement board by vote of the members of the department of public safety; such election to be held on the first Tuesday in June next following the passage of this act and on the first Tuesday in June each two years thereafter. The attorney general, state treasurer and the superintendent of the department of public safety shall promulgate any and all necessary rules and regulations for holding in a fair and impartial manner the election on the first Tuesday in June next following the passage of this act and thereafter the retirement board consisting of the attorney general, state treasurer, superintendent and the two duly elected members of said department shall have authority to promulgate and, from time to time, revise rules and regulations for holding all subsequent elections in a fair and impartial manner. All elections shall be held under the direction of the superintendent of said department in accordance with said rules and regulations. The members of the department chosen to serve on said retirement board shall hold office for a period of two years commencing on the first day of July next following the date of such election. When any member elected to the retirement board shall die, resign from the board, resign or be discharged from service in the department, make application for retirement, be retired, or become disabled, the office of such member of the retirement board shall be declared vacant by the superintendent of said department, and said superintendent, to fill such vacancy,
shall appoint the member in active service of said depart-
ment who as an unsuccessful candidate at the preceding
election of members to said retirement board received
the greatest number of votes. No member of the retire-
ment board shall participate in any hearing at which his
own petition for retirement or the petition of any mem-
ber of said department who is related to him by blood or
marriage shall be presented for consideration.

At its first meeting following each election of members
to the retirement board said board shall elect one of its
members to serve as chairman and a second member to
serve as secretary thereof. The retirement board shall
have the power to make rules and regulations, not incon-
sistent with the provisions hereof, governing procedure
and order and manner of business by and before such
board. The retirement board shall have the power to
make awards and to revise and terminate awards previ-
ously made for such times and under such terms and con-
ditions as are hereinafter provided. The votes of a ma-
ajority of the five members of the board shall be neces-
sary to decision of any matter by the board. Decisions
made by the board shall be supreme and final and there
shall be no appeal therefrom.

It shall be the duty of the retirement board on or be-
fore the first day of July of each year to cause all future
awards from such fund to be valued and, to the extent
that moneys shall be available, reserves based on sound
actuarial principles for payment thereof to be carried on
the funds account as a liability against the reserve fund.
The board shall have the authority to employ an actuary
for such purpose. The board shall cause a system of ac-
counting to be installed and maintained to reflect cur-
rently and truly all transactions or developments pertain-
ing to age of members and eligible dependents surviving
deceased members, periods of service and aggregate earn-
ings of all members eligible to participate in said fund
and any other matter relating to maintenance of said fund
or administration thereof, and each year to cause to be
made and submitted to each member of said department
a statement of the condition of said fund. Costs and ex-
penses incurred in making actuarial studies, audits and
installations and maintenance of such accounting system shall be paid by the superintendent from funds appropriated for operation of the department of public safety.

All moneys paid into and accumulated in said death, disability and retirement fund, except such amounts as shall be designated or set aside by the retirement board for payments of death, disability and retirement benefits and awards, shall be invested by the state board of public works in bonds of the government of the United States, the state of West Virginia, or any political subdivision thereof selected or approved by the retirement board.

Sec. 28. Retirement; Awards and Benefits.—(a) The retirement board shall retire any member of the department of public safety when such member

1. Shall have attained the age of fifty-five years and shall have completed twenty-five years of service as a member of said department, or

2. Has completed twenty-five years of service as a member of said department and shall have attained the age of fifty-five years, or

3. Has attained the age of fifty-five years and shall have completed twenty-five years of service as a member of said department.

(b) The retirement board shall retire any member of said department of public safety when such member shall have lodged with the secretary of the retirement board the voluntary petition in writing of such member for retirement, and

1. Has or shall have completed not less than twenty-five years of service as a member of said department, or

2. Has or shall have attained the age of fifty years and has or shall have completed not less than twenty years of service as a member of said department, or

3. Being under the age of fifty years has or shall have completed twenty years of service as a member of said department.

(c) When the retirement board shall retire any member under any of the foregoing provisions of this section, said board shall, by order in writing, make an award
directing that such member shall be entitled to receive annually and that there shall be paid to such member from the death, disability and retirement fund in equal monthly installments during the natural lifetime of such member while in status of retirement one or the other of two amounts, whichever shall be the greater, namely:

1. Either an amount equal to four per cent of the aggregate of salary paid to such member during the whole period of service as a member of the department of public safety; or

2. When such period of service has or shall have been more than

(a) Twenty years but less than twenty-one years, the sum of nine hundred sixty dollars;

(b) Twenty-one years but less than twenty-two years, the sum of one thousand eight dollars;

(c) Twenty-two years but less than twenty-three years, the sum of one thousand fifty-six dollars;

(d) Twenty-three years but less than twenty-four years, the sum of one thousand one hundred four dollars;

(e) Twenty-four years but less than twenty-five years, the sum of one thousand one hundred fifty-two dollars;

(f) Twenty-five years, the sum of one thousand two hundred dollars.

It is provided, however, that when a member has or shall have served twenty years or longer but less than twenty-five years as a member of said department and shall be retired under any of the provisions of this section before he shall have attained the age of fifty years, payment of monthly installments of the amount of retirement award to such member shall commence on the date such member shall attain the age of fifty years.

Sec. 28-b. Disability Incurred in Performance of Duty; Awards and Benefits.—Any member of said department who has been or shall become physically or mentally permanently disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the services required of members of said department and incurred pursuant to or while such member was or shall be engaged in the performance of
his duties as a member of said department shall, if, in
the opinion of the retirement board, he is by reason of
such cause unable to perform adequately the duties re-
quired of him as a member of said department, be re-
tired from active service by the retirement board and
thereafter such member shall be entitled to receive an-
ually and there shall be paid to such member from the
death, disability and retirement fund in equal monthly
installments during the natural lifetime of such mem-
ber or until such disability shall sooner terminate, an
amount equal to five per cent of the total salary which
would have been earned by him during twenty-five years
of service in said department based on his average earn-
ings while employed as a member of said department.
If such disability shall be permanent and total to the
extent that such member is or shall be incapacitated ever
to engage in any gainful employment, such member shall
be entitled to receive annually and there shall be paid
to such member from the death, disability and retirement
fund in equal monthly installments during the natural
lifetime of such member or until such disability shall
sooner terminate, an amount equal to six per cent of
the total salary which would have been earned by him
during twenty-five years of service in said department
based on his average earnings while employed as a mem-
ber of said department.

The superintendent is authorized to expend moneys
from funds appropriated for the department of public
safety in payment of medical, surgical, laboratory, X-rays,
hospital, ambulance and dental expenses and fees, and
reasonable costs and expenses incurred in purchase of
artificial limbs and other approved appliances which may
be reasonably necessary for any member of said de-
partment who has or shall become temporarily, perma-
nently or totally disabled by injury, illness or disease
resulting from any occupational risk or hazard inherent
in or peculiar to the service required of members of
said department and incurred pursuant to or while such
member was or shall be engaged in the performance of
his duties as a member of said department. Whenever
the superintendent shall determine that any disabled
member is ineligible to receive any of the aforesaid benefits at public expense the superintendent shall, at the request of such disabled member, refer such matter to the retirement board for hearing and final decision.

Sec. 28-c. Disability from Other Causes; Awards and Benefits.—If any member while in active service of said department has or shall, in the opinion of the retirement board, become permanently disabled to the extent that such member cannot adequately perform the duties required of a member of the department from any cause other than those set forth in the next preceding section and not due to vicious habits, intemperance or willful misconduct on his part, such member shall be retired by the retirement board and, if such member at the time of such retirement under this section, shall have served less than twenty years as a member of said department, such member shall be entitled to receive annually and there shall be paid to such member while in status of retirement, from the death, disability and retirement fund in equal monthly installments during a period equal to one half the time such member has served as a member of said department, a sum equal to four per cent of the total salary which would have been earned by him during twenty-five years of service in said department based on his average earnings while employed as a member of said department; but if such member, at the time of such retirement under the terms of this section, shall have served twenty years or longer as a member of said department, such member shall be entitled to receive annually and there shall be paid to such member from the death, disability and retirement fund in equal monthly installments, commencing on the date such member shall be retired and continuing during the natural lifetime of such member while in status of retirement, one or the other of the two amounts, based upon either the aggregate of salary paid to such member during the whole period of service of such member or the period of twenty years or longer during which such member at the time of such retirement has, or shall have served as a member of said department, whichever shall be the greater, to be determined in the manner provided by paragraphs
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(1) and (2) of subsection (c) of section twenty-eight of this article.

Sec. 28-f. Death of Member in Performance of Duty; Dependents; Awards and Benefits.—The widow or the children under the age of eighteen years or dependent parent or parents of any member who has lost or shall lose his life by reason of injury, illness or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members while such member was or shall be engaged in the performance of his duties as a member of said department or if said member shall die from any cause after having been retired pursuant to the provisions of section twenty-eight-b of this article, shall be entitled to receive and shall be paid from the death, disability and retirement fund benefits as follows: To the widow annually, in equal monthly installments during her lifetime or until her remarriage, an amount equal to two and one-half per cent of the total salary which would have been earned by said deceased member during twenty-five years of service in said department based on his average earnings while employed as a member of said department. In addition thereto such widow shall be entitled to receive and there shall be paid to her thirty dollars monthly for each child until such child shall attain the age of eighteen years. If such widow shall die or remarry or if there be no widow there shall be paid monthly to such child or children from the death, disability and retirement fund the sum of thirty dollars each until such child or children shall respectively attain the age of eighteen years. If there be no widow and no child or children, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow, without children, would have received: Provided, That when there shall be but one dependent parent surviving, such parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.
Sec. 28-g. Death of Member from Nonservice Connected Causes; Dependents; Awards and Benefits.—In any case where a member while in active service of said department, before having completed twenty years of service as a member of said department, has died or shall die from any cause other than those specified in section twenty-eight-f of this article and not due to vicious habits, intemperance or willful misconduct on his part, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the widow of such member during her natural lifetime or until such time said widow remarries, a sum equal to two per cent of the total salary which would have been earned by said member during twenty-five years of service in said department based on his average earnings while employed as a member of said department. If there be no widow there shall be paid from said fund to each child of said deceased member the sum of thirty dollars monthly until such child or children respectively shall attain the age of eighteen years. If there be no widow and no child or children there shall be paid annually in equal monthly installments from said fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow would have been entitled to receive: Provided, That when there shall be but one dependent parent surviving then such dependent parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.

Sec. 28-h. Death of Member after Retirement, or after Serving Twenty Years; Dependents; Awards and Benefits.—When any member of said department has heretofore completed or hereafter shall complete twenty years of service or longer as a member of said department and has died or shall die from any cause or causes other than those specified in section twenty-eight-b of this article before having been retired by the retirement board, and when a member in retirement status has died or shall die after having been retired by the retirement board under the provisions of section twenty-eight of this article, there
shall be paid annually in equal monthly installments from said fund to the widow of said member, commencing on the date of the death of said member and continuing during her lifetime or until her remarriage an amount equal to one half the retirement benefits said deceased member was receiving while in status of retirement, or would have been entitled to receive to the same effect as if such member had been retired under the provisions of section twenty-eight of this article immediately prior to the time of his death; and in addition thereto said widow shall be entitled to receive and there shall be paid to her from said fund the sum of twenty dollars monthly for each child under the age of eighteen years until such child or children respectively shall attain the age of eighteen years: Provided, That no widow of any member who shall die after having been retired by the retirement board shall be entitled to receive any benefits under the terms of this section unless such widow shall have been married to such member during at least one full year prior to the date such member shall have been retired by the retirement board: And provided further, That a child born to said dependent wife after such member was placed on retirement shall not be entitled to any benefits nor shall such dependent wife be entitled to receive benefits for such child. If such widow shall not be entitled to benefits or shall die or remarry, or if there be no widow there shall be paid monthly from said fund to each child under the age of eighteen years of said deceased member the sum of thirty dollars until such child or children respectively attain the age of eighteen years. If there be no widow or no widow eligible to receive benefits and no child or children there shall be paid annually in equal monthly installments from said fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow without children would have been entitled to receive: Provided, That when there shall be but one dependent parent surviving such parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.
AN ACT to amend and reenact section twenty-nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of officer in charge of the criminal identification bureau of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine, 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:

Article 2. Department of Public Safety.

Section 29. Criminal identification bureau; establishment; officer in charge; fingerprinting of persons arrested, etc.; duties of law enforcement officers to furnish information to bureau; failure to make report or perform duties; wilful removal or destruction of record; penalty.

Section 29. Criminal Identification Bureau; Establishment; Officer in Charge; Fingerprinting of Persons Arrested, etc.; Duties of Law Enforcement Officers to Furnish Information to Bureau; Failure to Make Report or Perform Duties; Wilful Removal or Destruction of Records; Penalty.—The superintendent of the department of public safety shall establish, equip, and maintain at the offices of the department located at Charleston, a criminal identification bureau, for the purpose of receiving and filing fingerprints, photographs and other records pertaining to the investigation of crime and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or designate a regularly enlisted member of the department as officer in charge of the criminal identification bureau and such officer shall be responsible to the
16 superintendent for the affairs of the bureau. Members of
the department assigned to the criminal identification
bureau shall classify and file fingerprints, compare the
fingerprints of persons arrested with those on file and
notify the arresting officer if it is found by comparison of
fingerprints that any person has a previous criminal
record, or is a fugitive from justice. They shall also co-
operate with other members of the department of public
safety, and all state, county and city law enforcement offi-
cials throughout the state in connection with the identifi-
cation and apprehension of criminals. Such members shall
cooperate with identification bureaus of other states and
of the United States to develop and carry on a complete
interstate, national and international system of criminal
identification. They may furnish copies of the fingerprints
of persons arrested in this state to the identification bu-
reau of the United States government and to other states
for the purpose of ascertaining if such persons have been
previously arrested or convicted of crime.

(1) Persons in charge of any penal or correctional
institution in this state shall take, or cause to be taken,
the fingerprints and description of all persons lawfully
committed thereto or confined therein and furnish the
same in duplicate to the criminal identification bureau,
department of public safety at Charleston. Such finger-
prints shall be taken on forms approved by the superin-
tendent of the department of public safety. All such
officials as herein named may, when possible to do so,
furnish photographs to the criminal identification bureau
of such persons so fingerprinted.

(2) Members of the department of public safety, and
all other state law enforcement officials, sheriffs, deputy
sheriffs, constables, and each and every peace offi-
cer in this state, shall take or cause to be taken the
fingerprints and description of all persons arrested
or detained by them, charged with any crime or offense
in this state, in which the penalty provided therefor is
confinement in any penal or correctional institution, or
of any person who they have reason to believe is a fugi-
tive from justice or an habitual criminal, and furnish
the same in duplicate to the criminal identification bureau, department of public safety, Charleston, on forms approved by the superintendent of said department of public safety. All such officials as herein named may, when possible to do so, furnish to the criminal identification bureau, photographs of such person so fingerprinted. The arresting officer shall submit to the criminal identification bureau, in duplicate, a report of final disposition concerning any case held for court, or in any case in which the disposition thereof has not been previously furnished to said bureau (on the fingerprint record of the person arrested). Such report of final disposition shall be made on forms furnished or approved by the superintendent of the department of public safety.

(3) Any person who has been fingerprinted or photographed in accordance with the provisions of this section, who is acquitted of the charges upon which he or she was arrested, and who has no previous criminal record, may, upon the presentation of satisfactory proof to the superintendent of the department of public safety, have such fingerprints or photographs, or both, returned to them.

(4) Neglect or refusal of any person mentioned in this section to make the report required herein, or to do or perform any act on his or her part to be done or performed in connection with the operation of this section, shall constitute a misdemeanor, and such person shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail for a period of not exceeding sixty days, or both, in the discretion of the court. Such neglect shall constitute misfeasance in office and subject such person to removal from office. Any person who wilfully removes, destroys, or mutilates any of the records of the department of public safety, shall be guilty of a misdemeanor, and such person shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for a period of not exceeding six months, or by both, in the discretion of the court.
AN ACT to amend and reenact section two, article one, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment, qualification and disqualification of members of the public service commission; the removal from office of such members; and their terms and salaries.

Be it enacted by the Legislature of West Virginia:

That section two, article one, 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 2. Appointment, qualification and disqualification of commissioners; removal from office; terms of office; salaries.

Section 2. Appointment, Qualification and Disqualification of Commissioners; Removal from Office; Terms of Office; Salaries.—There shall be a public service commission of West Virginia which by that name may sue and be sued. The commission shall consist of three members who shall be appointed by the governor with the advice and consent of the senate. The commissioners shall be citizens and residents of this state and at least one of them shall be a lawyer of not less than ten years' actual experience at the bar. The terms of each of said commissioners in effect when this section becomes effective are hereby abolished. On said date the governor shall appoint a commissioner to serve for a period of two years, another commissioner to serve for a period of four years, and another commissioner to serve for a period of six years. Every appointment of a commissioner thereafter shall be for a period of six years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each commissioner shall, before entering upon the
duties of his office, take and subscribe to the oath provided
by section five, article four of the constitution, which oath
shall be filed in the office of the secretary of state. The
governor shall annually designate one of the commis-
sioners as chairman, and may remove any commissioner
only for incompetency, neglect of duty, gross immorality
or malfeasance in office.

No person while in the employ of, or holding any official
relation to, any public utility subject to the provisions of
this chapter, or holding any stocks or bonds thereof, or
who is pecuniarily interested therein, shall serve as a
member of the commission or as an employee thereof.
Nor shall any such commissioners be a candidate for
or hold public office, or be a member of any political com-
mittee, while acting as such commissioner; nor shall any
commissioner or employee of said commission receive
any pass, free transportation or other thing of value,
either directly or indirectly, from any public utility sub-
ject to the provisions of this chapter. In case any of such
commissioners shall become a candidate for any public
office or a member of any political committee, his office
as commissioner shall be ipso facto vacated.

For the administration of this chapter each commis-
sioner shall receive a salary of fourteen thousand dollars
per annum to be paid in monthly installments from the
special fund collected from public utilities under the pro-
visions of section six-a, article three, chapter twenty-four
of the code of West Virginia.

CHAPTER 143

(Senate Bill No. 11—By Mr. Tompos, by request)

[Passed March 9, 1965: in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article one, chapter thirty-nine of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, by adding thereto a new section, designated section two-a, relating to the recordation of instruments passing title to real estate or personal property or interest therein or lien thereon, prohibiting the recording of such instruments unless the name of the person preparing same appears on said instrument, and providing exceptions thereto.

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

Article 1. Authentication and Record of Writings.

Section 2-a. Other requirements for admission to record of certain instruments.

Section 2-a. Other Requirements for Admission to Record of Certain Instruments.—In addition to the other requirements prescribed by law, no instrument by which the title to real estate or personal property, or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or otherwise disposed of, shall be recorded or admitted to record, or filed by the county clerk unless the name of the person who, and governmental agency, if any, which, prepared such instrument appears at the conclusion of such instrument and such name is either printed, typewritten, stamped, or signed in a legible manner: Provided, That the recording or filing of any instrument in violation of the provisions of this section shall not invalidate or cloud the title passing by or under such instrument or affect the validity of such instrument in any respect whatever, and such recorded or filed instrument shall constitute notice with like effect as if such instrument fully complied with the provisions of this section. An instrument will be in compliance with this section if it contains a statement in the following form: “This instrument was prepared by (name).”
This section does not apply to any instrument executed prior to the effective date hereof; to any decree, order, judgment or writ of any court; to any will or death certificate; to any financing, continuation or termination
CHAPTER 144

(House Bill No. 654—By Mr. Speaker, Mr. White)

[Passed February 18, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article two, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to registration and certificates of recordation of labels, trade-marks, terms, designs, devices or forms of advertisement within the state of West Virginia, and authorizing the reservation of a label, trade-mark, term, design, device or form of advertisement for a period of time prior to the registration thereof.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Trade-marks in General.

Section

2. Registration; certificates of recordation.

Section 2. Registration; Certificates of Recordation.—

Every such person, firm, corporation, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement as provided in the preceding section may register the same by filing the same for record in the office of the secretary of state by leaving two copies, counterparts or facsimiles thereof, with said secretary and by filing therewith a sworn application specifying the name or names of the person, firm, corporation, associ-
ation or union on whose behalf such label, trade-mark,
term, design, device or form of advertisement shall be
filed, the class of merchandise and a description of the
goods to which it has been or is intended to be appro-
piated, stating that the party so filing, or on whose behalf
such label, trade-mark, term, design, device or form of
advertisement shall be filed, has the right to the use of the
same, that no other person, firm, association, union or cor-
poration has the right to such use, either in the identical
form or in any such near resemblance thereto as may be
calculated to deceive, and that the facsimiles or counter-
parts filed therewith are true and correct. The person,
firm, corporation, association or union may reserve such
label, trade-mark, term, design, device or form of adver-
tisement by making application in writing to the secre-
tary of state prior to the formal filing with the secretary
of state for a period of sixty days if the label, trade-mark,
term, design, device or form of advertisement has not
been previously reserved or registered. The aforesaid
sixty-day period may be extended for an additional thirty-
day period upon written application to the secretary of
state prior to the expiration of the original sixty-day
period. The secretary of state shall deliver to such per-
son, firm, corporation, association, or union, so filing or
causing to be filed any such label, trade-mark, term, de-
sign, device or form of advertisement, so many duly
attested certificates of the recording of the same as such
person, firm, corporation, association or union may apply
for, for each of which certificates said secretary shall re-
ceive a fee of five dollars. Any such certificates of record
shall in all suits and prosecutions under this article be
sufficient proof of the adoption and registry of such label,
trade-mark, term, design, device or form of advertisement.
The secretary of state shall not record for any person,
firm, corporation, union or association, any label, trade-
mark, term, design, device or form of advertisement, that
would probably be mistaken for any label, trade-mark,
term, design, device or form of advertisement theretofore
filed by or on behalf of any other person, firm, corpora-
tion, union or association.
AN ACT to repeal article fourteen, 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 fourteen of said chapter, relating to the regulation of payments made under pre-need burial contracts.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article fourteen of said chapter be enacted in lieu thereof, to read as follows:


Section
1. Legislative finding.
2. Pre-need contracts; money paid thereunder to be deposited within ten days.
3. Funds shall remain on deposit unless withdrawn by purchaser.
4. Payment of funds by bank, trust company, or savings and loan association.
5. Expenses in custody and administration of funds.
6. Forfeiture of payments.
7. Provisions of this article cannot be waived by contract.
8. Examination of deposits.
9. Article not applicable to sale of lots, graves, mausoleums, or monuments.
10. Penalties; jurisdiction.
11. Additional remedies.
12. Constitutionality.

Section 1. Legislative Finding.—It is hereby determined and declared as a matter of legislative finding (a) that the public has a vital interest in proper disposition of deceased persons; (b) that pre-need contracts for furnishing of burial merchandise and services relating to the embalming, cremation or other services associated with the actual interment of dead human bodies, wherein delivery or performance is not immediately required, is a proper subject for the exercise of
the police powers of this state; and (c) that the proper
exercise of such police powers is regulatory rather than
prohibitory.

Sec. 2. Pre-Need Contracts; Money Paid Thereunder
to Be Deposited within Ten Days.—Any person, associa-
tion, partnership, firm or corporation who shall receive
any money under any agreement, contract or plan en-
tered into after the effective date of this article, for the
final disposition of a deceased person, or for the embalm-
ing, cremation or other services relating to the actual in-
terment of a dead human body, or for funeral or burial
services, or for the furnishing of funeral or burial mer-
chandise, including vaults and other outside burial re-
ceptacles, wherein the said embalming, cremation or other
services or the delivery of funeral or burial merchandise
or the furnishing of professional services by a funeral
director or embalmer or both is not immediately required
but shall be required at an undetermined future time, is
hereby declared to be trustee thereof, and shall deposit
any and all such money paid thereunder in a bank, trust
company, or savings and loan association, insured by an
agency of the United States federal government, and
which is authorized to do business in this state, and sub-
ject to the terms of the said agreement, contract or plan
for the benefit of the purchaser of the same, or of a
third party beneficiary of the purchaser’s designation,
which are not inconsistent with the provisions of this
article. Said agreement, contract or plan shall be re-
corded within ten days in the office of the clerk of the
county court in the county of residence of the purchaser.

All such money shall be so deposited within ten days
of payment, and shall be held by such bank, trust com-
pany or savings and loan association in a separate
interest-bearing account in the name of the trustee, as
trustee, and shall be held in trust subject to the provisins
of this article. The trustee at the time of making de-
posit shall furnish to the depositary the name of each
payor, and the amount of payment on each such account
for which deposit is being so made. Said trustee shall file
with the clerk of the county court in which said county
the trustee is doing business a blanket corporate surety
bond on or before the tenth day of January of each year,
in an amount sufficient to cover all contracts then of
record.

Sec. 3. Funds Shall Remain on Deposit unless With-
drawn by Purchaser.—All payments made under said
agreement, contract or plan and any earnings or interest
thereon shall remain with such bank, trust company, or
savings and loan association until the death of the person
for whose funeral or burial the funds were paid: Pro-
vided, That said funds shall be released to the pur-
chaser of the merchandise or services under said agree-
ment, contract or plan, who shall be entitled to receive
the same, or his or her legal representative, at any time,
upon written demand upon said bank, trust company,
or savings and loan association and upon ten days’ notice,
in writing, to the other party to the agreement: Pro-
vided further, That if the agreement, contract or plan
provided for forfeiture and retention of any or all pay-
ments by reason of default in payment upon and accord-
ing to the terms thereof, then upon any such default
and forfeiture the trustee may withdraw such deposits:
And provided further, That nothing herein contained pro-
hibits the change of depositary by the trustee and the
transfer of trust funds from one depositary to another.

Sec. 4. Payment of Funds by Bank, Trust Company, or
Savings and Loan Association.—If any balance remains
in said account upon the death of the purchaser or third
party beneficiary, as the case may be, the same shall
not be paid by such bank, trust company or savings and
loan association, to the trustee until the expiration of at
least ten days after the death of the purchaser or other
beneficiary for whom such funds were deposited. Such
funds shall not be paid by said bank, trust company or
savings and loan association until a certified copy of the
death certificate of such person shall have been furnished
to said bank, trust company or savings and loan associ-
ation. The payment of such funds and accumulated inter-
est shall relieve the bank, trust company or savings and
loan association of any further liability for such funds
or interest. Any balance remaining in said fund after
payment for the merchandise and services as set forth
in said agreement, contract, or plan shall inure to the
benefit of the estate of the purchaser or other beneficiary,
as the case may be, under said agreement, contract, or
plan, and shall be paid over to the estate by the trustee,
aforesaid.

Sec. 5. Expenses in Custody and Administration of
Funds. — This shall not be construed to prohibit the
trustee and trustee's depositary from being reimbursed
and receiving from such funds their reasonable expenses
in the custody and administration of such funds and the
usual and reasonable compensation for their services as
such trustee and trustee's depositary: Provided, That the
combined expenses and compensation shall not exceed
the total of five per cent of the principal fund and five
per cent of the earnings of the fund so deposited under
each such agreement, contract or plan.

Sec. 6. Forfeiture of Payments.—It is unlawful for
any such agreement, contract or plan to provide for for-
feiture and retention of payments upon any such agree-
ment, contract or plan as and for liquidated damages for
default therein in excess of twenty-five per cent of the
payments made or thirty-five dollars whichever sum is
the larger.

Sec. 7. Provisions of This Article Cannot Be Waived
by Contract.—Any provision of any such agreement or
contract whereby a person who pays money under or in
connection therewith waives any provision of this article
shall be void.

Sec. 8. Examination of Deposits.—All accounts of
money deposited in any bank, trust company or savings
and loan association in accordance with the provision
of this article shall be subject to periodic examination
under the supervision of the department of banking of
this state.

Sec. 9. Article Not Applicable to Sale of Lots, Graves,
Mausoleums, or Monuments.—This article shall not ap-
ply to the sale of lots, graves, mausoleums, or monu-
ments.
Sec. 10. Penalties; Jurisdiction.—Every person who shall violate any provision of this article shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars nor more than five hundred dollars or shall be imprisoned for not less than ten days nor more than ninety days, or both. There shall be a separate fine and/or imprisonment for each violation of this article. Justices of the peace shall have concurrent jurisdiction with the circuit, criminal, and intermediate courts to enforce the misdemeanor penalties of this article.

Sec. 11. Additional Remedies.—In addition to other remedies, an action of injunction may be brought and maintained by the state of West Virginia to enjoin the violation of this article.

Sec. 12. Constitutionality.—The provisions of this article shall be separable, and in case any provision or part thereof shall be held to be unconstitutional or invalid for any reason, the same shall not be held to affect any other paragraph, provision or part of this article.

CHAPTER 146

(Senate Bill No. 151—By Mr. Carson, Mr. President, and Mr. Moreland)

[Passed March 13, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to payment of moving expenses of certain state road commission employees and their families, and providing for the payment of reasonable travel expenses of prospective employees who are interviewed concerning possible employment.

Be it enacted by the Legislature of West Virginia:

That section four-a, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
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Article 2-a. State Road Commissioner.

Section 4-a. Payment of reasonable traveling expenses of prospective employees and moving expenses of new and transferred employees.

Section 4-a. Payment of Reasonable Traveling Expenses of Prospective Employees and Moving Expenses of New and Transferred Employees.—In addition to the other powers given and assigned to him in this chapter, the commissioner may authorize the payment of:

1. The reasonable traveling expenses incurred by any person he requests to visit his office to be interviewed concerning the possible employment of such person by the state road commission;

2. All or part of the reasonable expense incurred by a person newly employed by the commission in moving his household furniture, effects and immediate family to his place of employment;

3. All or part of the reasonable expense incurred by a technical or supervisory employee of the commission, but excluding all employees at the county level, in moving his household furniture, effects and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state: Provided, That no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months.

The expenditures for such payments shall be made from the state road fund, and shall be a cost of administration of said commission.

CHAPTER 147

(Senate Bill No. 26—By Mr. Carson, Mr. President, and Mr. Barnett)

[Passed February 16, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article three, chapter seventeen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, and to provide for inclusion in the state road fund of the proceeds derived from the issuance and sale of road bonds pursuant to the constitutional amendment adopted by the people at the general election held in the month of November, one thousand nine hundred sixty-four.

Be it enacted by the Legislature of West Virginia:

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

Article 3. State Road Fund.
Section 1. State road fund.

Section 1. State Road Fund.—There shall be a state road fund, which shall consist of the proceeds of all state license taxes imposed upon automobiles or other motor or steam driven vehicles; the registration fees imposed upon all owners, chauffeurs, operators and dealers in automobiles or other motor driven vehicles; all sums of money which may be donated to such fund; all proceeds derived from the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into effect the “Better Roads Amendment” to the constitution of this state, adopted in the month of November, one thousand nine hundred sixty-four, except that the proceeds from the sale of these bonds shall be kept in a separate and distinct account in the state road fund; all moneys and funds appropriated to it by the Legislature; and all moneys allotted or appropriated by the federal government to this state for road construction and maintenance pursuant to any act of the Congress of the United States; the proceeds of all taxes imposed upon and collected from any person, firm or corporation and of all taxes or charges imposed upon and collected from any county, district or municipality for the benefit of such fund; the proceeds of all judgments, decrees or awards recovered and collected from any person, firm or corporation for damages done to, or sustained by, any of the state roads or parts thereof; all moneys recovered or received by reason of the violation of any contract respecting the
building, construction or maintenance of any state road;
all penalties and forfeitures imposed, recovered or re-
ceived by reason thereof; and any and all other moneys
and funds appropriated to, imposed and collected for the
benefit of such fund, or collected by virtue of any statute
and payable to such fund.

When any money is collected from any of the sources
aforesaid, it shall be paid into the state treasury by the
officer whose duty it is to collect and account for the same,
and credited to the state road fund, and shall be used
only for the purposes named in this chapter, that is to
say: (a) To pay the principal and interest due on all state
bonds issued for the benefit of said fund, and set aside
and appropriated for that purpose; (b) to pay the ex-
peses of the administration of the road department; (c)
to pay the cost of maintenance, construction, reconstruc-
tion and improvement of all primary roads; (d) to pay
the cost, maintenance, construction, reconstruction and
improvement of all secondary roads.

CHAPTER 148

(Com. Sub. for Senate Bill No. 28—By Mr. Carson, Mr. President,
and Mr. Barnett)

Passed February 26, 1965; in effect ninety days from passage. Approved by the
Governor.

AN ACT to amend article three, chapter seventeen of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, by adding thereto a new section, designated
section one-a, to provide that the governor shall cause an
annual audit to be made of the expenditures of revenue
derived from the sale of road bonds issued under authority
of the constitutional amendment adopted by the people
in November, one thousand nine hundred sixty-four.

Be it enacted by the Legislature of West Virginia:
That article three, 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 one-a, to read as follows:

Article 3. State Road Fund.

Section 1-a. Annual audit of expenditure of funds derived from bonds issued under better roads amendment.

Section 1-a. Annual Audit of Expenditure of Funds Derived from Bonds Issued under Better Roads Amendment.—The governor shall cause an annual audit to be made of the books, accounts and records relating to the expenditures for the building and construction of state roads and highways derived from the revenue of the two hundred million dollar road bond issue, known as the “Better Roads Amendment.” The state road commissioner shall make available to the persons performing such audit its books, accounts and records pertaining to funds expended or obligated for the building and construction of state roads and highways wherein such building and construction is programmed from the funds made available under the two hundred million dollar road bond issue. The persons performing such audit shall make available annually the audit reports with copies thereof to the Legislature, the state road commissioner, the secretary of state, the state treasurer, the attorney general, and the state auditor; and the audit report shall be available to the public, in the office of the secretary of state.

The governor may obtain the services of a resident certified public accountant or resident public accountant for this purpose or may request that said audit be made by the legislative auditor of the state of West Virginia, but in no event shall the cost of said audit exceed the sum of fifteen thousand dollars annually, which shall be payable out of the state road fund, provided no such payment shall be made to the legislative auditor for services rendered hereunder.
AN ACT to amend and reenact section six, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to provide for the re-evaluation of the state road commission’s construction and reconstruction program for the fiscal year one thousand nine hundred sixty-four—sixty-five, and to change from the first day of July of each year to the first day of January of each year the time for the state road commissioner to ascertain and determine the total amount of funds available for road construction and reconstruction for the next succeeding fiscal year; and for the submission of a budget to the appropriate authority by the state road commissioner.

Be it enacted by the Legislature of West Virginia:

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

Article 3. State Road Fund.

Section 6. Apportionment of state road fund for construction and reconstruction purposes; reserve fund; budget request; appropriation of funds.

Section 6. Apportionment of State Road Fund for Construction and Reconstruction Purposes; Reserve Fund; Budget Request; Appropriation of Funds.—On or before the first day of January of each year the state road commissioner shall ascertain and determine the total amount of available funds for expenditure in the whole state for the construction and reconstruction of state roads for the succeeding fiscal year, and shall also submit such determination of available funds together with the proposed expenditure thereof as a part of his budget request for such succeeding fiscal year: Provided, That for the fiscal year one thousand nine hundred sixty-four—sixty-five, the
13 commissioner may re-evaluate the funds available for ex-
14 penditure for the building and construction of state roads
15 and may present such re-evaluation to the board of public
16 works for inclusion in the budget of the state road com-
17 mission as a supplemental and deficiency appropriation.
18 Of the amount so ascertained the commissioner may set
19 aside as a "reserve fund" not to exceed twenty per cent
20 thereof, to be used and expended by him in his discretion
21 in making desirable connections or economizing in con-
22 struction.
23 All moneys received from the federal government for
24 road construction shall be expended as provided, or as
25 may hereafter be provided by act of Congress.
26 If at the end of any annual period, any money in the
27 reserve fund remains unexpended or unappropriated, it
28 shall be placed in the general fund for reserve and dis-
29 tribution during the next annual period.
30 The remaining eighty per cent, or, if such reserve fund
31 is not set aside, then all the funds shall be appropriated
32 in the following order and preference:
33 (1) For the construction, reconstruction, maintenance
34 of the primary roads, and to comply with the require-
35 ments for the receipt of aid from the federal government;
36 (2) For the maintenance of all secondary roads, as pro-
37 vided in section six-a of this article;
38 (3) For the construction and reconstruction of the sec-
39 ondary roads as prescribed in section six-a of this article.

CHAPTER 150
(Senate Bill No. 87—By Mr. Carson, Mr. President,
and Mr. Porter)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend article three, chapter seventeen of the code
of West Virginia, one thousand nine hundred thirty-one,
as amended, by adding thereto a new section, designated
section six-b, relating to construction, reconstruction, re-
pair and maintenance of roads by the state road commissioner and the county courts on a matching fund basis.

Be it enacted by the Legislature of West Virginia:

That article three, 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 six-b, to read as follows:

Article 3. State Road Fund.

Section 6-b. Matching funds with counties for construction, reconstruction, repair and maintenance of secondary roads, access and other roads.

Section 6-b. Matching Funds with Counties for Construction, Reconstruction, Repair and Maintenance of Secondary Roads, Access and Other Roads.—When the state road commissioner determines that there are funds available for the purpose of participating, on a matching fund basis, with the county court of one or more counties for the construction, reconstruction, repair and maintenance of any secondary roads within said county or counties, he shall in his discretion determine the amount the county court must deposit or place in escrow for matching purposes before the state road commissioner will commit any funds to a proposed project.

Nothing in this section shall be construed to alter or change in any way the allotment of funds for secondary roads as provided by section six-a of this article: Provided, however, That the secondary road fund of the county or counties participating under this section shall be charged with the amount advanced by the state road commissioner.

CHAPTER 151

(House Bill No. 755—By Mr. McCoy)

[Passed March 10, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twenty-four, chapter seventeen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, authorizing the West Virginia historic commission to publish a West Virginia highway marker booklet.

Be it enacted by the Legislature of West Virginia:

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

Article 24. West Virginia Historic Commission.

Section 3. Powers and Duties of Commission; Assistance of State Road Commissioner; Acceptance of Gifts, Donations, Contributions, Bequests or Devises; Publishing Marker Booklet.

Section 3. Powers and Duties of Commission; Assistance of State Road Commissioner; Acceptance of Gifts, Donations, Contributions, Bequests or Devises; Publishing Marker Booklet.—The commission shall be authorized and empowered to purchase new road markers, replace old road markers, protect, preserve and display the Fairfax stones, purchase markers for new highways, and, with the consent of the West Virginia turnpike commission, for the West Virginia turnpike; and formulate and write appropriate copy for such markers. The commission is authorized to purchase markers from any commercial company dealing in or manufacturing such markers. The commission shall choose the location of such historic road markers, and the state road commissioner shall have the responsibility for the actual physical placement and repainting thereof. The cost of such placement and repainting shall be paid out of the appropriation of the commission.

The commission shall also be authorized and empowered, acting through its executive officer and with the consent of the governor, to accept and receive gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, or any interest in such property, and said commission may accept, receive and administer same subject to any terms, limitations, or restrictions placed thereupon by the donor.

The commission is further authorized to publish and revise from time to time a booklet entitled "West Vir-
29 Virginia Historic and Scenic Highway Markers,” or any other document which the commission deems to be consistent with their powers and duties. The commission may establish a reasonable price for, and distribute and/or sell said booklet. Any moneys derived from the sale of said booklet shall be deposited in the special fund hereinafter created.

CHAPTER 152
(Senate Bill No. 30—By Mr. Carson, Mr. President, and Mr. Barnett)

[Passed February 16, 1965: in effect from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-five, and in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-six, for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder; specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district, or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund and for expenditures from such ac-
Count; providing that the plates, etc., from which the bonds are produced or made shall be the property of the state; providing for interim certificates in lieu of permanent bonds; and declaring that all necessary expenses incurred in the execution of the act shall be paid out of the state road fund on warrants of the auditor drawn on the state treasurer.

Be it enacted by the Legislature of West Virginia:

Issuance and Sale of Road Bonds

Section 1. Road bonds; amount; when may issue.

Bonds of the state of West Virginia of the par value not to exceed twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-five, and of the par value not to exceed twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-six, are hereby authorized to be issued and sold for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder. Such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such time and bearing such date or dates as the governor may determine, based upon an examination of the state road commission's yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially in equal amounts beginning one year and ending twenty-five years from the date thereof: Provided, That such bonds shall not be issued and sold
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 cancelled 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 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 semi-annually, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of the state, or at the bank designated by the governor, upon presentation and surrender of interest coupons, then due, in the case of coupon bonds. For the payment of interest on registered bonds, the treasurer of the state of West Virginia shall requisition a warrant from the auditor of the state to be drawn on the state treasurer, and shall mail such warrant to the registered owner at the address as shown by the record of registration. Both the principal and interest of the bonds shall be payable in lawful money of the United States of America and the bonds shall be exempt from taxation by the state of West Virginia, or by any county, district, or municipality thereof, which facts shall appear on the face of the bonds as part of the contract with the holder thereof.

Sec. 3. Form of Bond.—The bonds shall be signed on behalf of the state of West Virginia, by the treasurer thereof, under the great seal of the state, and countersigned by the auditor of the state, and shall be in the
following form or to the following effect, as nearly as may be, namely:

COUPON ROAD BOND
(Or registered road bond, as the case may be)
OF THE
STATE OF WEST VIRGINIA

The state of West Virginia, under and by virtue of authority of an amendment to the constitution, which was proposed by House Joint Resolution No. 10, adopted the seventh day of March, one thousand nine hundred sixty-three, and was ratified by a vote of the people at the general election on the third day of November, one thousand nine hundred sixty-four, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to and hereby promises to pay to the bearer hereof (in case of a coupon bond) or to _____________ or assigns (the owner of record, in case of registered bonds) on the __________ day of __________, 19_______, in lawful money of the United States of America at the office of the treasurer of the state of West Virginia at the capitol of said state, or at the option of the holder at ____________, bank in the city of New York, the sum of __________ dollars, with interest thereon at ______ percentum per annum from the date, payable semi-annually in like lawful money of the United States of America at the treasurer’s office or bank aforesaid, on the first day of __________ and the first day of __________ of each year, (and in the case of coupon bonds) according to the tenor of the annexed coupons bearing the facsimile signature of the treasurer of the state of West Virginia, upon surrender of such coupons. This bond (in case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the treasurer of the state of West Virginia.

To secure the payment of the principal and interest of this bond, the state of West Virginia covenants and agrees with the holder as follows: (1) That this bond shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is pledged to secure the payment of the principal and inter-
46 est of this bond; (3) that an annual state tax shall be
collected in an amount sufficient to pay as it may accrue
the interest on this bond and the principal thereof; and
(4) that such tax shall be levied in any year only to the
extent that the moneys in the state road fund irrevocably
set aside and appropriated for and applied to the payment
of the interest on and principal of this bond becoming due
and payable in such year are insufficient therefor.
54 This bond is hereby made exempt from any taxation
by the state of West Virginia, or by any county, district,
or municipal corporation thereof.
57 In testimony whereof, witness the signature of the
treasurer of the state of West Virginia, and the counter-
signature of the auditor of the state, hereto affixed accord-
ing to law, dated the __________ day of __________, one
thousand nine hundred __________, and the seal of the
state of West Virginia.
63 (SEAL)

64 Treasurer of the State of West Virginia

66 Countersigned:
67 ________________________________
68 Auditor of the State of West Virginia

Sec. 4. Form of Coupon.—The form of coupon shall be
substantially as follows, to-wit:

STATE OF WEST VIRGINIA

On the first day of __________, 19___, the state of
West Virginia will pay to the bearer, in lawful money of
the United States of America, at the office of the treas-
urer of the state, or at the option of the holder at ________
bank in the city of New York, the sum of __________
dollars, the same being semi-annual interest on Road
Bond No. ____________

Treasurer of the State of West Virginia

The signature of the treasurer to such coupon shall be
by his facsimile signature and the coupons shall be
numbered in the order of their maturity, from number
one consecutively. The bonds and coupons may be signed
by the present treasurer and auditor, or by any of their respective successors in office, and the bonds signed by the persons now in the office may be sold by the governor or his successor in office without being signed by the successor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor.—All coupons and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and postoffice address of the person, firm or corporation registered as the owner thereof.

Sec. 6. State Road Sinking Fund Sources Used to Pay Bonds and Interest; Investment of Remainder.—Into the state road sinking fund there shall be paid all money from any and all appropriations made by the state from the state road fund for the purpose of paying the interest on such bonds or paying off and retiring the bonds, from transfer and registration fees as herein provided, and from any other source whatsoever which is made liable by law for the payment of the principal of such bonds or the interest thereon.

All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all money belonging to the fund shall be deposited in the state treasury to the credit thereof.

Such fund shall be applied by the treasurer of the state first to the payment of the semi-annual interest on such bonds as it shall become due as herein provided. The remainder of the fund shall be turned over by the state treasurer to the state sinking fund commission, whose duty it shall be to invest the same in obligations of the government of the United States, bonds of the state of West Virginia, or any political subdivision thereof: Provided, That bonds or other obligations so purchased by the state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided to be issued as they become due; and the money so paid into the state road sinking fund under the provisions of this act shall be expended for the purpose of paying the
29 interest and principal of the bonds hereby provided for
30 as they severally become due and payable and for no
31 other purpose except that the fund may be invested until
32 needed, as herein provided.

Sec. 7. Covenants of State.—The state of West Virginia
2 covenants and agrees with the holders of the bonds issued
3 pursuant hereto as follows: (1) That such bonds shall con-
4 stitute direct and general obligation of the state of West
5 Virginia; (2) that the full faith and credit of the state
6 is hereby pledged to secure the payment of the principal
7 and interest of such bonds; (3) that an annual state tax
8 shall be collected in an amount sufficient to pay as it may
9 accrue the interest on such bonds and the principal
10 thereof; and (4) that such tax shall be levied in any year
11 only to the extent that the moneys in the state road fund
12 irrevocably set aside and appropriated for and applied
13 to the payment of the interest on and principal of said
14 bonds becoming due and payable in such year are insuffi-
15 cient therefor.

Sec. 8. Sale by Governor; Minimum Price.—The gov-
2 ernor shall sell the bonds herein authorized at such time
3 or times as he may determine necessary to provide funds
4 for the building and construction of free state roads and
5 highways, as herein provided, upon the recommendation of
6 the state road commissioner, and after reviewing the pro-
7 gram of the state road commission and subject to the
8 limitations contained in section one hereof. All sales shall
9 be at not less than par and accrued interest. All interest
10 coupons becoming payable prior to the sale date shall be
11 cancelled by the treasurer and rendered ineffective, be-
12 fore the delivery of the bonds so sold.

Sec. 9. Proceeds Paid into Separate Account in State
2 Road Fund; Expenditures.—The proceeds of all sales of
3 bonds herein authorized shall be paid into a separate and
4 distinct account in the state road fund, and shall be used
5 and appropriated solely for the building and construction
6 of free state roads and highways provided for by the state
7 constitution and the laws enacted thereunder. Except for
8 such sums necessary for current operating balances, such
9 account shall be invested and re-invested in short-term
obligations of the United States treasury: Provided, That no such investment or re-investment shall adversely affect the current operating balances of such account.

Sec. 10. Plates, etc., Property of State.—The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

Sec. 11. Auditor to Be Custodian of Unsold Bonds.—The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

Sec. 12. Interim Certificates.—The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

Sec. 13. Payment of Expenses.—All necessary expenses incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 153
(Senate Bill No. 78—By Mr. Davis)

(Passed February 17, 1965; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition of inheritance and transfer taxes.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
Section 1. When imposed.—A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, if such transfer be: (a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the state at the time of his death and who shall die seized or possessed of property; (b) by will or by laws regulating descent and distribution of property within the state, or within its taxing jurisdiction, and the decedent was a nonresident of the state at the time of his death; (c) by a resident, or by a nonresident owning taxable property within the state or within its jurisdiction, by deed, grant, sale or gifts, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to, or conferred upon, the grantor, vendor, or donor, either solely or in conjunction with any person, or persons, to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of death of the grantor, vendor, or donor, thus subject to alteration, amendment or revocation. If any one of the transfers mentioned in this subdivision is made for valuable consideration, the portion of the transfer for which the grantor, or vendor receives equivalent monetary value is not taxable, but the remaining portion thereof is taxable. Every transfer by deed, grant, sale or gift, made within three years prior to the death of the grantor, vendor, or donor, without adequate valuable consideration, shall be presumed to have been made in contemplation of death within the meaning of this subdivision; (d) by any person who shall transfer any property which he owns, or shall cause any property to which he is absolutely entitled to be transferred to or vested in himself and any other person jointly, with
the right of survivorship, in whole or in part, in such
other person, a transfer shall be deemed to occur and
to be taxable under the provisions of this article upon
the vesting of such title in the survivor: Provided, how-
ever, That this subdivision shall not apply to bank
accounts and to shares or savings accounts in federal
savings and loan associations organized under the fed-
eral Home Owners’ Loan Act of 1933, as amended, or
in building and loan associations organized under ar-
ticle six, chapter thirty-one of this code, payable to
the class designated in section two (a) in a total
amount of twenty-five hundred dollars or less: Pro-
vided further, That in the case of a surviving spouse,
not more than fifty per centum of the value of any trans-
fer mentioned in this subdivision (d) shall be included
and taxed in any such decedent’s estate; (e) to any person
deriving an estate in property, coupled with a power of
appointment, in which event such estate shall be taxed
as other limited estates; and whenever any person shall
exercise a power of appointment derived from any dis-
position of property made, which appointment when made
shall be deemed a transfer taxable under the provisions of
this article, in the same manner as though the property to
which such appointment relates belonged absolutely to
the donee of such power and had been bequeathed or de-
vised by such donee by will; and whenever any person
possessing such a power of appointment so derived shall
omit or fail to exercise the same within the time provided
therefor in whole or in part, a transfer taxable under the
provisions of this article shall be deemed to take place to
the extent of such omission or failure, in the same manner
as though the person thereby becoming entitled to the
possession or enjoyment of the property to which such
power related had succeeded thereto by a will of the
donee of the power failing to exercise such power, and
shall take effect at the time of such omission or failure:
Provided further, That in either of which events the tax
commissioner, on the application of any person in interest
or upon his own motion, may, after due notice to the
known persons interested, apportion such taxes, first, as
to the interest of the donee of the power of appointment,
and second, to the remainder or reversionary interests of 
others at the highest probable rate applicable thereto, 
and shall make his certificate accordingly, which shall 
be forwarded and disposed of in the same manner as other 
certificates herein provided for. The portion of any such 
taxes apportioned as to the remainder or reversionary 
interest shall be paid out of the corpus of the estate in 
like manner as other assessments as if such interest had 
vested in possession; and, upon such assessment and pay-
ment of the tax the matter shall become a finality; (f) by 
the terms of any annuity or investment contracts, or 
similar type or form of contract or policy, and shall be 
on the amount payable under any such contract or policy, 
on account of a death, to named beneficiaries, to his estate 
or in trust for the benefit of any individual or individ-
uals, including (1) all such policies or contracts hereafter 
issued, and (2) all such policies or contracts now in force:
*Provided, however, That there shall be exempt from the 
provisions of this subdivision the proceeds of such con-
tacts or policies: (a) When the premiums on such 
policies or contracts were paid by the beneficiary named 
in such policy or contract, to the extent only of the ratio 
of premiums paid by the beneficiary bear to the total 
premiums paid; (b) when the proceeds of such policies 
or contracts have been assigned by the decedent for a 
valuable consideration either in form absolute or as col-
lateral security for the payment of a bona fide indebted-
ness of the decedent, to the extent that the proceeds 
thereof shall be necessary to pay and satisfy such indebt-
edness. It is provided, however, that no annuity settle-
ment or arrangement accepted in lieu of cash settlement 
of a life insurance policy, whereby the proceeds of such 
policy are payable in installments, shall be subject to 
taxation under the provisions of this article, nor shall 
the provisions of this article apply to the proceeds of 
any policy of life or accident insurance payable to a 
named beneficiary or beneficiaries whether directly or 
in trust or otherwise.

Where annuity or investment contracts or policies are 
left by a decedent in such manner that the proceeds 
thereof cannot be subjected to the payment of his debts,
and where the proceeds of such annuity or investment contracts are received by beneficiaries thereof, the fact that the decedent may have been insolvent and that a portion of his debts may remain unpaid shall not affect the liability for inheritance tax on such proceeds.

CHAPTER 154

(Com. Sub. for House Bill No. 944—By Mr. Bedell)

[Passed March 13, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections three and fifteen, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to coin-operated merchandise, service, amusement or music devices and vending machines, and requiring decalcomania stamps thereon.

Be it enacted by the Legislature of West Virginia:

That sections three and fifteen, 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:

Article 12. License Taxes.

Section 3. Owning and operating coin-operated merchandise, service, amusement devices, or vending machines.

Section 15. Application for and issuance of licenses; evidences of licenses; fee.

Section 3. Owning and Operating Coin-operated Merchandise, Service, Music and Amusement Devices, or Vending Machines.—Persons owning and operating coin-operated merchandise, service, amusement or music devices or vending machines shall obtain annual licenses and pay the fees prescribed in this section on or before July one of each year.

The liability for the license to operate any type of coin-operated merchandise, service, amusement or music devices or vending machines shall be upon the owner of
the machine. The ownership shall be established by either a bill of sale, paid invoice or a conditional sales contract which has been recorded in the applicable county clerk's office. The leasing of such a machine shall not be considered as a transfer of ownership of the machine and where a lessor-lessee relationship exists, the lessor shall be liable for the applicable license and fees.

The annual license fee to own and operate a coin-operated baggage or parcel checking machine or device which is used for the storage of baggage or parcels of any character, shall be fifty cents for each section of any such device which is operated on the coin-in-the-slot principle; the annual license fee to own and operate any coin-operated toilet locker or device, sanitary napkin device or bed vibrator device shall be fifty cents for every such locker or device. The state will not furnish decal stamps for these devices; however, the owner shall identify each machine by installing on each device an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identification label, and the identification label shall contain the name of the owner, his license number, his street address and name of city and state.

The annual license fee to own and operate a total of twenty or more coin-operated amusement or music devices of the following types shall be: One cent devices—fifty dollars; five cent devices—one hundred fifty dollars; ten cent devices—two hundred twenty-five dollars; over ten cent devices—three hundred dollars. The operator of more than one type of such devices shall pay the highest fee prescribed. The license fee to own and operate less than twenty amusement or music devices shall be upon a per device basis as follows: One cent devices—two dollars; five cent devices—five dollars; ten cent devices—ten dollars; over ten cent devices—twelve dollars and fifty cents. Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

The annual license fee to own and operate a total of twenty or more coin-operated merchandise or service
devices of the following types shall be: One cent devices—fifty dollars; five cent devices—one hundred dollars; ten cent devices—one hundred fifty dollars; over ten cent devices—two hundred fifty dollars. The operator of more than one type of such devices shall pay the highest fee prescribed. The license fee to own and operate less than twenty merchandise or service devices shall be upon a per device basis as follows: One cent devices—two dollars; five cent devices—five dollars; ten cent devices—ten dollars; over ten cent devices—twelve dollars and fifty cents. Any device taking more than one denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

The fees herein prescribed are on an annual basis, commencing July one of each year, expiring on the following June thirtieth, and are not proratable if taken out during the license year nor shall fees paid be refundable if a license is revoked, suspended or business ceased during the license year.

No license fee shall be required of stores or businesses owning and operating such machines or devices owned by them in their own licensed stores: Provided, however, That where the principal business is the operation of the machines or devices, then licenses shall be obtained as outlined above: And provided further, That any person exempt from or not liable for such license shall identify each machine by installing on each device an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identification label, and the identification label shall contain the name of the owner, his store license number, his street address and name of city and state.

The provisions of this section shall not be applicable to any pay telephone, postage stamp vending machines or currency changing machines operated on the coin-in-the-slot principle.

Application for license required herein shall contain the necessary information for the proper licensing under the foregoing fee schedule for machines that are owned and operated on location by the licensee within this state.
during the ensuing license year or any part of a fiscal
year. Each vending machine operator shall make appli-
cation to the tax commissioner on forms provided by him,
and the applicant shall furnish such information as may
be required by the tax commissioner including a certified
statement of the total number of machines, by location,
of each coin denomination type in each classification, viz.,
service, music or amusement, and merchandise or service
machines: Provided, That vending machine operators
operating twenty or more machines are only required to
furnish the commissioner with a certified statement as to
the total number of machines on location in this state,
and the applicant shall be subject to the penalties of false
swearing for any untrue statements contained in his ap-
plication.

The tax commissioner shall assign each license issued
hereunder a number. It shall be the responsibility and
duty of the owners of all coin-operated devices subject
to the licenses herein provided to properly identify each
machine by installing on each device an identification
label, plainly legible and visible, in such a manner that
the machine need not be moved to observe the identi-
fication label, and the identification label shall contain
the name of the owner, his license number, his street
address and name of city and state.

In the event any coin-operated device is found on loca-
tion and not bearing the owner's address and current
license number as prescribed above, the tax commissioner,
or his agents, may seal the device in such a manner as
to make it inoperable. The seal shall state the date sealed
and bear the signature and title of the sealer. Anyone
other than the tax commissioner or his authorized agent
who shall break or tamper with such seals, or conceal or
move a sealed machine from its location shall be guilty
of a misdemeanor and subject to the criminal provisions
of this article.

The owner of a sealed machine may petition the tax
commissioner to remove seal (s) from the owners' ma-
chine (s) by filing a petition, on forms provided by the tax
commissioner, and paying to the tax commissioner a seal-
ing fee of ten dollars for each sealed machine. After re-
ceiving such petition and fee, and after the owner has
complied with all the provisions of this article, the tax
commissioner shall, within a reasonable time, cause such
petitioned seals to be removed by an agent of the tax
commissioner. If the owner of the sealed device has not,
within thirty days from the date the device was sealed,
paid a sealing fee of ten dollars to the tax commissioner as
well as having, to the satisfaction of the tax commissioner,
complied with all other provisions of this article, then
and in which event, the tax commissioner, or his agents,
shall take such sealed device into possession and deliver
the same to the sheriff of the county in which such ma-
chine or device is found, or the sheriff of such county upon
order or direction of the tax commissioner, or his agents,
shall take such sealed device into possession and forth-
with sell such sealed device in the manner provided by
law for the sale of personal property for taxes; and from
the proceeds of sale, including any currency found in the
sealed machine and removed prior to sale, shall pay his
costs, including drayage, storage, penalties and other fees
due the state and sheriff; and the balance, if any there
be, shall be paid to the tax commissioner for deposit and
credit in the same manner as are the license fees collected
under this section.

Every person subject to the provisions of this article
shall make such reports and keep such records as may
be required by the rules and regulations of the commis-
sioner and shall permit him to inspect such records and
the stocks and supplies on hand at any time. Every such
person shall be required to make his records available
for inspection by the tax commissioner or his authorized
agents.

The commissioner is hereby authorized to make and
promulgate such reasonable rules and regulations as may
be necessary to administer the provisions of this article
and article thirteen-a of chapter eleven, to insure the
collection of the taxes imposed thereby: *Provided, how-
ever,* That nothing in this section shall affect the licensing
power of a municipality as authorized by a particular
municipal charter, general law or municipal ordinance.

Sec. 15. Application for and Issuance of Licenses;
Evidence of Licenses; Fee.—The licenses provided for in this article shall be issued in the form of a certificate by the tax commissioner to any person making proper application therefor on forms to be prescribed and furnished by the tax commissioner and tendering the license tax and a filing tax fee of fifty cents for each license certificate requested. The tax commissioner shall collect in full the proper taxes and fees and determine to his satisfaction that all the conditions precedent to the granting of such license have been fulfilled by the applicant before issuing a certificate of license.

CHAPTER 155
(Senate Bill No. 93—By Mr. Carson, Mr. President, and Mr. McCourt)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eighty, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to license tax on foreign corporations.

Be it enacted by the Legislature of West Virginia:
That section eighty, 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:

Article 12. License Taxes.
Section
80. License tax on foreign corporations.

Section 80. License Tax on Foreign Corporations.—Every foreign corporation which has qualified to hold property or to do business in this state shall make a report to the auditor annually in the third month preceding the beginning of the license tax year, in which report shall be set out: (a) The name of each corporation, the name of the state or country by which incorporated, the date of the incorporation, the date of the certificate of the secretary of state authorizing it to do business in this
state, the place of its principal office, the names and post-
office addresses of its president, secretary and its officers,
if any, charged with the duty of making returns of its
property for taxation and the name and postoffice address
of its attorney of record in this state; (b) the number of
shares of its authorized capital stock having a par value
and the par value of each share, and the number of its
issued and outstanding shares and the par value of each
share; (c) the number of shares of its authorized capital
stock having no par value, the number of shares of such
stock authorized to be issued and the considerations fixed
for the issue of each share of the same by its charter or
board of directors, and the number of shares thereof issued
and outstanding; (d) the value of the property owned and
used by such corporation within this state, where situate,
of what it consists, and the number of acres of land it
holds in this state, and the value of its property owned
and used without this state; and (e) the proportion of
its capital stock which is represented by property owned
and used in the state of West Virginia. Such report shall
be verified by the affidavit of the president, secretary or
other executive officers of such corporation.

It shall be the duty of the auditor to assess and fix the
license tax of such corporation according to the propor-
tion of its issued and outstanding capital stock which is
represented by its property owned and used in this state,
which license tax shall be at the rate prescribed in sec-
tion seventy-eight of this article, plus seventy-five per
cent of such tax: Provided, That no such corporation shall
pay an annual license tax of less than two hundred fifty
dollars, which shall be in addition to the fee of the auditor
as statutory attorney in fact. The auditor may in any case
require such additional information as he may deem nec-
essary to enable him to assess and fix the just amount of
license tax of such corporation; and it shall be his duty
to notify every such corporation of the amount so assessed
by him and it shall be the duty of the corporation to pay
the same to the auditor of the state within thirty days
thereafter, and if it fail to do so it shall be liable to the
penalties prescribed in sections eighty-six and eighty-
seven of this article.
AN ACT to amend and reenact section sixteen, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to business and occupation tax on contracts on behalf of the state of West Virginia or any political subdivision.

Be it enacted by the Legislature of West Virginia:

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

**Article 13. Business and Occupation Tax.**

**Section 16. Prerequisite to Final Settlement with State or Political Subdivision Contractor; Penalty.**—All state, county, district and municipal officers and agents making contracts on behalf of the state of West Virginia or any political subdivision thereof shall withhold payment in the final settlement of such contracts until the receipt of a certificate from the tax commissioner to the effect that all taxes levied or accrued under this article against the contractor have been paid, and if the transaction embodied in such contract or the subject matter of the contract is subject to county or municipal business and occupation tax, then such payment shall be withheld until the receipt of a release from such county or municipality to the effect that all county or municipal business and occupation taxes levied or accrued against the contractor have been paid. Any official violating this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one thousand dollars or imprisoned not exceeding one year in the county jail, or shall be subject to both said fine and imprisonment, in the discretion of the court.
AN ACT to amend and reenact sections three and five, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the amount of consumers sales tax and the total amount to be remitted.

Be it enacted by the Legislature of West Virginia:

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

Article 15. Consumers Sales Tax.

Section 3. Amount of Tax.—For the privilege of selling tangible personal property and of dispensing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article, and shall pay the amount of tax to the tax commissioner in accordance with the provisions of this article.

The amount of tax shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from six cents to thirty-five cents, both inclusive, one cent.

(2) On each sale, where the monetary consideration is from thirty-six cents to seventy cents, both inclusive, two cents.

(3) On each sale, where the monetary consideration is from seventy-one cents to one dollar, both inclusive, three cents.

AN ACT to amend and reenact sections three and five, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the amount of consumers sales tax and the total amount to be remitted.

Passed February 3, 1965; in effect July 1, 1965. Approved by the Governor.

Mr. White
(Com. Sub. for House Bill No. 501—By Mr. Speaker)
(4) If the sale price is in excess of one dollar, three
cents on each whole dollar of sale price, and upon any
fractional part of a dollar in excess of whole dollars, as
follows: One cent on the fractional part of the dollar if
less than thirty-six cents; two cents on the fractional
part of the dollar if in excess of thirty-five cents but less
than seventy-one cents; and three cents on the fractional
part of the dollar if in excess of seventy cents. For ex-
ample, the tax on sales from one dollar and one cent to
one dollar and thirty-five cents, both inclusive, four
cents; on sales from one dollar and thirty-six cents to one
dollar and seventy cents, both inclusive, five cents; on
sales from one dollar and seventy-one cents to two dol-
lars, both inclusive, six cents.

Separate sales, such as daily or weekly deliveries, shall
not be aggregated for the purpose of computation of the
tax even though such sales are aggregated in the billing
or payment therefor.

Sec. 5. Total Amount Collected to Be Remitted.—No
profit shall accrue to any person as a result of the collect-
ion of the tax levied by this article notwithstanding
the total amount of such taxes collected may be in excess
of the amount for which such person would be liable by
the application of the levy of three per cent to the gross
proceeds of his sales, and the total of all taxes collected
by any such person shall be returned and remitted to the
tax commissioner as hereinafter provided.

CHAPTER 158
(Com. Sub. for House Bill No. 502—By Mr. Speaker,
Mr. White)

[Passed February 3, 1965: in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections two and ten, article
fifteen-a, chapter eleven of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, re-
lating to imposition of use tax and payment to the tax
commissioner.
Be it enacted by the Legislature of West Virginia:

That sections two and ten, article fifteen-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:

Article 15-a. Use Tax.

Section

2. Imposition of tax.
10. Payment to tax commissioner.

Section 2. Imposition of Tax.—An excise tax is hereby imposed on the use in this state of tangible personal property furnished or delivered within this state to consumers or users within this state on or after the effective date of this article, at the rate of three per cent of the purchase price of such property. Said tax is hereby imposed upon every person using such property within this state until such tax has been paid directly to a retailer, or to the state tax commissioner as hereinafter provided.

Purchases of tangible personal property made from the government of the United States or any of its agencies by ultimate consumers shall be subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the state of West Virginia of a character not ordinarily readily obtainable within the state, shall not be subject to use tax when sold, if such industrial materials and equipment would not be subject to use tax if such were sold outside of the state for use in West Virginia.

This article shall not apply to purchases made by counties or municipal corporations.

Sec. 10. Payment to Tax Commissioner.—Each retailer required or authorized, pursuant to sections six or seven, to collect the tax herein imposed, shall be required to pay to the tax commissioner the amount of such tax on or before the fifteenth day of the month next succeeding each quarterly period, the first such quarterly period being the period commencing on the first day of July, one thousand nine hundred fifty-one, and ending on the thirtieth day of September, one thousand nine hundred fifty-one. At such time, each retailer shall file with the tax commissioner a return for the preceding quarterly
12 period in such form as may be prescribed by the tax
13 commissioner showing the sales price of any or all tan-
14 gible personal property sold by the retailer during such
15 preceding quarterly period, the use of which is subject to
16 the tax imposed by this article, and such other infor-
17 mation as the tax commissioner may deem necessary
18 for the proper administration of this article. The return
19 shall be accompanied by a remittance of the amount of
20 such tax, for the period covered by the return, provided
21 that where such tangible personal property is sold under
22 a conditional sales contract, or under any other form of
23 sale wherein the payment of the principal sum, or a part
24 thereof, is extended over a period longer than sixty days
25 from the date of the sale thereof, the retailer may collect
26 and remit each quarterly period that portion of the tax
27 equal to three per cent of that portion of the purchase
28 price actually received during such quarterly period. The
29 tax commissioner, if he deems it necessary in order to
30 insure payment to the state of the amount of such tax,
31 may in any or all cases require returns and payments
32 of such amount to be made for other than quarterly
33 periods. The tax commissioner may, upon request and
34 a proper showing of the necessity therefor, grant an ex-
35 tension of time not to exceed thirty days for making any
36 return and payment. Returns shall be signed by the
37 retailer or his duly authorized agent, and must be certi-
38 fied by him to be correct.

CHAPTER 159

(House Bill No. 603—By Mr. Speaker, Mr. White, and
Mr. Christian)

[Passed February 9, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend article twenty-one, chapter eleven of the
code of West Virginia, one thousand nine hundred thirty-
one, as amended, by adding thereto a new section, desig-
nated section forty-one, relating to a special case in which a nonresident need not file a West Virginia income tax return.

Be it enacted by the Legislature of West Virginia:

That article twenty-one, 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 forty-one, to read as follows:


Section 41. Special case in which a nonresident need not file a West Virginia income tax return.

Section 41. Special Case in Which a Nonresident Need Not File a West Virginia Income Tax Return.—A nonresident individual, who at no time during the taxable year was a resident of this state, is hereby relieved of filing an income tax return to this state for that taxable year provided:

1. His only income from sources within this state was from salaries, wages, or compensation for personal services performed within this state, and

2. Such salaries, wages or compensation for personal services were subject to income taxation by the state of his residence under a net income tax law substantially similar in principle to this article, and

3. The laws of such other state contain a provision substantially similar in effect to that contained in section forty of this article and applicable to residents of this state, and

4. The laws of such other state afford like treatment to a resident of this state who earned salaries, wages or compensation for personal services in such other state.

This section shall apply with respect to taxable years beginning after December thirty-one, one thousand nine hundred sixty-three.
CHAPTER 160

(Senate Bill No. 168—By Mr. Carson, Mr. President)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two, four, five and twenty-two, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sheriffs' lists of lands delinquent for nonpayment of taxes and notices of sales of such lands, the time and manner of holding and making sheriffs' sales of such lands; to require that each unredeemed tract or lot, and each part thereof and interest therein, be sold in entirety as such tract or lot, or part thereof or interest therein, is described and constituted as a unit or entity in any such list and notice of sale, and that no part or interest in any such tract or lot that is less than the entirety of such tract or lot, or part thereof or interest therein, as the same is described and constituted as a unit or entity in any such list and notice, shall be sold at any such sale; and, relating to suspensions of land from such sales, and to surveys when part of a tract was purchased at any such sale held before October, one thousand nine hundred sixty-five.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five and twenty-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.
4. Sale by sheriff.
5. Suspension from sale; amended delinquent lists; subsequent sale.
22. Survey when part of tract was purchased at sheriff's sale before October, one thousand nine hundred sixty-five.

Section 2. Second Publication and Posting of List of 2 Delinquent Real Estate; Notice.—On or before Septem-
ber 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 September
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 col­
lector) at public auction at the front door of the court­
house of the county, 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, will be sold at
public auction to the highest bidder for cash in an amount
which shall not be less than the taxes, interest and charges
which shall be due thereon to the date of sale, as set forth
in the following table:

<table>
<thead>
<tr>
<th>Name of person charged with taxes</th>
<th>Quantity of land</th>
<th>Local description</th>
<th>Total amount of taxes, interest and charges due to date of sale</th>
</tr>
</thead>
</table>
23 | Any of the aforesaid tracts or lots, or part thereof or an
undivided interest therein, may be redeemed by the pay­
ment to the undersigned sheriff (or collector) before sale,
of the total amount of taxes, interest and charges due
thereon up to the date of redemption.
28 | Given under my hand this ........ day of ............ ,
29 | 19 .......
30 | Sheriff (or collector)
32 | The sheriff shall publish the list and notice, once a
week for four successive weeks prior to the sale date
fixed in the notice, in two newspapers of opposite politics,
if such there be in the county, and the costs of printing,
not to exceed forty cents per item for each insertion in
each newspaper, shall be paid out of the county treasury.
He shall also post a copy of such list and notice at the front door of the courthouse at least four weeks before the sale. If there is no newspaper published in the county, or if no such newspaper will publish the list and notice for the compensation provided by law, then the sheriff shall also post a copy of the notice, but not of the delinquent list, at some public place in each magisterial district at least twenty days before the sale. In such case, the notice shall also state that the delinquent list has been posted at the front door of the courthouse.

To cover the costs of preparing, publishing and posting the delinquent list, a charge of two dollars and fifty cents shall be added to the taxes, interest and charges already due on each item listed. The sum of the taxes, interest to the date of sale, and other charges shall be stated in the list as the total amount due.

Any person, whose taxes were delinquent on September first, may have his name removed from the delinquent list prior to the time the same is delivered to the newspaper or newspapers for publication by paying to the sheriff the full amount of taxes and costs owed by such person at the date of such redemption. In such case, the sheriff shall include but fifty cents of the costs provided in this section in making such redemption. Costs collected by the sheriff hereunder which are not expended for publication shall be paid into the general county fund.

Sec. 4. Sale by Sheriff.—Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, shall be sold by the sheriff at public auction to the highest bidder for cash, between the hours of ten in the morning and four in the afternoon on any Monday after the fourteenth day of October and before the twenty-third day of November: Provided, That no such unredeemed tract or lot, or any unredeemed part thereof or undivided interest therein, shall be sold upon any bid or for any sum less than the total amount of taxes, interest and charges then due: Provided, however, That at any such sale held after the thirtieth day of June, one thousand nine hundred sixty-five, each unredeemed tract or lot, and each unredeemed part of a tract or lot or interest therein, shall be offered for sale and sold in entirety as
such tract or part thereof or interest therein is described and constituted as a unit or entity in the list and notice prescribed in section two of this article: Provided further, that no part or interest in any unredeemed tract or lot, or any part thereof or interest therein, that is less than the entirety of such unredeemed tract, lot or part or interest, as the same is described and constituted as a unit or entity in said list and notice, shall be offered for sale or sold at such sale. If the sale shall not be completed on the day designated in the notice for the holding of such sale, it shall be continued from day to day between the same hours until disposition shall have been made of all the land.

Sec. 5. Suspension from Sale; Amended Delinquent Lists; Subsequent Sale.—Whenever it shall appear to the sheriff that any real estate included in the list has been sold previously for taxes and not redeemed, or ought not to be sold for the amount stated therein, he shall suspend the sale thereof and report his reasons therefor to the county court. If the court finds that the real estate ought not to be sold, it shall so order; but if the court finds that the real estate ought to be sold for the amount stated, or for a greater or less amount, it shall order the sheriff to include such real estate in his next September list, unless sooner redeemed.

In the event the list and notice of sale prescribed in section two of this article, shall not be published, posted and completed in the manner provided by said section two, so that it is impossible for that reason, or by reason of omission of any necessary procedural act, for the sheriff to make sale of the real estate embraced in said list pursuant to the provisions of this chapter, then and in that event the sheriff shall certify to the auditor, on or before the second day of December following the month in which such sale should have been held, an amended list or lists of such taxes which then remain delinquent. After certification to the auditor, the auditor shall have the right to receive collection of any such taxes. The sheriff shall include the real estate in the last-mentioned amended list or lists in his next September list, unless sooner redeemed.
Sec. 22. Survey When Part of Tract Was Purchased at
Sheriff's Sale before October, One Thousand Nine Hun-
dred Sixty-five.—Whenever at any sale of delinquent
lands held before October of the year one thousand nine
hundred sixty-five, only part of a tract was sold for the
taxes due on the entire tract, the purchaser of such part,
his heirs or assigns, must, at his or their expense, have
the part so purchased surveyed and laid off by metes and
bounds. The area so laid off shall be bounded in part by
some one or more of the lines of the tract, to be selected
by the purchaser, his heirs or assigns. The part chosen
shall not include any of the improvements on the tract,
if this can be avoided, and shall be in one body, the length
of which shall, whenever practicable, be not more than
twice the breadth. A plat of the part so laid off and a
description thereof, to be prepared by the surveyor, men-
tioned in the preceding section, must be filed with the
clerk of the county court within the time specified in sec-
tion twenty of this article. The fact and time of such
filing shall be endorsed by the clerk on the plat and
description.

CHAPTER 161

(House Bill No. 904—By Mr. Speaker, Mr. White)

(Passed March 6, 1965; in effect July 1, 1965. Approved by the Governor.)

AN ACT to amend and reenact sections one, three and four,
article three, chapter twenty-one-a of the code of West
Virginia, one thousand nine hundred thirty-one, as
amended, creating an advisory council in the department
of employment security, fixing terms of office and pre-
scribing qualifications for the members thereof.

Be it enacted by the Legislature of West Virginia:
That sections one, three and four, article three, chapter
twenty-one-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, be amended and reenacted
to read as follows:
Article 3. Advisory Council.

Section
1. Creation.
3. Term of office.
4. Qualifications.

Section 1. Creation.—There is hereby created in the department of employment security a “state advisory council” composed of nine members.

Sec. 3. Term of Office.—The term of office of the members of the council shall be six years.

In case of a vacancy, the governor shall make an appointment for the remainder of the unexpired term.

Members shall be subject to removal at the will and pleasure of the governor.

Sec. 4. Qualifications.—The members of the council shall be selected with special reference to their ability and fitness to effectuate the purposes of this chapter.

Three members of the council shall be selected as representatives of employer interests; three members shall be selected as representatives of employee interests; and three members shall represent the interests of the general public.

CHAPTER 162
(Senate Bill No. 20—By Mr. Carson, Mr. President)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, and sections three and six, article four, all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to workmen’s compensation.

Be it enacted by the Legislature of West Virginia:

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

Article
4. Disability and Death Benefits.


Section 1. Workmen's compensation commissioner; appointment; oath; bond; compensation; official seal; legal services; references to director deemed to mean commissioner.

Section 1. Workmen's Compensation Commissioner; Appointment; Oath; Bond; Compensation; Official Seal; Legal Services; References to Director Deemed to Mean Commissioner.—There shall be a state workmen's compensation commissioner who shall be appointed by the governor by and with the advice and consent of the senate and who shall serve at the will and pleasure of the governor during the term for which the governor was elected and until the commissioner's successor has been appointed and qualified. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof. The person so appointed shall take the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state. He shall give bond in the penalty of twenty-five thousand dollars conditioned for the faithful performance of the duties of his office, which bond shall be approved by the attorney general as to form, and by the governor as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premiums shall be paid out of the appropriation made for the administration of this chapter. The commissioner shall hold no position of trust or profit, or engage in any occupation or business, interfering or inconsistent with his duties as such commissioner. The commissioner shall receive an annual salary of fourteen thousand dollars, payable out of the workmen's compensation fund. The commissioner shall have an official seal for the authentication of his orders and proceedings, upon which seal shall be engraved the words, "West
Virginia Workmen's Compensation Commissioner,“ and such other design as the commissioner may prescribe. The courts in this state shall take judicial notice of the seal of the commissioner and in all cases copies of orders, proceedings, or records in the office of the West Virginia compensation commissioner shall be equal to the original in evidence.

The attorney general shall perform all legal services required by the commissioner under the provisions of this chapter: Provided, That in any case in which an application for review is prosecuted from any final decision of the workmen's compensation appeal board to the supreme court of appeals, as provided by section four, article five of this chapter, or in any court proceeding before the workmen's compensation appeal board, in which such representation shall appear to the commissioner to be desirable, he may designate a regular employee of his office, qualified to practice before such court, to represent him upon such appeal or proceeding, and in no case shall the person so appearing for the commissioner before the court receive remuneration therefor other than his regular salary.

Wherever in this chapter or elsewhere in law reference is made to “State Director of Workmen's Compensation” or “compensation commissioner” such reference shall henceforth be construed and understood to mean “State Workmen's Compensation Commissioner.”

Article 4. Disability and Death Benefits.

Section 3. Disbursements for medicine, hospital treatment, artificial limbs and other appliances; contract by employer with hospital prohibited.

Section 3. Disbursements for Medicine, Hospital Treatment, Artificial Limbs and Other Appliances; Contract by Employer with Hospital Prohibited.—Except in case of silicosis, the commissioner shall disburse and pay from the fund for such personal injuries to such employees as may be entitled thereto hereunder as follows:

(a) Such sums for medicines, medical, surgical, dental and hospital treatment, crutches, artificial limbs and such
other and additional approved mechanical appliances and
devices, as may be reasonably required, but not in
excess of three thousand dollars: Provided, That in
special cases where the treatment required, in the opinion
of competent medical authority, is such as to necessitate
an expenditure in excess of such amount, the commis-
sioner may pay out of any available funds such additional
sum as may be necessary, but such additional sum shall
not be charged to the account of the employer.

(b) Payment for such medicine, medical, surgical,
dental and hospital treatment, crutches, artificial limbs
and such other and additional approved mechanical appli-
cances and devices authorized under subdivision (a) here-
of may be made to the injured employee, or to the person
or persons who have furnished such service, or who have
advanced payment for same, as the commissioner may
deed proper, but no such payments or disbursements
shall be made or awarded by him unless duly verified
statements on forms prescribed by the commissioner shall
be filed with the commissioner within six months after
the cessation of such treatment or the delivery of such
appliances: Provided, however, That no payment here-
under shall be made unless such verified statement shows
no other or additional charge for such treatment, appli-
cance or device has been or will be made against any per-
son, firm or corporation. Failure on the part of the doctor
or hospital to submit to the commissioner within such six
months' period bills for services rendered to an injured
employee shall preclude collection thereof from the in-
jured employee.

c) No employer shall enter into any contracts with
any hospital, its physicians, officers, agents or employees
to render medical, dental or hospital service or to give
medical or surgical attention therein to any employee for
injury compensable within the purview of this chapter,
and no employer shall permit or require any employee
to contribute, directly or indirectly, to any fund for the
payment of such medical, surgical, dental, or hospital
service within such hospital for such compensable injury.
Any employer violating this section shall be liable in
damages to his or its employees and shall not avail him-
self of any of the common-law defenses mentioned in section eight, article two of this chapter, and any employer or hospital or agent or employee thereof violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars or to undergo imprisonment not exceeding one year, or both.

Sec. 6. Classification of Disability Benefits.—Where compensation is due an employee under the provisions of this chapter for a personal injury other than first stage silicosis, such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability, the employee shall receive during the continuance thereof sixty-six and two-thirds per cent of his average weekly earnings, not to exceed a maximum of forty-two dollars a week nor to be less than a minimum of twenty-two dollars a week.

(b) Subdivision (a) shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding two hundred eight weeks.

(c) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the award computed and allowed as follows:

For permanent disability of from one per cent to eighty-four per cent, inclusive, sixty-six and two-thirds per cent of the average weekly earnings for a period to be computed on the basis of four weeks' compensation for each per cent of disability determined.

For a disability of eighty-five to one hundred per cent, sixty-six and two-thirds per cent of the average weekly earnings during the remainder of life.

(d) If the injury results in the total loss by severance of any of the members named in this subdivision, the percentage of disability shall be determined in accordance with the following table, and award made as provided in subdivision (c) of this section:

The loss of a great toe shall be considered a ten percent disability.
34. The loss of a great toe (one phalanx) shall be considered a five percent disability.
35. The loss of other toes shall be considered a four percent disability.
36. The loss of other toes (one phalanx) shall be considered a two percent disability.
37. The loss of all toes shall be considered a twenty-five percent disability.
38. The loss of fore part of foot shall be considered a thirty percent disability.
39. The loss of foot shall be considered a thirty-five percent disability.
40. The loss of a leg shall be considered a forty-five percent disability.
41. The loss of thigh shall be considered a fifty percent disability.
42. The loss of thigh at hip joint shall be considered a sixty percent disability.
43. The loss of little or fourth finger (one phalanx) shall be considered a three percent disability.
44. The loss of little or fourth finger shall be considered a five percent disability.
45. The loss of ring or third finger (one phalanx) shall be considered a three percent disability.
46. The loss of ring or third finger shall be considered a five percent disability.
47. The loss of middle or second finger (one phalanx) shall be considered a three percent disability.
48. The loss of middle or second finger shall be considered a seven percent disability.
49. The loss of index or first finger (one phalanx) shall be considered a six percent disability.
50. The loss of index or first finger shall be considered a ten percent disability.
51. The loss of thumb (one phalanx) shall be considered a twelve percent disability.
52. The loss of thumb shall be considered a twenty percent disability.
The loss of thumb and index finger shall be considered a thirty-two percent disability.

The loss of index and middle finger shall be considered a twenty percent disability.

The loss of middle and ring finger shall be considered a fifteen percent disability.

The loss of ring and little finger shall be considered a ten percent disability.

The loss of thumb, index, and middle finger shall be considered a forty percent disability.

The loss of index, middle and ring finger shall be considered a thirty percent disability.

The loss of middle, ring and little finger shall be considered a twenty percent disability.

The loss of four fingers shall be considered a thirty-two percent disability.

The loss of hand shall be considered a fifty percent disability.

The loss of forearm shall be considered a fifty-five percent disability.

The loss of arm shall be considered a sixty percent disability.

The total and irrecoverable loss of the sight of one eye shall be considered a thirty-three percent disability, and the injured employee shall be entitled to compensation for a period of one hundred thirty-two weeks.

For the partial loss of vision in one, or both eyes, the percentage of disability shall be determined by the commissioner, using as a basis the total loss of one eye.

The total and irrecoverable loss of the hearing of one ear shall be considered a fifteen percent disability, and the injured employee shall be entitled to compensation for a period of sixty weeks. The total and irrecoverable loss of the hearing of both ears shall be considered a forty-five percent disability, and the injured employee shall be entitled to compensation for a period of one hundred eighty weeks.

For the partial loss of hearing in one, or both ears, the percentage of disability shall be determined by the com-
missioner, using as a basis the total loss of hearing in both ears.

(e) Should a claimant to whom has been made a permanent partial award of from one per cent to eighty-four per cent, both inclusive, die from sickness or noncompensable injury, the unpaid balance of such award shall be paid to claimant's dependents as defined in this chapter, if any; such payment to be made in the same installments that would have been paid to claimant if living:

Provided, however, That no payment shall be made to any widow of such claimant after her remarriage, and that this liability shall not accrue to the estate of such claimant and shall not be subject to any debts of, or charges against, such estate.

(f) The award for permanent disabilities intermediate to those fixed by the foregoing schedule and permanent disability of from one per cent to eighty-four per cent shall be in the same proportion and shall be computed and allowed by the commissioner.

(g) The percentage of all permanent disabilities other than those enumerated in subdivisions (c), (d), (e), and (f) of this section shall be determined by the commissioner, and award made in accordance with the provisions of subdivision (c).

(h) Compensation payable under any subdivision of this section shall be limited as follows: Not to exceed a maximum of forty-two dollars a week nor to be less than a minimum of twenty-two dollars a week.

(i) Where an injury results in temporary total disability for which compensation is awarded under subdivision (a) of this section and such injury is later determined permanent partial disability under subdivision (c), the amount of compensation so paid shall be considered as payment of the compensation payable for such injury in accordance with the schedule in subdivision (c):

Provided further, That in cases where the amount of permanent partial disability is specifically provided for under subdivision (d) of this section, payments made under subdivision (a) shall not be considered as payment of the compensation for such injury. Compensation, either
total temporary or permanent partial, under this section shall be payable only to the injured employee and the right thereto shall not vest in his or her estate, except that any unpaid compensation which would have been paid or payable to the employee up to the time of his death, if he had lived, shall be paid to the dependents of such injured employee if there be such dependents at the time of death.

(j) The following permanent disabilities shall be conclusively presumed to be total in character:
- Loss of both eyes or the sight thereof.
- Loss of both hands or the use thereof.
- Loss of both feet or the use thereof.
- Loss of one hand and one foot or the use thereof.

In all other cases permanent disability shall be determined by the commissioner in accordance with the facts in the case, and award made in accordance with the provisions of subdivision (c).

CHAPTER 163

(Senate Bill No. 262—By Mr. Smith and Mr. McKown)

[Passed March 10, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT authorizing the clerk of the circuit court of Cabell county to transfer specified moneys to the general fund of Cabell county.

Be it enacted by the Legislature of West Virginia:

Cabell County

Section 1. Circuit clerk authorized to transfer funds.

Section 1. Circuit Clerk Authorized to Transfer Funds.
- The clerk of the circuit court of Cabell county is hereby authorized and empowered to transfer to the general fund of Cabell county those certain moneys, amounting to eleven thousand one hundred twenty-four dollars and
sixty-seven cents, on deposit in the name of said clerk, as such clerk, in savings account no. 17812, in the Guaranty National Bank of Huntington, Huntington, West Virginia, for sundry items which are not identified and therefore cannot be disbursed.

CHAPTER 164

(House Bill No. 701—By Mr. Smith and Mrs. Paul)

[Passed February 22, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three; to amend and reenact section twenty-four, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three; and to repeal section four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred five, defining the jurisdiction of the court of common pleas of Cabell county and fixing the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That section four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred five, be repealed; that section two, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular
session, one thousand nine hundred sixty-three; and that section twenty-four, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen, as last amended and reenacted by chapter one hundred ninety-seven, acts of the Legislature, regular session, one thousand nine hundred sixty-three, be amended and reenacted to read as follows:

Court of Common Pleas of Cabell County.

Section

2. Jurisdiction; supervision, etc., of criminal and civil cases before justices, etc.


Section 2. Jurisdiction; Supervision, etc., of Criminal and Civil Cases before Justices, etc.—That said court shall have jurisdiction within said county, common and concurrent with the circuit court, of all felonies and misdemeanors committed within said county, and shall have the supervision and control of criminal and civil proceedings before justices of said county, the police judge or mayor of any incorporated city, town or village therein, by appeal, mandamus, prohibition and certiorari; the said court shall have original jurisdiction within said county concurrent with the circuit court of Cabell county of all suits and proceedings, and of all civil actions or proceedings at law, except where it shall appear from the pleadings that the matter in controversy exceeds the value of fifty thousand dollars; and also appellate jurisdiction in all cases, civil and criminal, from judgments of justices of the peace in said county, police judge or mayor of any incorporated city, town or village, or of any inferior tribunal therein, wherein an appeal, writ of error, supersedeas or writ of certiorari may be allowed; subject to the right to proceed by appeal, writ of error, supersedeas or certiorari in all matters to the circuit court of Cabell county, as provided in section fifteen, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, and section twenty-six, chapter ninety, acts of the Legislature, regular session, one thousand nine hundred seventeen.

Sec. 24. Salary of Judge.—The judge of the common pleas court of Cabell county shall receive for his services
fifteen thousand five hundred dollars annually, payable
monthly in installments beginning on the first day of July,
one thousand nine hundred sixty-five, 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 provision until the said first day of
July, one thousand nine hundred sixty-five.

All acts or parts of acts inconsistent or in conflict with
this act are hereby repealed.

CHAPTER 165

(House Bill No. 702—By Mr. Smith and Mrs. Paul)

[Passed February 22, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two and four,
chapter one hundred sixty-eight, acts of the Legislature,
regular session, one thousand nine hundred twenty-one,
as amended by chapter one hundred fifty-four, acts of the
Legislature, regular session, one thousand nine hundred
thirty-nine, as amended by chapter one hundred forty,
acts of the Legislature, regular session, one thousand nine
hundred forty-nine, as amended by chapter one hundred
eighty-one, acts of the Legislature, regular session, one
thousand nine hundred fifty-three, as amended by chapter
one hundred eighty, acts of the Legislature, regular ses­sion, one thousand

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as amended by chapter one hundred
Domestic Relations Court of Cabell County.

Section 1. Court of Limited Jurisdiction Created; Purposes.—There is hereby created and established in and for the county of Cabell, with authority and jurisdiction coextensive with the county, a court to be known as the "Domestic Relations Court" of Cabell county, for the trial of annulment of marriages, separate maintenance suits, divorces, alimony causes, the care and disposition of delinquent, defective, neglected and dependent children, and desertion and nonsupport of wives and legitimate and illegitimate children, reciprocal dependency, adoption, change of name, the approval of the compromising of infants' claims for damages, the issuance of a marriage license in case of emergency or extraordinary circumstances, the approval of the sale, lease or mortgage of infants' lands, and for the enforcement of the general school laws, arising within the said county or coming within the jurisdiction of the court as provided by the general laws of this state and as hereinafter provided; and independent of the foregoing for the trial of certain causes heretofore recognized as being in chancery and as hereinafter limited and defined, it being the intent and purpose of this act to create a court of limited jurisdiction for the purposes herein set forth.

Sec. 2. Jurisdiction.—The said domestic relations court shall have jurisdiction within the said county of Cabell,
concurrent with the circuit court, of all matters and
causes arising out of or pertaining to annulment of mar-
riages, separate maintenance suits, divorce, alimony, the
custody and maintenance of children of litigants and
the adjudication of property rights arising out of the
same, and all other matters and causes coming within the
purview of chapter forty-eight of the code of West Vir-
ginia, one thousand nine hundred thirty-one, and all
amendments and reenactments thereof concerning do-
mestic relations; of all matters and causes coming within
the purview of chapter forty-nine of the code of West
Virginia, one thousand nine hundred thirty-one, as en-
acted by chapter one, acts of the Legislature of West
Virginia, one thousand nine hundred thirty-six, and of
all amendments and reenactments thereof commonly
known as the child welfare law; of all matters and causes
coming within the purview of chapter eighteen of the
code of West Virginia, one thousand nine hundred thirty-
one, and all amendments and reenactments thereof, com-
monly called the general school law; of all matters and
causes coming within the purview of chapter forty-eight
of the code of West Virginia, one thousand nine hundred
thirty-one, and of all amendments and reenactments
thereof, commonly known as the reciprocal dependency
law; of all matters and causes coming within the purview
of chapter forty-eight of the code of West Virginia, one
thousand nine hundred thirty-one, and all amendments
and reenactments thereof commonly known as the adop-
tion law; and of all matters and causes coming within
the purview of chapter forty-eight of the code of West
Virginia, one thousand nine hundred thirty-one, and of
all amendments and reenactments thereof, commonly
known as the change of name law; and of all matters and
causes coming within the purview of chapter forty-eight
of the code of West Virginia, one thousand nine hundred
thirty-one, and of all amendments and reenactments
thereof, commonly known as the maintenance of illegiti-
mate children law; and of all matters and causes coming
within the purview of chapter forty-four, article ten, sec-
tion fourteen of the code of West Virginia, one thousand
nine hundred thirty-one, and of all amendments and re-
enactments thereof commonly known as the approval of
the compromising of infants' claims for damages; and of
all matters and causes coming within the purview of
chapter forty-eight, article one, section six-c of the code
of West Virginia, one thousand nine hundred thirty-one,
and of all amendments and reenactments thereof com-
monly known as the issuance of marriage license in case
of emergency or extraordinary circumstances, and of all
matters and causes coming within the purview of chapter
thirty-seven of the code of West Virginia, one thousand
nine hundred thirty-one, and of all amendments and re-
enactments thereof commonly known as the approval of
the sale, lease or mortgage of infants' lands, and of all
matters and causes coming within the purview of all
other or future acts of the Legislature touching the sub-
ject matter of any and all said laws and acts and the
amendments and reenactments thereof, and of the
common law of said state relating to the subject matter
thereof. Independently of any of the foregoing matters,
the said domestic relations court shall also have and is
hereby given what was heretofore recognized as general
equity jurisdiction concurrent with the circuit court, ex-
cepting in cases involving the enforcement of criminal
laws and labor disputes, and excepting cases where it
shall appear from the pleadings that matter or thing in
controversy exceeds in value the sum of one hundred
fifty thousand dollars. The proceedings and modes of
procedure and power and jurisdiction conferred by law
upon the circuit court or the common pleas court in any
and all of said matters and causes are hereby conferred
upon and shall be exercised by said domestic relations
court.

Sec. 4. Salary of Judge.—The judge of the domestic
relations court of Cabell county shall receive for his serv-
ices fifteen thousand five hundred dollars, annually, pay-
able monthly in installments beginning on the first day
of July, one thousand nine hundred sixty-five, 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 provision until
the said first day of July, one thousand nine hundred sixty-five.

All acts or parts of acts inconsistent or in conflict with this act are hereby repealed.

CHAPTER 166

(House Bill No. 933—By Mr. Kincaid)

[Passed March 12, 1965: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section seven, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred sixty, relating to the powers of the Cabell-Wayne development commission.

Be it enacted by the Legislature of West Virginia:

That section seven, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred sixty, be amended and reenacted to read as follows:

Cabell-Wayne Development Commission

Section 7. Powers.—The Cabell-Wayne development commission is hereby given power and authority as follows: (1) To make and adopt all necessary by-laws, rules and regulations for its organization and operations not inconsistent with law; (2) to elect its own officers, to appoint committees and to employ and fix compensation for personnel necessary for its operation; (3) to enter into contracts with any persons, agency, governmental department, firm or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of promoting, developing and advancing the business prosperity and economic welfare of Cabell and Wayne counties, West Virginia, their citizens and industrial complex; (4) to delegate any authority given to it by law to any of its officers, committees, agents or employees; (5) to apply for,
receive and use grants-in-aid, donations and contributions from any source or sources, and to accept and use bequests, devises, gifts and donations from any person, firm or corporation; (6) to acquire lands and hold title thereto in its own name; (7) to purchase, own, hold, sell and dispose of personal property and to sell, lease or otherwise dispose of any real estate which it may own; (8) to borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give such security therefor as shall be requisite, including giving a mortgage or deed of trust on its real or personal property and facilities in connection with the issuance of mortgage bonds; and (9) to raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, being chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended, it being hereby expressly provided that the Cabell-Wayne development commission is a "municipal authority," within the definition of that term as used in said article four-a, chapter eight of the code.

The commission is also hereby given power and authority to raise funds by the issuance and sale of revenue bonds for construction of industrial plants and leasing such plants in the manner provided by the applicable provisions of article two-c, chapter thirteen, code of West Virginia, one thousand nine hundred thirty-one, as amended, being chapter seventy-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-three. Any such revenue bonds issued by the Cabell-Wayne development commission shall be in the manner as provided by article two-c, chapter thirteen, code of West Virginia, one thousand nine hundred thirty-one, as amended, and to otherwise exercise all powers which are granted to county courts and municipalities by such acts. The bonds issued pursuant to this act by the Cabell-Wayne development commission shall be signed by the president and attested by the secretary of the commission under the seal of the commission. The coupons attached
thereto shall bear the facsimile signature of the president of the commission. In case any of the officials whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until such delivery. If the proceeds of such bonds by error of calculation or otherwise, shall be less than the cost of the industrial plant, additional bonds may in like manner be issued to provide the amount of the deficiency, and unless otherwise provided for in the trust agreement, mortgage, or deed of trust shall be deemed to be of the same issue, and shall be entitled to payment from the same fund, without preference or priority, and shall be of equal priority as to any security.

Any industrial plant acquired by the Cabell-Wayne development commission, by construction and purchase, or by either, shall be located in either Cabell county or Wayne county, or in both counties.

The commission is hereby given power and authority to expend its funds in the execution of the powers and authority herein given.

CHAPTER 167

(House Bill No. 735—By Mr. Neal and Mr. Stewart)

[Passed February 19, 1965; In effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county of Clay and to authorize the expenditure of moneys received by such board from county funds and from private grants and donations.

Be it enacted by the Legislature of West Virginia:

Clay County Park and Recreation Board.

Section

1. Clay county court authorized to create a park and recreation board.
2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; term; residence; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.
Section 1. Clay County Court Authorized to Create a Park and Recreation Board.—The county court of Clay county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, for the county of Clay, West Virginia.

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as created by the county court of Clay county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes hereinafter enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Clay county.

Sec. 3. Members; Appointment; Term; Residence; Vacancy.—The board shall consist of five members who shall be appointed by the county court of Clay county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Clay county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.—After appointment the members of the board shall qualify by taking and filing with the clerk of the county court of Clay county the oath prescribed by law for public officials. One of the members of the board shall be elected as president, another as vice president, and another as secretary. A majority of the board shall constitute a quorum for the transaction of
Sec. 5. Contracts; Legal Actions; General Powers; Rules and Regulations.—The board shall have the right to enter into contracts; to bring any and all necessary legal actions; to exercise all the necessary powers and authority to manage and control park and recreation areas in Clay county, including the right to make rules and regulations concerning the management and control of such parks and recreation areas and to enforce any such rules and regulations so promulgated.

CHAPTER 168

(House Bill No. 756—By Mr. Black and Mr. Kessinger)

[Passed March 12, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred eighty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, relating to the salary of the judge of the intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, as last amended by chapter one hundred eighty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, be amended and reenacted to read as follows:

Intermediate Court of Kanawha County.

Section 9. Salary of the judge of the intermediate court of Kanawha county, West Virginia.

Section 9. Salary of the Judge of the Intermediate Court of Kanawha County, West Virginia.—The judge of
the intermediate court of Kanawha county, West Virginia, shall, from and after the first day of January, one thousand nine hundred sixty-seven, receive for his services a salary in the amount of fifteen thousand dollars per annum, to be paid in monthly installments out of the county treasury of Kanawha county, out of funds of said treasury, in the manner provided by statute. The salary of said judge shall continue as provided in chapter one hundred eighty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-seven, until the first day of January, one thousand nine hundred sixty-seven.

CHAPTER 169

(House Bill No. 817—By Mr. Anderson and Mr. Ghiz)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the county court of Logan county, West Virginia, to transfer a certain parcel of land owned by the county court of Logan county to the board of education of the county of Logan.

Be it enacted by the Legislature of West Virginia:

County Court of Logan County.

Section 1. County court of Logan county authorized to transfer certain owned real property to the board of education of the county of Logan.

Section 1. County Court of Logan County Authorized to Transfer Certain Owned Real Property to the Board of Education of the County of Logan.—The county court of Logan county, West Virginia, is hereby authorized and empowered to sell and transfer to the board of education of the county of Logan, a public corporation, all or any part of its right, title, and interest in and to a certain tract or parcel of real property owned by the said county court of Logan county, West Virginia, a corporation of West Virginia, being that certain parcel of real property situate on Hatfield Island (also known as Midel-
Beginning at a stake, which stake is located N. 5° 18' E. a distance of 167.78 feet from the northeast corner of Logan Senior High School; thence N. 72° 00' E. a distance of 160.16 feet to a stake; thence S. 26° 05' E. a distance of 215.69 feet to a stake; thence S. 20° 18' E. a distance of 214.37 feet to a stake; thence S. 5° 54' E. a distance of 336.70 feet to a stake; thence N. 73° 07' W. a distance of 156.59 feet to a stake; thence N. 18° 00' W. a distance of 667.46 feet to the beginning, containing approximately 2.92 acres; and being part of parcel No. 2 set forth and described in that certain deed between the court and board, which deed is dated April 5, 1955, and is of record in the office of the clerk of the county court of Logan county, West Virginia, in Deed Book No. 239, at page 227.

Inasmuch as said board intends to erect upon said property public school facilities, and the same is to be used for public purposes, the said county court is authorized to make such transfer without monetary consideration being paid by the said board to the said county court.

CHAPTER 170
(House Bill No. 721—By Mr. Dawson)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county of Marion and to authorize the expenditure of moneys received by such board from county funds and from private grants and donations.

Be it enacted by the Legislature of West Virginia:

Marion County Park and Recreation Board.

Section 1. Marion county court authorized to create a park and recreation board.
2. Board a body corporate; perpetual existence; right to receive and expend moneys.
3. Members; appointment; terms; residence; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

Section 1. Marion County Court Authorized to Create a Park and Recreation Board.—The county court of Marion county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, to be known as the "Marion County Park and Recreation Board."

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as created by the county court of Marion county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes hereinafter enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Marion county.

Sec. 3. Members; Appointment; Terms; Residence; Vacancy.—The board shall consist of five members who shall be appointed by the county court of Marion county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Marion county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.—After appointment the members of the board shall qualify by taking and filing with the clerk...
of the county court of Marion county the oath prescribed
by law for public officials. One of the members of the
board shall be elected as president, another as vice
president, and another as secretary. A majority of the
board shall constitute a quorum for the transaction of
business. The board shall maintain an office at any place
in said county which it may designate.

Sec. 5. Contracts; Legal Actions; General Powers;
Rules and Regulations.—The board shall have the right
to enter into contracts; to bring any and all necessary
legal actions; to exercise all the necessary powers and
authority to manage and control park and recreation
areas in Marion county, including the right to make rules
and regulations concerning the management and control
of such parks and recreation areas and to enforce any
such rules and regulations so promulgated.

CHAPTER 171
(House Bill No. 532—By Mr. Stewart)

[Passed February 19, 1965; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county
of Marshall and to authorize the expenditure of moneys
received by such board from county funds and from pri-
vate grants and donations.

Be it enacted by the Legislature of West Virginia:
Marshall County Park and Recreation Board.

Section
1. Marshall county court authorized to create a park and recreation
board.
2. Board a body corporate; perpetual existence; right to receive and
expend moneys.
3. Members; appointment; terms; residency; vacancy.
4. Oath of members; election of officers; quorum; place of business.
5. Contracts; legal actions; general powers; rules and regulations.

Section 1. Marshall County Court Authorized to Create
a Park and Recreation Board.—The county court of Mar-
shall county is hereby authorized and empowered to, by
order entered of record, create and establish a park and
recreation board, to be known as the "Marshall County Park and Recreation Board."

**Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.**—The board as created by the county court of Marshall county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes hereinafter enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Marshall county.

**Sec. 3. Members; Appointment; Term; Residency; Vacancy.**—The board shall consist of five members who shall be appointed by the county court of Marshall county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Marshall county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

**Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.**—After appointment the members of the board shall qualify by taking and filing with the clerk of the county court of Marshall county the oath prescribed by law for public officials. One of the members of the board shall be elected as president, another as vice president, and another as secretary. A majority of the board shall constitute a quorum for the transaction of business. The board shall maintain an office at any place in said county which it may designate.
Sec. 5. Contracts; Legal Actions; General Powers; Rules and Regulations.—The board shall have the right to enter into contracts; to bring any and all necessary legal actions; to exercise all the necessary powers and authority to manage and control park and recreation areas in Marshall county, including the right to make rules and regulations concerning the management and control of such parks and recreation areas and to enforce any such rules and regulations so promulgated.

CHAPTER 172

(Senate Bill No. 285—By Mr. Montgomery and Mr. Carrigan)

[Passed March 13, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and six, chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred sixty-four, and to further amend said chapter by adding thereto a new section, designated section fourteen, relating to the common pleas court of Marshall county, which provides for the enlargement of its jurisdiction and for a probation officer; salary of clerk.

Be it enacted by the Legislature of West Virginia:

That sections two and six, chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred sixty-four, be amended and reenacted; and that said chapter be further amended by adding thereto a new section, designated section fourteen, all to read as follows:

Common Pleas Court of Marshall County.

Section
2. Jurisdiction.
6. Clerk; powers, duties and compensation.
14. Probation officer same as circuit court.

Section 2. Jurisdiction.—The court shall have jurisdiction within Marshall 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
5 care, custody, maintenance and education of children of
6 litigants and the adjudication of property rights arising
out of same, and all other causes and matters arising
9 within the provisions of chapter forty-eight, article two
10 of the official code of West Virginia, commonly known as
11 "the divorce law," and of all amendments and reenact-
12 ments thereof; (b) adoption proceedings arising out of
13 article four of the chapter last aforesaid, and of all amend-
14 ments and reenactments thereof; (c) proceedings for a
15 change of name arising out of article five of the chapter
16 last aforesaid, and of all amendments and reenactments
17 thereof; (d) the enforcement of support of dependents
arising out of article nine of the chapter last aforesaid,18 and of all amendments and reenactments thereof; (e) of
19 all civil actions or proceedings at law, except where it
20 shall appear from the pleadings that the matter in con-
21 troversy exceeds the value of one hundred thousand
22 dollars; (f) of all proceedings of eminent domain arising
24 out of chapter fifty-four of the official code of West Vir-
25 ginia and all amendments and reenactments thereof; (g)
26 of all cases arising under chapter forty-nine, articles five,
27 six and seven of the official code of West Virginia and all
28 amendments and reenactments thereof; (h) appellate
29 jurisdiction in all cases, civil and criminal, from judg-
30 ments of justices of the peace in said county, police judges
31 or mayors of any incorporated city, town or village, or of
32 any inferior tribunal therein, wherein an appeal, writ of
33 error, supersedeas or writ of certiorari may be allowed;
34 (i) all proceedings under article one; chapter thirty-seven
35 of the official code of West Virginia and all amendments
36 and reenactments thereof; (j) all proceedings by prohi-
37 bition, mandamus, quo warranto habeas corpus or certio-
38 rari; (k) proceeding under section six-c article one. chap-
39 ter forty-eight of the official code of West Virginia, as
40 amended; (l) all proceedings under article seven, chapter
41 forty-eight of the official code of West Virginia, as amend-
42 ed; (m) all proceedings under section four, article ten, chap-
43 ter fifty-six and sections eight through fifteen, inclusive,
44 article ten, chapter forty-four of the official code of West
45 Virginia, as amended; (n) any and all other matters aris-
ing under the present and future laws of the state of
West Virginia, common or statutory, incidental to the
foregoing, including, but not limited to, the disposition of
property and property interests involved in any such
matters, and, as well, the adjudication of any and all
rights, titles and interests necessary or incidental to a
full determination of all such matters pending in said
court.

Said court shall have general equity jurisdiction in
causes, matters, proceedings and suits before it within its
jurisdiction with power to grant injunctions and to re-
quire and take recognizances.

The proceedings, modes of procedures, power and juris-
diction conferred by law upon the circuit court of Mar-
shall county in any and all said causes, matters, pro-
ceedings and suits, are hereby conferred upon and shall
be exercised by said court.

The judge of said court shall have the same powers in
vacation as to any and all of said causes, matters, pro-
ceedings and suits that are conferred upon the judge of
the circuit court of said county.

It shall not be necessary in any such causes or pro-
ceedings to set forth upon the record the facts author-
izing said court to take jurisdiction thereof, but jurisdic-
tion shall be presumed unless the contrary plainly appears
from the record.

Sec. 6. Clerk; Powers, Duties and Compensation.—The
clerk of the circuit court of Marshall 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
Marshall county. For his services under and pursuant to
this act, said clerk shall receive an annual salary of
twelve hundred dollars payable in equal monthly payments of one hundred dollars each.

Sec. 14. Probation Officer Same as Circuit Court.—The probation officer for the circuit court shall also be and act as the probation officer for the common pleas court for which he shall receive no additional compensation.

CHAPTER 173
(Senate Bill No. 263—By Mr. Hatcher)

[Passed March 5, 1965; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, to increase the salary of the judge of the criminal court of McDowell county from eight thousand one hundred dollars per annum to ten thousand five hundred dollars per annum, effective on the first day of January, one thousand nine hundred sixty-seven.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred seven, as amended, be amended and reenacted to read as follows:

Criminal Court of McDowell County.

Section 9. Salary of judge.

Section 9. Salary of Judge.—The judge of the criminal court of McDowell county shall receive an annual salary of eight thousand one hundred dollars to and including the thirty-first day of December, one thousand nine hundred sixty-six, and an annual salary of ten thousand five hundred dollars on and after the first day of January, one thousand nine hundred sixty-seven. The annual salary herein provided for shall be paid out of the McDowell county treasury in twelve equal monthly installments.
AN ACT to amend and reenact sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, relating to the jurisdiction of the intermediate court of Mercer county and the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That sections two and four, chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred sixty-four, be amended and reenacted to read as follows:

Intermediate Court of Mercer County.

Section 2. Jurisdiction concurrent with circuit court.
4. Salary of judge; payment thereof.

Section 2. Jurisdiction Concurrent with Circuit Court.—The said court, which is the same court originally established by chapter eighteen, acts of the Legislature, regular session, one thousand eight hundred ninety-three, but with its name and jurisdiction changed as in this act provided, shall continue to have jurisdiction within the county of Mercer, concurrent with the circuit court of said county, of all felonies, misdemeanors and offenses committed or which may be committed within the said county of Mercer, and shall also have concurrent with the circuit court of said county, jurisdiction, supervision and control by appeal, mandamus, prohibition and certiorari of all proceedings before justices of the peace of said county or the police court, mayor or other constituted tribunal, board or commission of any city, town or village in said county. The said court shall likewise have jurisdiction within said county of Mercer, concurrent with the circuit court of said county, of all suits and proceedings in equity, in all actions of ejectment, and in all civil actions or proceedings
at law, except where it shall appear from the pleadings
that the matter or thing in controversy in any such suit,
proceeding or action, exclusive of interest and costs,
exceeds in value the sum of ten thousand dollars, and
all summary proceedings at law and any other manner
of action or proceeding at law authorized by the general
laws of West Virginia, as well as of appeals from judg-
ments of the justices of said county when such appeals
shall lie to the said court in the same manner and under
the same regulations as provided in the general laws
for appeals from justices. The said court shall likewise
have jurisdiction within said county of Mercer, con-
current with the circuit court of said county, of suits for
divorce, annulment of marriage and separate mainte-
nance, of bastardy proceedings and actions for mainte-
nance of illegitimate children as provided by the general
laws of West Virginia, and the said court shall continue
to have jurisdiction within said county of proceedings
for adoption and all juvenile and other matters of which
the aforesaid criminal court of Mercer county was given
jurisdiction by the general laws of West Virginia or of
which the court hereby established may be given juris-
diction by such general laws.

Sec. 4. Salary of Judge; Payment Thereof.—The judge
of said intermediate court shall receive for his services
the sum of thirteen thousand five hundred dollars per
annum to be paid out of the county treasury of said
county of Mercer.

CHAPTER 175

(House Bill No. 919—By Mr. Varney and Mr. Simpkins)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to authorize and empower the county court of Mingo
county to establish a county coordinating council.
Be it enacted by the Legislature of West Virginia:

Mingo County Coordinating Council.

Section

1. County court authorized to establish.
2. Purpose.
3. Council in advisory capacity only.
4. County clerk to be secretary to council; duties of clerk.
5. Compensation of county clerk.

Section 1. County Court Authorized to Establish.—The county court of Mingo county is hereby authorized and empowered to establish a county coordinating council for the purpose of coordinating county improvement programs with state and federal programs designed for this purpose.

Sec. 2. Purpose.—The purpose for which this council is created is to better enable the county court to take advantage of federal and state programs designed to improve local services.

Sec. 3. Council in Advisory Capacity Only.—The council hereby created shall gather necessary facts and data and formulate needed local programs. The council shall submit the foregoing facts, data and plans to the county court for its guidance. The council shall act only in an advisory capacity.

Sec. 4. County Clerk to Be Secretary to Council; Duties of Clerk.—The county clerk is hereby designated the secretary of the council. The clerk shall attend all meetings of the council. He shall keep record of all proceedings and shall transmit a copy of all such proceedings to the county court. The clerk shall also perform such other reasonable duties as may be required of him by the council.

Sec. 5. Compensation of County Clerk.—By reason of additional duties imposed under the provisions of this bill the annual compensation of the county clerk shall on and after the first day of July, one thousand nine hundred sixty-five, be in the amount of seven thousand two hundred dollars, which sum shall include the fee in the preparation of the financial statement of the county.
CHAPTER 176
(House Bill No. 920—By Mr. Varney and Mr. Simpkins)

[Passed March 12, 1965: in effect July 1, 1965. Approved by the Governor.]

AN ACT to authorize and empower the county court of Mingo county to establish a Mingo county law library.

Be it enacted by the Legislature of West Virginia:

Mingo County Law Library.

Section 1. Created; Control and Management.—There is hereby created the Mingo county law library which shall be wholly under the control and management of the circuit clerk of Mingo county, under rules and regulations promulgated by the judge of the twenty-fourth judicial circuit.

Sec. 2. Mingo County Court Authorized to Expend Funds.—The county court of Mingo county is hereby authorized to and may expend funds for the purchase of books or other expense necessary to the purpose of this act.

Sec. 3. Compensation of Circuit Clerk.—By reason of additional duties imposed under the provisions of this act the annual compensation of the circuit clerk shall on and after the first day of July, one thousand nine hundred sixty-five, be in the amount of seven thousand two hundred dollars.

CHAPTER 177
(House Bill No. 602—By Mr. Hovermale)

[Passed February 19, 1965: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand
nine hundred twenty-nine, empowering the county court of Morgan county to appropriate and contribute county funds toward the support and maintenance of the "Morgan County Library," located on state property at Berkeley Springs in the county of Morgan.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred sixty-three, acts of the Legislature, regular session, one thousand nine hundred twenty-nine, be amended and reenacted to read as follows:

Morgan County Library.

Section 1. Morgan county court authorized to contribute county funds for support and maintenance of library.

Section 1. Morgan County Court Authorized to Contribute County Funds for Support and Maintenance of Library.—The county court of Morgan county, West Virginia, as an aid to education in said county, is hereby authorized and empowered to appropriate and pay out of the general county fund, a sum not to exceed one thousand dollars annually toward the support and maintenance of the Morgan county library, located at Berkeley Springs in said county.

CHAPTER 178

(House Bill No. 737—By Mr. Duscil)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the board of commissioners of the county of Ohio to transfer a certain parcel of land owned by the county of Ohio to the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Board of Commissioners of Ohio County.

Section 1. Authorized to transfer certain real property to the state of West Virginia.
Section 1. Authorized to Transfer Certain Real Property to the State of West Virginia.—The board of commissioners of the county of Ohio is hereby authorized and empowered to sell and transfer to the state of West Virginia, a certain tract or parcel of land owned by the county of Ohio, located on Roney's Point in Triadelphia district of said county, commonly known as the Ohio county sanitarium, being approximately three hundred seventy-six acres: Provided, That the conveyance and transfer be conditioned upon an agreement with the state that the said property will be used for mental health purposes by the establishment of a comprehensive community mental center: And provided further, That the instrument conveying and transferring the property contain therein a provision that unless the property is used for the purposes set forth above, it shall revert to the board of commissioners of the county of Ohio.

CHAPTER 179

(House Bill No. 949—By Mr. Seabright)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, as last amended by chapter one hundred ninety-four, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, 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 for the construction, equipment and maintenance of any county building.

Be it enacted by the Legislature of West Virginia:

That chapter two hundred, acts of the Legislature, regular session, one thousand nine hundred fifty-five, as last amended
and reenacted by chapter one hundred ninety-four, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, be amended and reenacted to read as follows:

Ohio County

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.

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-six, 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 nine-tenths cents on each one hundred dollars' assessed valuation on class I property; nine and eight-tenths cents on class II property, and nineteen and six-tenths cents on classes III and IV property. The proceeds of said levy shall be placed in a separate fund designated "public improvement fund," to be used solely for the construction, equipment, and maintenance of an airport, and for the construction, equipment and maintenance of any county building.

Sec. 2. Inconsistent Acts Repealed.—All acts and parts of acts inconsistent or in conflict herewith, insofar as the same may be applicable to the county of Ohio, or the said board of commissioners of the county of Ohio, are hereby repealed.
AN ACT to amend and reenact section nine, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred sixty, relating to the salary of the judge of the intermediate court of Ohio county.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred twenty, acts of the Legislature, regular session, one thousand nine hundred twenty-five, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred sixty, be amended and reenacted to read as follows:

Intermediate Court of Ohio County.

Section 9. Salary of judge.

Section 9. Salary of Judge.—The said judge shall, from and after the first day of January, one thousand nine hundred sixty-seven, for his services receive fifteen thousand dollars per annum, to be paid out of the county treasury of said county of Ohio. For the remainder of the current term, the judge shall receive twelve thousand dollars per annum for his services, payable as hereinbefore provided.

CHAPTER 181

(Senate Bill No. 291—By Mr. Knapp and Mr. Taylor, of Mason)

[Passed March 12, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT authorizing the county court of Putnam county to create a special airport fund, to be known as the “Putnam
County Airport Fund," to be used for acquiring, constructing, maintaining and operating an airport in the county of Putnam; to transfer into the special fund so created from year to year funds raised by levy and unexpended funds or surpluses from the county general fund; and to accept grants, gifts, donations and financial assistance from governmental agencies, persons, firms and corporations.

Be it enacted by the Legislature of West Virginia:

Putnam County Airport Fund.

Section 1. County Court Authorized to Create Special Airport Fund.—The county court of Putnam county is hereby authorized to create and establish a special airport fund, to be known as the "Putnam County Airport Fund," to be used for establishing, maintaining and operating an airport within the county of Putnam.

The said county court is authorized and empowered to transfer into said special fund from year to year funds raised by levy and such amounts as it shall deem proper from unexpended or surpluses from the county general fund. It is also authorized to accept grants, gifts, donations and financial assistance made to said fund or airport established from the state of West Virginia, the United States government, or any person, firm or corporation.

Sec. 2. Expenditure of Special Fund Authorized.—The county court of Putnam county is authorized and empowered to expend such part or all of the special fund from time to time for the purposes of acquiring, construction, maintenance, improving and operation of an airport.

CHAPTER 182

(House Bill No. 947—By Mr. Buck)

[Passed March 12, 1965; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the board of education of the county of Tyler, West Virginia, to transfer a certain
Be it enacted by the Legislature of West Virginia:

Tyler County Board of Education.

Section 1. The board of education of the county of Tyler authorized to transfer a certain parcel of its real property to the Friendly community activities association, inc.

Section 1. The Board of Education of the County of Tyler Authorized to Transfer a Certain Parcel of its Real Property to the Friendly Community Activities Association, Inc.—Inasmuch as the Parent-Teacher Association of the Friendly school at Friendly, Union district, Tyler county, West Virginia, caused to be erected at the expense of said association a gymnasium building upon real property owned by the board of education of the county of Tyler, West Virginia, with the consent and understanding of said board of education that the said building would be used for both public school functions and community functions and there has been formed the Friendly community activities association, inc., a non-profit, public benefit corporation, which has among its declared purposes the power to hold title to real property to be used for community and other public purposes, and both the said board of education and the said parent-teacher association are desirous of transferring and conveying the real property upon which said gymnasium building is situate to the said Friendly community activities association, inc., to be used for community activities, for public education uses and other public purposes, the board of education of the county of Tyler, state of West Virginia, is hereby authorized and empowered to convey and transfer to the Friendly community activities association, inc., a nonprofit, public benefit corporation, of Friendly, West Virginia, to be used for community activities, public education and other public purposes, a certain tract or parcel of real estate, together with all improvements thereon, and rights and appurtenances thereunto belonging, situate in the town of Friendly, Union district, Tyler county, West Virginia, and bounded and described as follows, to wit: Beginning at a point in the
Wayne County Health Center

Ch. 183

(Resolved by the Governor.)

Be it enacted by the Legislature of West Virginia:

Wayne County Health Center and Clinic.

Section 1. County court authorized to create special fund for a health center and clinic.
Section 1. County Court Authorized to Create Special Fund for a Health Center and Clinic.—The county court of Wayne county is hereby authorized and empowered to use any unexpended sums and surpluses, presently or hereafter existing, in the general fund or in any special fund of said county, for the purpose of creating a special fund for the purchase of land for a health center and medical clinic in Wayne county and for the construction, maintenance and equipping of such health center and medical clinic.

CHAPTER 184

(House Bill No. 855—By Mr. Nicely and Mr. Knotts)

[Passed March 1, 1965; in effect July 1, 1965. Approved by the Governor.]

AN ACT to amend and reenact sections two and five, chapter one hundred ninety-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, relating to the jurisdiction of the intermediate court of Wood county and the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That sections two and five, chapter one hundred ninety-nine, acts of the Legislature, regular session, one thousand nine hundred fifty-nine, be amended and reenacted to read as follows:

Intermediate Court of Wood County.

Section 2. Jurisdiction.—The court shall have jurisdiction within Wood county, concurrent with the circuit court of said county, of actions, causes, matters, proceedings and suits relating to (a) those matters within the purview of chapter forty-eight, article one of the official code of West Virginia, and of all amendments and reenactments thereof, of which the circuit court now has
exclusive jurisdiction, including the issuance of a marriage license in an emergency or under extraordinary circumstances as now provided in section six-c of said chapter and article; (b) 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; (c) adoption proceedings arising out of article four of the chapter last aforesaid, and of all amendments and reenactments thereof; (d) proceedings for a change of name arising out of article five of the chapter last aforesaid, and of all amendments and reenactments thereof; (e) the enforcement of support of dependents arising out of article nine of the chapter last aforesaid, and of all amendments and reenactments thereof; (f) the care and disposition of delinquent, defective, neglected and dependent children and juvenile offenders arising out of chapter forty-nine, articles five, six, and seven of the official code of West Virginia, and of all amendments and reenactments thereof; (g) all proceedings arising out of chapter forty-nine, article eight of the official code of West Virginia, known as the "Interstate Compact on Juveniles," and of all amendments and reenactments thereof; (h) compulsory school attendance and truancy arising out of chapter eighteen, article eight of the official code of West Virginia, and of all amendments and reenactments thereof; (i) habeas corpus proceedings involving the award and custody of children under the age of twenty-one years; (j) the collection of recognizances and bonds taken by said court, or of bonds taken by the clerk thereof in vacation, to secure the payment of judgments for fines and costs rendered by said court; (k) the approval of the compromising of infants' claims for damages in accordance with the provisions of chapter forty-four, article ten, section fourteen of the official code of West Virginia, and all amendments and reenactments thereof; (l) the approval of the sale,
lease, mortgage or deeding in trust of infants' lands in
accordance with the provisions of chapter thirty-seven,
article one of the official code of West Virginia, and all
amendments and reenactments thereof; and (m) any and
all other matters arising under the present and future
laws of the state of West Virginia, common or statutory,
incidental to the foregoing, including, but not limited to,
the disposition of property and property interests in-
volved in any such matters, and, as well, the adjudication
of any and all rights, titles and interests necessary or
incidental to a full determination of all such matters
pending in said court.

Said court shall have general equity jurisdiction in
actions, causes, matters, proceedings and suits before it
within its jurisdiction with power to grant injunctions
and to require and take recognizances.

The proceedings, modes of procedures, power and juris-
diction conferred by law upon the circuit court of Wood
county in any and all said actions, causes, matters, pro-
ceedings and suits, are hereby conferred upon and shall
be exercised by said court.

The judge of said court shall have the same powers in
vacation as to any and all of said actions, causes, matters,
proceedings and suits that are conferred upon the judge
of the circuit court of said county.

It shall not be necessary in any such actions, causes,
matters, proceedings or suits to set forth upon the record
the facts authorizing said court to take jurisdiction there-
of, but jurisdiction shall be presumed unless the contrary
plainly appears from the record.

Sec. 5. Salary of Judge.—The judge of said court shall,
for his services, receive the sum of twelve thousand dollars
per annum, payable monthly in installments, beginning on
the first day of July, one thousand nine hundred sixty-
five, which amount shall be provided for and paid by
the county court, out of the treasury of Wood county,
which provision as to salary shall not repeal the existing
provision until the said first day of July, one thousand
nine hundred sixty-five. The county court shall annually
make provision by appropriate levy and appropriation for
the payment of said salary.
HOUSE CONCURRENT RESOLUTION NO. 6
(By Mr. Steptoe and Mr. Slonaker)
[Adopted March 8, 1965.]

Requesting the Congress of the United States to investigate experimentation in the field of artificial nucleation, or interference by artificial means with the natural precipitation of rain, hail, snow, moisture, or water in any form in the atmosphere.

WHEREAS, Experimentation in the field of interference by artificial means with natural precipitation is being conducted in several states, including the State of West Virginia; and

WHEREAS, The public interest, health, safety and welfare require that the effects of such experimentation be analyzed and evaluated by competent scientific investigation; and

WHEREAS, Evaluation of the gain or loss occurring from such activities is in the national interest as well as in the interest of the people of the State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:
That the Congress of the United States investigate experimentation in the field of artificial nucleation, or interference by artificial means with the natural precipitation of rain, hail, snow, moisture, or water in any form in the atmosphere; and, be it

Further Resolved, That the Clerk of the House of Delegates 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.
Expressing sadness on the death of Sir Winston Churchill.

WHEREAS, On Sunday morning January 24, 1965, death ended the mortal journey of Sir Winston Churchill, the great and extraordinary man of the Century; and

WHEREAS, By action of this Legislature and by the Congress, Sir Winston was an honorary citizen of the State of West Virginia and of the United States; and

WHEREAS, This grand titanic figure belonged to the World; had throughout his long and eventful life led the British Empire in peace and war, and inspired the World with his brilliance and courage; valiantly lent his strength and wisdom to the betterment of humanity and unceasingly strove for world peace; and was eternally the champion of liberty and the challenger of tyranny; and

WHEREAS, Realizing that no encomiums we may express can adequately describe the works and life of this child of history, or enrich his name and magnificent career, and that what he said and what he did will never die; therefore, be it

Resolved by the Legislature of West Virginia:

That the members of the 57th Legislature of West Virginia do hereby express their genuine sadness on the passing of this great leader of the Free World, courageous, tolerant and humanitarian statesman, who was in fact the captain of all freedom-loving men; and that we further acknowledge our gratitude for a life so fully lived.
study of applicable and appropriate conflict of interest legislation for the State of West Virginia and to make recommendations with respect thereto, and to provide for a report thereon to the Legislature.

WHEREAS, Governor Hulett C. Smith has appointed a Task Force, consisting of outstanding West Virginia citizens, to investigate and recommend appropriate conflict of interest legislation applicable to the employees and officials of the State of West Virginia in the discharge of their official duties; and

WHEREAS, Pending a report of said Task Force, Governor Hulett C. Smith, by executive order No. 1, set a certain code of conduct for all executive appointees in regard to conflict of interest in the performance of their official duties; and

WHEREAS, Said Task Force has subsequently recommended to His Excellency, the Governor, that the Legislature of West Virginia appoint a Legislative Committee to also examine the field of conflict of interest legislation and to make recommendations pertaining thereto; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation are hereby directed to review, examine, and study appropriate and applicable conflict of interest legislation to govern the conduct of officials and employees of the State of West Virginia in the discharge of their official duties and responsibilities, and to recommend to the Legislature specific legislation for their consideration; and, be it

Further Resolved, That the said Joint Committee on Government and Finance and the Commission on Interstate Cooperation report their findings and recommendations to the said Legislature on the first day of the regular session, 1966, and that the expenses necessary to make such study, prepare such legislation, and to submit such report, be paid from the legislative appropriations, made to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.
HOUSE CONCURRENT RESOLUTION NO. 26
(Originating in the House Committee on the Judiciary)
[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance to make a study of the Uniform Fiduciaries' Powers Act and to make recommendations with respect thereto and to provide for a report thereon to the Legislature.

WHEREAS, The Uniform Fiduciaries' Powers Act has been adopted by many states and authorities believe that its adoption by the State of West Virginia may be desirable; and

WHEREAS, Said Uniform Fiduciaries' Powers Act has been introduced in the House of Delegates at this regular session of the West Virginia Legislature and designated as House Bill No. 790; and

WHEREAS, The Committee on the Judiciary of this body has had an opportunity to make a superficial examination of the Uniform Fiduciaries' Powers Act but is of opinion that said act is too far reaching and has too many ramifications to be adequately considered for enactment by this session of the Legislature; and

WHEREAS, The Committee on the Judiciary of this body has recommended that the Uniform Fiduciaries' Powers Act be referred to a proper interim committee for further study and evaluation and to make recommendations to the Legislature pertaining thereto; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to review, examine and study the Uniform Fiduciaries' Powers Act and to recommend to the Legislature specific legislation with respect thereto for consideration; and, be it

Further Resolved, That said Joint Committee on Government and Finance report its findings and recommendations to the Legislature at the 1967 regular session of the Legislature and that said interim committee is hereby authorized to expend such funds as may be necessary, to defer the expenses incurred in making such study and preparation of appropriate
legislation, be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 30
(Originating in the House Committee on the Judiciary)
[Adopted March 13, 1965.]

Directing the Joint Committee on Government and Finance to study the problem of abandoned property and make recommendations for legislation governing the disposition thereof, and providing for a report to the Legislature of its findings and recommendations.

WHEREAS, It has been the experience of many jurisdictions that with each passing year there is more and more property and money accumulating in the hands of banks, insurance companies, trustees and others which remains unclaimed and presumably abandoned; and

WHEREAS, The owners or legal claimants of such property and money are unknown and unascertainable; and

WHEREAS, Existing laws relating to the escheat of property to the sovereign state does not apply to such property; and

WHEREAS, Many jurisdictions have enacted so-called abandoned property statutes, which have resulted in providing a substantial source of revenue to the State; and

WHEREAS, It is believed that such a law, with proper safeguards incorporated therein, would be beneficial to the State of West Virginia and its citizens; and

WHEREAS, Many technical and legal questions arise in considering the drafting of abandoned property legislation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to review, examine and study the problems of abandoned property and recommend appropriate legislation to govern the disposition of such property; and, be it
Further Resolved, That the said Joint Committee on Government and Finance report its findings and recommendations to the Legislature on or before the convening of its regular session in the year 1966, and that the expenses necessary to make such study, prepare such legislation, and to submit such report, be paid from the legislative appropriations, made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 33
(By Mr. Speaker, Mr. White, and Mr. Cann)
[Adopted March 13, 1965.]

To memorialize the Congress of the United States, the United States Secretary of Defense and the Panama Canal Company that Panama Canal tolls be re-examined at once with a view to a significant reduction of tolls applicable to such bulk cargoes as coal produced in West Virginia and shipped to Japan via the Panama Canal.

WHEREAS, Japan today imports annually upwards of six million net tons of American low-volatile coals, principally mined in West Virginia, shipped out of Hampton Roads, Virginia, and transported through the Panama Canal; and

WHEREAS, The Robert R. Nathan Associates report to the office of Coal Research of the United States Department of the Interior projects that Japanese use of American coking coals could easily rise to fourteen million tons by the year 1970; and

WHEREAS, Japanese steel company users have given a serious warning that such massive use of superior and preferred American and West Virginia coking coals is severely threatened by high transportation costs, including Panama Canal tolls; and

WHEREAS, Already foreign sources of inferior coals represent a dangerously growing proportion of Japanese coking coal imports because of the high transportation costs, including Panama Canal tolls, applicable to West Virginia coals; and

WHEREAS, The West Virginia coking coals passing through the Panama Canal constitute the largest single category of dry-bulk cargoes passing through that canal and make up a
substantial part of the Panama Canal Company's toll revenues and the elimination of such traffic could cause fiscal disaster to the Panama Canal Company; and

WHEREAS, The St. Lawrence Seaway Authority recognizes the important distinction between bulk and general cargoes and provides for bulk cargo such as coal to move economically under a tariff approximately one half of the tariff applicable to general cargo; and

WHEREAS, The welfare of the citizens of West Virginia engaged in the production of coking coals exported to Japan would greatly suffer if, because of high transportation costs, including Panama Canal tolls, American coking coal, now an important raw material for the Japanese steel industry, is replaced by coking coals from other countries because of high transportation costs, including Panama Canal tolls, even though Japanese steel technologists greatly prefer American coking coals for the production of the coke used in their blast furnaces; and

WHEREAS, This problem also affects the welfare of the coal industry, one of our principal employers, as noted by Eastern Associated Coal Corporation, a member of that industry; and

WHEREAS, The welfare of West Virginia and the national interest of the United States with respect to its balance of payments program requires that American coking coal exports to Japan reach the highest possible levels; therefore, be it

Resolved by the Legislature of West Virginia:

That it is the sense of this Legislature that the Congress of the United States, the Secretary of Defense and the Panama Canal Company should be and hereby are memorialized to cause immediate studies to be undertaken to explore the relation of Panama Canal tolls to the volume of shipment of bulk commodities, such as West Virginia coking coal, with a view to a reduction of such dry-bulk cargo tolls in order to preserve for the American coal industry and the State of West Virginia this important market for superior coking coals and in order to prevent the replacement of American coals by admittedly inferior foreign coals bearing lower transportation costs.
HOUSE CONCURRENT RESOLUTION NO. 37
(By Mr. Cann and Mr. Boiarsky)
[Adopted March 13, 1965.]

Requesting the Joint Committee on Government and Finance to make a comprehensive study of the laws relating to the removal of abandoned, unoccupied and dilapidated buildings which are detrimental and inimical to the general welfare and the advisability of legislation which would provide for the removal of such buildings.

WHEREAS, There are in many sections of this State numerous abandoned, unoccupied, and dilapidated buildings which serve no useful economic or social purpose and which are generally deemed to be inimical or dangerous to the health, safety, morality and general welfare of the citizenry by reason of unsafe structural condition, availability to vagrants and immoral persons, susceptibility to fire and as nuisances attractive to school children; and

WHEREAS, The general welfare of this State would be better served by the removal of such abandoned, unoccupied and dilapidated buildings, by public action if necessary; and

WHEREAS, The present law is in some cases inadequate to deal with the removal of such abandoned, unoccupied and dilapidated buildings; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance make a comprehensive study of the adequacy of existing laws of West Virginia and the laws and methods of other states relating to the removal of abandoned, unoccupied and dilapidated buildings; and, be it

Further Resolved, That the Joint Committee on Government and Finance make a comprehensive study of the problem of abandoned, unoccupied and dilapidated buildings as well as the advisability of legislation dealing with such buildings; and, be it

Further Resolved, That the Committee shall make its report of its study to the Legislature on or before the convening of its regular session in the year 1966; and, be it
Further Resolved, That the expenses necessary to make such study and to submit such report be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

HOUSE CONCURRENT RESOLUTION NO. 44
(By Mr. Speaker, Mr. White, and Mr. Boiarsky)
[Adopted March 12, 1965.]

Requesting the Joint Committee on Government and Finance to make a study and recommendations on a long-range program of taxation and state revenue.

WHEREAS, For the past several years the unsettled condition of sources of state revenue resulting from placing specific expiration dates on tax statutes, and the difficulty in estimating income from certain taxes on businesses and sales have caused the Board of Public Works and the Legislature great difficulty in preparing the annual budget and making appropriations for governmental functions; and

WHEREAS, Many functions of State Government are financed through special funds and special fees which are not considered by the Legislature in the overall cost of governmental operations; and

WHEREAS, The 1965 Legislature has passed a comprehensive educational program which calls for additional future financing; and

WHEREAS, With the view of achieving a more stable and settled tax structure so as to provide better fiscal management and planning, it is believed a thorough study should be made of the State’s entire tax structure and other sources of income; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to forthwith undertake a comprehensive study of the State’s tax structure, including all sources of income to the State, for the purpose of determining what steps may be taken by the Legislature toward obtaining a more dependable, stable and reliable revenue structure for financing
normal governmental functions and to provide for advanced long-range financial planning for all functions of government, and to make recommendations with respect thereto to the 1966 regular session of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 49
(By Mr. Bedell and Mr. Boiarsky)
[Adopted March 13, 1965.]
Requesting the Joint Committee on Government and Finance to make a study of family planning and child spacing program.

WHEREAS, Bills to establish a program of family planning and child spacing within the Maternal and Child Health Division of the State Department of Health have been introduced in both Houses of the Legislature during this session; and it being obvious that at this late date no action will be taken on this proposed legislation; therefore, be it

Resolved by the Legislature of West Virginia:
That the Joint Committee on Government and Finance is hereby requested to make a study of the general subject of family planning and child spacing and report their recommendations to the regular session of the Legislature to be held in the year 1966.

HOUSE CONCURRENT RESOLUTION NO. 51
(By Mr. Speaker, Mr. White)
[Adopted March 13, 1965.]
Providing for a study of allocation of function and fields of graduate study as between state colleges and universities to be performed by a committee composed of members of the Board of Governors of West Virginia University, members of the State Board of Education, and members of the Association of Presidents of Colleges and Universities of West Virginia.

WHEREAS, Allocation of educational function and graduate fields of study present increasing budgetary and administrative
problems as between the state-supported colleges and universities of West Virginia; and

WHEREAS, There are existing governing boards of West Virginia's colleges and universities, as well as a voluntary Association of Presidents of Colleges and Universities of West Virginia; and

WHEREAS, It would appear that the members of said respective governing boards and the members of said Association of College and University Presidents of West Virginia constitute the most informed and competent group to study and make recommendations in regard to the allocation of function and fields of graduate study as between the state-supported colleges and universities of this State; therefore, be it

Resolved by the Legislature of West Virginia:

That His Excellency, the Governor of West Virginia, is requested to place before a committee consisting of the members of the Board of Governors of West Virginia University, the members of the State Board of Education, and the members of the University Presidents, the study of allocation of function of the Association of West Virginia College and University Presidents, the study of allocation of function and fields of graduate study, as between state-supported institutions of higher learning, with special emphasis upon the most efficient and economical use of all academic and staff facilities available at all said educational institutions; and, be it

Further Resolved, That the Governor further request said select committee to report its findings and recommendations resulting from such study to him on or before December 20th, 1965, so that he may consider including any suggested legislation required to implement same in his Proclamation and Call for the 1966 Budget Session of this Legislature.

HOUSE CONCURRENT RESOLUTION NO. 52
(By Mr. Watson)
[Adopted March 13, 1965.]

Continuing studies by the Joint Committee on Government and Finance.
WHEREAS, Certain studies have been referred to the Joint Committee on Government and Finance by the 55th and 56th Legislatures which have not been completed; therefore, be it

Resolved by the Legislature of West Virginia:

That the subjects heretofore committed to the Joint Committee on Government and Finance for study and recommendation are hereby recommitted with the request that they be further studied, and reports thereon made to the next regular session of the Legislature.

HOUSE JOINT RESOLUTION NO. 9
(By Mr. Boiarsky)
[Adopted March 10, 1965.]

Proposing an amendment to the Constitution of the State of West Virginia, repealing section fifty-one, article six, and amending section fifteen, article seven thereof, relating to the Governor's budget estimate.

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-six, which proposed amendment is as follows:

That section fifty-one, article six of the Constitution of the State be repealed, and that section fifteen, article seven be amended to read as follows:

Article VII. Executive Department.

Section 15. Budget System.—The Governor shall submit to the Legislature, in such form and at such time as shall be designated by the Legislature, a budget estimate for the next fiscal year, setting forth all proposed expenditures and anticipated revenues of all departments and agencies of the State, a budget bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues, if any.
The Legislature shall not amend the budget bill so as to create a deficit. The budget bill, when and as passed by both Houses, shall be a law immediately without further action by the Governor. Any appropriation bill, other than the budget bill, shall, before it becomes a law, be presented to the Governor; if he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval with his reasons therefor to the House in which the bill originated; but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a majority of each House according to the rules and limitations prescribed in the preceding section in reference to other bills.

HOUSE JOINT RESOLUTION NO. 14
(By Mr. Armistead)
[Adopted March 12, 1965.)

Proposing an amendment to the Constitution of the State, amending section two, article fourteen thereof, relating to making 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 the State of West Virginia shall be submitted to the voters at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That section two, article fourteen of the Constitution of the State of West Virginia be amended so as to read as follows:

Article XIV. Amendments.

Section 2. Any amendment to the Constitution of the State may be proposed in either House of the Legislature at any regular or extraordinary session thereof; 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 a special election, or 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 Constitution 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. The Legislature may provide by law for the submission of all such amendments on a single ballot whereon each amendment shall be listed separately and distinctly so as to provide a clear choice of ratification or rejection with respect to each proposal. Any ballot submitting proposed constitutional change shall include no other type of question or issue.

HOUSE JOINT RESOLUTION NO. 17
(By Mr. Speaker, Mr. White)
[Adopted March 13, 1965.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article seven thereof, relating to the eligibility of the Governor to serve.

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-six, which proposed amendment is as follows:

That section four, article seven of the Constitution of the State of West Virginia be amended so as to read as follows:
Article VII. Executive Department.

Section 4. Eligibility.—None of the executive officers mentioned in this article shall hold any other office during the term of his service. A person who has been elected or has served as Governor during all or any part of two consecutive terms, shall be ineligible for the office of Governor during any part of the term immediately following the second of the two consecutive terms.

SENATE CONCURRENT RESOLUTION NO. 4
(By Mr. Moreland and Mr. Carrigan)
[Adopted March 9, 1965.]

Requesting the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to prepare a recodification of the laws of West Virginia relating to municipal corporations.

WHEREAS, Chapters eight and eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to municipal corporations, contain many duplications and ambiguities as well as many obsolete provisions, all of which has led to uncertainty among municipal governing bodies and attorneys as to whether, in the exercise of municipal powers, they are governed by chapter eight, chapter eight-a, or by special charter; and

WHEREAS, A need has arisen for consolidating chapters eight and eight-a to eliminate inconsistencies and contradictions, and which consolidation likely will reduce litigation involving municipalities; and

WHEREAS, It has become increasingly difficult for the members of this Legislature to determine the effect of proposed legislation relating to municipal corporations because of the uncertainty of the meaning and effect of much of the existing law; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance and the Commission on Interstate Cooperation be hereby requested
to prepare a recodification of the laws relating to municipal corporations; and, be it

Resolved further, That the joint committee request the President of The West Virginia State Bar to appoint an advisory committee of five members of said State Bar, having experience in the field of municipal law, to advise and work with the joint committee in such recodification; and, be it

Resolved further, That the proposed recodification be submitted to the regular session of the Legislature, 1967; and, be it

Resolved further, That the expenses necessary to prepare such recodification be paid from the legislative appropriations made to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.

SENATE CONCURRENT RESOLUTION NO. 9
(By Mr. Gainer)
[ Adopted March 13, 1965.]

Urging federal agencies to establish a “Wild River Area” along one or more specified state rivers and urging the U. S. Army Corps of Engineers to exclude such rivers from consideration in planning high level dams and reservoirs.

WHEREAS, A “Wild River Study” is now being made by a team of persons composed of a representative from each of the following federal agencies: Bureau of Outdoor Recreation, Forest Service, National Park Service, and Bureau of Sports Fisheries and Wildlife; and

WHEREAS, The following streams have been selected for study by this group: Cacapon, Lost River, Shavers Fork of Cheat, Dry Fork of Cheat, Blackwater, Potomac and Greenbrier Rivers; and

WHEREAS, Control and management planned by the U. S. Army Corps of Engineers and other federal agencies may cause the elimination of any or all of these streams from consideration for a “Wild River Area”; and
WHEREAS, Wild river areas are needed to provide varied recreation to tourists and the people of West Virginia; and

WHEREAS, With an exploding population and expanding development, undisturbed areas along our streams will soon be non-existent; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature urge the Federal Bureau of Outdoor Recreation and the National Recreation Advisory Council to give serious consideration to the establishment of a "Wild River Area" on one or more of the following rivers: Cacapon, Lost River, Shavers Fork of Cheat, Dry Fork of Cheat, Blackwater, Potomac and Greenbrier Rivers; and, be it

Resolved further, That the U. S. Army Corps of Engineers in planning high level dams and reservoirs exclude from consideration those rivers and streams abovementioned so that their natural characteristics and wilderness-like environment may be maintained for the enjoyment of the people of the State of West Virginia and out-of-state visitors.

SENATE CONCURRENT RESOLUTION NO. 10
(By Mr. Gainer)
(Adopted March 5, 1965.)

Opposing the construction by the U. S. Army Corps of Engineers of any high level dam and water reservoir on the South Branch of the Potomac River for the purpose of water augmentation.

WHEREAS, The U. S. Army Corps of Engineers has under consideration the construction of a high level dam and water reservoir on the South Branch of the Potomac River; and

WHEREAS, Construction of such dam will result in a fluctuating shore line, thus creating unsightly mud flats along the shore line; and

WHEREAS, Other solutions have been suggested for the drinking water problem of downstream populations, as well as problems associated with flooding; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia oppose the construction by the U. S. Army Corps of Engineers of any high level dam and water reservoir on the South Branch of the Potomac River for the purpose of water augmentation; and, be it

Resolved further, That the Clerk of the Senate transmit a copy of this resolution to the U. S. Army Corps of Engineers.

SENATE CONCURRENT RESOLUTION NO. 15
(Originating in the Senate Committee on the Judiciary)
[Adopted March 8, 1965.]

Directing the Joint Committee on Government and Finance to make a comprehensive study of the need for legislation, commonly known as an “implied consent law,” providing that persons operating motor vehicles upon the streets and highways of the State of West Virginia impliedly consent to submit to certain chemical or medical tests for the purpose of determining whether they are under the influence of alcoholic beverages; and, if such need is determined to exist, to review the implied consent statutes of other states, confer with interested persons and prepare drafts of such legislation.

WHEREAS, Traffic accidents resulting in death, personal injury and loss or damage to property continue at an alarming rate; and

WHEREAS, Experience has proved that all too often many persons involved in such accidents are under the influence of alcoholic beverages; and

WHEREAS, It is often alleged that it is difficult because of a lack of scientific evidence, to obtain convictions for driving under the influence of intoxicating liquors; and

WHEREAS, It is often contended that the present law providing for the testing of blood for the alcoholic content thereof is inadequate; and

WHEREAS, Senate Bill No. 82 and House Bill No. 537, pro-
viding for the adoption of an implied consent law, are presently pending before this session of the Legislature; and

WHEREAS, Many members of the Legislature are in sympathy with the aims and purposes of these bills but have considerable and substantial doubt concerning their specific provisions; and

WHEREAS, A review of the most recent version of the implied consent law adopted by the State of Virginia discloses it to vary materially from the provisions of said bills; and

WHEREAS, It is believed that there is a need to review carefully the implied consent statutes of the thirteen or so states which have enacted such legislation with a view to drafting a bill incorporating the most desirable features of all of these statutes; and

WHEREAS, In drafting any such proposed legislation, consideration must be given to the problem of adequate facilities and qualified personnel in some of the rural areas of the State for the taking of blood or other samples upon which such chemical or medical tests are to be performed; and

WHEREAS, Any such proposed legislation should be drafted in close cooperation with law enforcement personnel and persons in the chemical and medical professions; and

WHEREAS, Any such proposed legislation must be carefully prepared so as to incorporate the recommendations, observations and comments embodied in the opinion rendered by the Honorable C. Donald Robertson, Attorney General of the State of West Virginia, under date of January 28, 1965, with respect to the constitutionality of implied consent laws generally and of the provisions of said Senate Bill No. 82 and House Bill No. 537 specifically; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to conduct a comprehensive study of the need for an implied consent law, and, if it is determined that a need for such legislation exists, to review carefully the implied consent statutes of the other states which have enacted same, to confer with law enforcement personnel and persons in the chemical
and medical professions for their comments and recommendations and to prepare drafts of proposed legislation; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the Committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Legislature prior to the convening of its regular session, 1966; and, be it

Resolved further, That the expenses necessary to conduct such study, review such statutes, hold such conferences and prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 19
(By Mr. Carson, Mr. President)
[Adopted March 13, 1965.]

Amending and adopting Joint Rules for the Senate and House of Delegates.

Resolved by the Senate, the House of Delegates concurring therein:

That Joint Rule No. 11 of the Joint Rules of the Senate and House of Delegates be amended to read as follows:

11. Joint standing committees of the Senate and House shall be appointed as follows:

(1) Joint Committee on Enrolled Bills—To consist of five members from each House.

(2) Committee on Joint Rules—To consist of the presiding officers and two members of each House, to be appointed by the presiding officers.

(3) Such other joint committees as may be provided for by concurrent resolution. A bill or resolution referred to a joint committee may be recalled from such committee by the House in which it originated.
Memorializing the Congress of the United States to take action on the Knox Creek Dam, in Pike County, Kentucky, to assist in providing flood control in the Valley of the Tug Fork of the Big Sandy River in West Virginia.

WHEREAS, The Valley of the Tug Fork of the Big Sandy River in the State of West Virginia has recently been visited by a flood disaster, which might have been averted to a marked degree by a proper system of flood control; and

WHEREAS, The recent flood has caused damage to the extent of at least thirteen million dollars in the Valley of the Tug Fork of the Big Sandy River; and

WHEREAS, Other floods have occurred at great frequency during the past few years in said valley, resulting in damages to the extent of many millions of dollars; and

WHEREAS, The distressing conditions due to a flood tell a more powerful story than any that might be calculated in terms of the cost of a proper flood control system; and

WHEREAS, The U. S. Army Corps of Engineers recently issued a flood control report on the Big Sandy River and included therein information that the construction of the Knox Creek Dam in Pike County, Kentucky, would reduce the flood level of the Tug Fork of the Big Sandy River, and at the City of Williamson, West Virginia, the reduction would be six feet or more; and

WHEREAS, The construction of said Knox Creek Dam would avert or reduce future flood damage along the Tug Fork of the Big Sandy River in West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Congress of the United States is hereby requested to take such action as will bring about the immediate construction of the Knox Creek Dam in Pike County, Kentucky, in order to avert or lessen the consequences of another such
disaster in the Valley of the Tug Fork of the Big Sandy River; and, be it

Resolved further, That the Clerk of the Senate is instructed to send copies of this resolution to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each member of Congress from this State.

SENATE CONCURRENT RESOLUTION NO. 27
(By Mr. Carson, Mr. President)
[Adopted March 9, 1965.]

Directing the Joint Committee on Government and Finance to conduct a study of the statutes relating to publication and posting of legal notices and the costs thereof and to make recommendations with respect thereto.

WHEREAS, Due process of law and the public interest require that the public receive notice by publication or posting of many matters affecting the rights and legitimate interests of persons affected; and

WHEREAS, There are numerous statutes requiring the publication of legal notices at varying costs; and

WHEREAS, There may be many instances in which the number or length of legal publications may be eliminated or reduced within the requirements of due process and the public interest, while at the same time there may be other instances in which additional or more informative publications should be required within the requirements of due process and the public interest; and

WHEREAS, Rates paid for legal publications should be reviewed and studied to ascertain what revisions are necessary in order for such rates to be fair to the publisher and to the governmental unit or persons paying for the same; and

WHEREAS, Pursuant to Senate Concurrent Resolution No. 36 adopted by the Legislature, regular session, 1963, the Joint
Committee on Government and Finance has caused to be compiled a list of statutes of this State requiring the publication and posting of legal notices and has begun but has not completed the study necessary to make the recommendations hereinafter provided for; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to conduct, or cause to be conducted, a study of the various statutes of this State requiring the publication and posting of legal notices, with a view to determining whether there may be instances in which: (1) Such publication and posting may be eliminated within the requirements of due process and the public interest; (2) the number of times a notice is required to be published may be reduced; (3) publication and posting, not now required, should be required in the interest of due process or the public interest; (4) the number of times a notice is required to be published should be increased; (5) the forms of such notices should be shortened or otherwise altered so as to reduce the cost of publication thereof, as well as whether some forms of such notices should be lengthened or otherwise altered so as to meet the requirements of due process and the public interest; (6) the rates and charges provided to be paid for legal publications should be revised in order that they be fair to the newspaper in which they are published and to the governmental unit or such person as may be required by law to pay the cost of publication; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Legislature prior to the convening of its regular session, 1966; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.
SENATE CONCURRENT RESOLUTION NO. 30
(By Mr. Carson, Mr. President)
(Adopted March 13, 1965)

Directing the Joint Committee on Government and Finance to make a study of the state statutes providing for the regulating and licensing of various professions, occupations and businesses for the purpose of determining whether such statutes should be revised and to make a study for the purpose of determining what additional professions, occupations and businesses, if any, should be regulated and licensed by the State of West Virginia in the interest of the health and welfare of its people and to make recommendations with respect thereto.

WHEREAS, Chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, provides for the regulating and licensing of attorneys at law, physicians and surgeons, dentists and dental hygienists, pharmacists, embalmers and funeral directors, nurses, practical nurses, optometrists, accountants, veterinarians, chiropodists, architects, engineers, osteopathic physicians and surgeons, midwives, chiropractors, sanitarians, private detectives and investigators, foresters and physical therapists; and

WHEREAS, Article fourteen, chapter sixteen of said code makes it unlawful to practice or offer to practice barbering, beauty culture or manicuring within this State without first obtaining a license; and

WHEREAS, Article seven, chapter seventeen-a of said code provides for the licensing of motor car dealers and wreckers; and

WHEREAS, Bills have been introduced in this session of the Legislature to provide for the regulating and licensing of plumbing and heating contractors and journeymen, land surveyors, landscape architects, barber supplies dealers, barber supplies dealers' agents, and itinerant barber supplies agents, motor vehicles dealers and motor vehicles salesmen, and auctioneers; and

WHEREAS, Bills have been introduced in this session of the Legislature to amend and revise provisions of the law relating
to the regulating and licensing of embalmers and funeral directors, chiropodists-podiatrists, registered professional nurses and chiropractors and pharmacists; and

WHEREAS, In each odd-year session of the Legislature, the Legislature has before it a number of bills whereby various professions, occupations and businesses seek legislation providing for or revising regulatory and licensing requirements; and

WHEREAS, A study should be made for the purpose of providing the Legislature some guidelines to follow in considering an increasing number of requests for the establishment of or revisions in regulatory and licensing requirements for various professions, occupations and businesses by the State; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance make a study of the state statutes providing for the regulating and licensing of various professions, occupations and businesses for the purpose of determining whether such statutes should be revised, and make a study for the purpose of determining what additional professions, occupations and businesses, if any, should be regulated and licensed by the State of West Virginia in the interest of the health and welfare of its people, each study to be for the purpose of determining and recommending to the Legislature whether such provisions of state law should be revised and whether additional professions, occupations and businesses should be regulated and licensed in the interest of the health and welfare of the people of the State; and, be it

Resolved further, That the committee shall make its report to the Legislature not later than the 12th day of January, 1966, and shall include in its report its findings and recommendations and drafts of any proposed legislation that shall be necessary to carry the recommendations of the committee into effect; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid
from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 31
(By Mr. McCourt)
[Adopted March 13, 1965.]

Requesting and directing the Joint Committee on Government and Finance to make a study of all special revenue fund accounts of the State and to submit a report and its recommendations thereon.

WHEREAS, Over the years numerous special revenue fund accounts have been established; and

WHEREAS, There appears to be considerable idle capital in these special revenue fund accounts; and

WHEREAS, Both the legislative and the executive branches of the government have lost a measure of control over such accounts, in that only a blanket appropriation has been made of such funds, in most instances, and balances have been allowed to accumulate in sizable sums; and

WHEREAS, To accumulate balances in this manner without specific authority is not in keeping with the principles of budgeting in our government which aims at a balance of expenditures with receipts for each appropriation period and does not contemplate accumulation; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be hereby requested and directed to make a thorough study of all special revenue fund accounts and report all such accounts in existence during the current fiscal year; the balance in each of such accounts as of the end of the preceding fiscal year; the receipts and disbursements respecting each of such accounts during the current fiscal year; the balances therein as of the end of the current fiscal year; a detailed statement respecting the sources of such funds and the purposes for which sums were expended therefrom during the current fiscal year, together with its recommendation as to whether such accounts, or any
of them, should be altered, eliminated, or transferred to general revenue; and, be it

Resolved further, That the committee shall make its report to the Legislature not later than the 12th day of January, 1966, and shall include in its report its findings and recommendations and drafts of any proposed legislation that shall be necessary to carry the recommendations of the committee into effect; and, be it

Resolved further, That the expenses necessary to conduct such study and to prepare any such drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 32
(By Mr. Carson, Mr. President)
[Adopted March 13, 1965.]

Approving the plans and specifications for and the location of a new state office building as proposed by the State Office Building Commission of West Virginia, and providing that all bonds to be issued to secure funds for the construction of such office building and purchase of the lands needed therefor shall be offered at public bidding.

WHEREAS, Section seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, provides, in part, that no bonds or other obligations shall be issued or incurred by the State Office Building Commission of West Virginia, and that no contracts for the erection of any new project shall be entered into by such Commission, unless and until the plans and specifications of any new or additional project are first submitted to the Legislature for its approval; and

WHEREAS, The State Office Building Commission of West Virginia has caused to be prepared plans and specifications, and has a proposed location, for a new state office building and has requested that the Legislature review said plans, specifications and proposed location and approve same; and

WHEREAS, Under Senate Concurrent Resolution No. 25, adopted in this session of the Legislature, a committee of ten mem-
bers of the Legislature was appointed to inspect the plans and specifications, and the location, for a new state office building as proposed and submitted by the State Office Building Commission of West Virginia; and

WHEREAS, The Committee appointed under said Senate Concurrent Resolution has inspected such plans and specifications and the proposed location and has made its report to the Legislature, which report is attached to, made a part hereof, and is identified as "Legislative Committee Report on Inspection of Plans and Specifications, and Proposed Location, for a new State Office Building"; and

WHEREAS, Said legislative committee has reported that it met with the State Office Building Commission of West Virginia, that it inspected the said plans and specifications, and proposed location, for a new state office building, and that it recommends to the Legislature that such plans and specifications, and proposed location, for a new state office building be approved by the Legislature; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the recommendations of the legislative committee appointed under the provisions of Senate Concurrent Resolution No. 25, adopted in this session, be accepted, and that the plans and specifications, and the location, for a new office building as prepared, proposed and submitted by the State Office Building Commission of West Virginia be, and the same are hereby, approved by the Legislature; and, be it

Resolved further, That all bonds to be issued to secure funds for the construction of the aforesaid office building and purchase of the lands needed therefor shall be offered at public bidding.

SENATE CONCURRENT RESOLUTION NO. 33
(By Mr. Carson, Mr. President)
[Adopted March 13, 1965.]

Extending the time within which the Joint Committee on Government and Finance and the Commission on Interstate Cooperation and a special interim committee may conduct
certain studies and make the reports heretofore referred to and required of said committees and commission by the Legislature.

WHEREAS, Senate Concurrent Resolution No. 11, adopted by the Legislature in regular session, 1957, directed the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to make a thorough study of our institutions of higher education for the purpose of gathering information which will reflect the following:

(a) The present needs and costs as compared to the national average and trend;

(b) whether or not these needs are being met now; and if not,

(c) the way in which the probable future needs may be met and the cost of same;

(d) the possibility of reducing these determined costs by combining the responsibility, authority and activities of the state agencies now exercising control over the institutions; and

WHEREAS, Senate Concurrent Resolution No. 10, adopted by the Legislature in regular session, 1963, directed the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to conduct a study to determine whether a public building code for the State of West Virginia, incorporating provisions for fire safety, for the general safety and welfare of building occupants, for materials and techniques used in construction, and for any other matters deemed appropriate, would be desirable, and if so, to draft such public building code; and further directed said committee and commission to make a final report containing their conclusions and recommendations and any proposed draft of the aforementioned building code to the Legislature, prior to the convening of its regular session, 1965; and

WHEREAS, House Concurrent Resolution No. 40, adopted by the Legislature in regular session, 1964, directed the Joint Committee on Government and Finance to conduct a study of the experience of West Virginia in the use of electronic data processing equipment; to review the costs of these programs,
resultant efficiency, change in volume of work, and their effect on state employment; and

WHEREAS, House Concurrent Resolution No. 49, adopted by the Legislature in regular session, 1964, created a special interim committee to make a continuing audit of all receipts and disbursements of the Department of Commerce and the Advisory Committee Pavilion Fund pursuant to an executive order dated the 7th day of January, 1964, in connection with West Virginia's participation in the New York World's Fair; and further directed said special interim committee to make a report thereon to the Legislature not later than the first day of the regular session of the Legislature, 1965; and

WHEREAS, House Concurrent Resolution No. 20, adopted by the Legislature in regular session, 1963, created a special interim committee to make a comprehensive study of all executive and administrative offices, departments and instrumentalities of the state government, other than the Board of Governors of West Virginia University and Potomac State College and the West Virginia Board of Education, for the purpose of allocating their respective functions, powers and duties in such manner as to group the same according to major practices so far as practicable to assure the most economical and efficient operation of state government and to provide the maximum efficiency, economy and fidelity in the operation of government; and further directed said special interim committee to report its findings and recommendations, together with drafts of any proposed legislation, to the Legislature not later than the second week after the convening of its regular session, 1965; and

WHEREAS, It appears from some of the reports of the aforementioned committees and commission that the hereinbefore described studies have not been completed; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the aforesaid studies be continued by the Joint Committee on Government and Finance or jointly by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation or by the special interim committee
on West Virginia's participation in the New York World's Fair, as the case may be; and, be it

Resolved further, That the study directed to be made under the provisions of said House Concurrent Resolution No. 20 be continued by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation; and that the committee and the commission report their recommendations and findings, together with drafts of any proposed legislation, to the Legislature as hereinafter provided; and, be it

Resolved further, That all provisions of said Senate and House Concurrent Resolutions be continued in full force and effect until such time as the studies described therein have been completed; and, be it

Resolved further, That all reports, findings, drafts and recommendations required of said Joint Committee on Government and Finance, or special interim committee on West Virginia's participation in the New York World's Fair, or jointly of said Joint Committee on Government and Finance and Commission on Interstate Cooperation be made to the Legislature on or before the first day of its regular session, 1966; and, be it

Resolved further, That the expenses incurred by the Joint Committee on Government and Finance or jointly by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation to continue such studies and to prepare any drafts of legislation be paid from the legislative appropriations made to the Joint Committee on Government and Finance; and that all expenses incurred by said special interim committee to conduct the abovementioned study be paid from the legislative appropriations made to the Joint Committee on Government and Finance: Provided, That said special interim committee shall obtain the advance approval of the Joint Committee on Government and Finance before incurring any expenses whatever.

SENATE CONCURRENT RESOLUTION NO. 34
( By Mr. Martin)
[Adopted March 13, 1965.]
Extending the time within which the special interim committee studying the arrangement of the judicial circuits, the need
for a state-wide system of courts of concurrent and limited jurisdiction within said circuits, the salaries of the judges of the circuit courts and such other courts in existence or to be established may conduct such studies and make the reports required of said committee.

WHEREAS, Committee Substitute for Senate Concurrent Resolution No. 15, adopted by the Legislature in regular session, 1963, created a special interim committee to study the arrangement of the judicial circuits, the need for a state-wide system of courts of concurrent and limited jurisdiction within said circuits, and to study the salaries of the judges of the circuit courts and such other courts in existence or to be established, and to report its findings and recommendations; and

WHEREAS, All of the studies and labors of said committee have not been completed and there is a need to continue the studies directed by said resolution; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the aforesaid studies be continued by said special interim committee; and, be it

Resolved further, That all the provisions of said Committee Substitute for said Senate Concurrent Resolution No. 15 be continued in full force and effect until such time as the studies described therein have been completed; and, be it

Resolved further, That until such time said committee shall have all the authority, powers and responsibilities vested in it by said resolution; and, be it

Resolved further, That all reports, findings and recommendations of said committee be made to the Legislature on or before the first day of its regular session, 1967; and, be it

Resolved further, That all expenses incurred by said special interim committee to conduct the abovementioned studies and to make its findings, recommendations and reports, including reimbursement for expenses of the members of said committee in the amount of twenty-five dollars per diem, and mileage at the rate of ten cents per mile, shall be paid from the appropriations under Account No. 103 for joint expenses.
Proposing an amendment to the Constitution of the State of West Virginia, amending section ten, article eight thereof, relating to the judicial circuits and circuit judges.

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-six, which proposed amendment is as follows:

That section ten, article eight of the Constitution be amended to read as follows:

Article VIII—Judicial Department.

Section 10. Circuit Courts.—The State shall be divided into as many judicial circuits as the Legislature may prescribe. The judges of the circuit courts shall be elected by the qualified voters of the circuit in the manner prescribed by law and shall hold their offices for the term of eight years unless sooner removed in the manner prescribed by this Constitution. Any such judge in office when this amendment takes effect shall continue in office in the circuit in which he resides until his term shall expire, unless he is sooner removed, as aforesaid. During his continuance in office a judge of a circuit court shall reside in the circuit of which he is a judge.

The Legislature may increase or decrease the number of circuit judges in any circuit. The judicial circuits existing at the time of the adoption of this amendment shall remain as they are until changed by law. A judge of a circuit court in office at the time of any such change shall continue as a judge of the circuit in which he shall continue to reside after such change, unless his term shall expire, or unless he is sooner removed, as aforesaid.
A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals.

There shall be at least one judge for each circuit and as many more as may be necessary to transact the business of such circuit. If there be two or more judges of a circuit, the business shall be apportioned among them by the chief judge of the circuit in the manner provided by law. The judge longest in continuous service as a circuit court judge shall be chief judge of the circuit. If two or more have so served for the same period, the senior in years of these shall be chief judge: Provided, That if such judge declines to serve as chief judge, then another judge of the circuit shall be designated chief judge in accordance with the rules of that circuit. If the chief judge is temporarily disqualified or unable to serve, one of the judges of the circuit designated in accordance with the rules of that circuit shall serve temporarily in his stead.

When this amendment takes effect, each legislative court of record of limited jurisdiction then existing in the State, shall become part of the circuit court for the circuit in which it is located, and the judge thereof shall become and shall continue to be a judge of the circuit court until his then current term shall expire, unless he is sooner removed, as aforesaid: Provided, however, That until the thirty-first day of December, one thousand nine hundred seventy-six, the number of circuit judges and judges of legislative courts of record of limited jurisdiction existing at the time of the adoption of this amendment shall not be reduced.
AN ACT to amend and reenact section nine, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the determination of the meaning of terms used in the West Virginia Personal Income Tax Act.

Be it enacted by the Legislature of West Virginia:

That section nine, 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 9. Meaning of terms.

Section 9. Meaning of Terms.—Any term used in this article shall have the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is
clearly required. Any reference in this article to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, as amended, and such other provisions of the laws of the United States as relate to the determination of income for federal income tax purposes. All amendments made to the laws of the United States prior to the twenty-seventh day of November, one thousand nine hundred sixty-four, shall be given effect in determining the taxes imposed by this article for the tax period beginning the first day of January, one thousand nine hundred sixty-four, and thereafter, but no amendment to the laws of the United States made on or after the twenty-seventh day of November, one thousand nine hundred sixty-four, shall be given effect.
AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to the disposition of abandoned and unclaimed personal property; providing for the procedure to follow with respect thereto; and providing penalties.

Be it enacted by the Legislature of West Virginia:

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


Section
1. Definitions and use of terms.
2. Property held by banking or financial organizations.
3. Unclaimed funds held by life insurance corporations.
4. Deposits and refunds held by utilities.
5. Undistributed dividends and distributions of business associations.
6. Property of business associations and banking or financial organizations held in course of dissolution.
7. Property held by fiduciaries.
8. Property held by courts and public officers and agencies.
9. Miscellaneous personal property held for another person.
ABANDONED PROPERTY

Section 1. Definitions and Use of Terms.—As used in this article, unless the context otherwise requires:

(a) "Banking organization" means any bank, trust company, or a private banker engaged in business in this state, or a banking institution as defined in section one, article four, chapter thirty-one of this code.

(b) "Banking association" means any savings and loan association, building and loan association, industrial loan company, credit union, business association which issues travelers checks, or investment company, engaged in business in this state.

(c) "Holder" means any person in possession of property subject to this article belonging to another, or who is trustee in case of a trust, or is indebted to another, or who is indebted to another, or to whom property is payable, or who is entitled to the proceeds of property abandoned or escheated under the laws of this state.

(d) "Life insurance corporation" means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(e) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(f) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(g) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(h) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(i) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(j) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(k) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(l) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(m) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(n) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(o) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

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(r) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(s) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(t) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(u) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(v) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(w) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(x) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(y) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(z) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

Section 2. Display of abandoned property.—In case of a Yukon, Fraser, or other river, the corporation, or any authorized agent, shall display the abandoned property in a prominent location along the river, and shall post signs near the display location indicating the location of the display and the nature of the property.
Ch. 1] ABANDONED PROPERTY

25 (f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this article, or his legal representative.

30 (g) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity; but shall not include any retirement system supported entirely or in part by the state of West Virginia.

37 (h) "Utility" means any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Sec. 2. Property Held by Banking or Financial Organizations.--The following property held or owing by a banking or financial organization is presumed abandoned:

(a) Any demand, savings or matured time deposit made in this state with a banking organization, together with any interest or dividend thereon, excluding any charges which may lawfully be withheld, if the owner has not within the immediately preceding fifteen years increased or decreased the amount of the deposit: Provided, That notwithstanding the fact that there has been no increase or decrease in the amount of the deposit within said fifteen-year period, there shall be no presumption of abandonment if the owner has within the immediately preceding year:

(1) Presented the passbook or other similar evidence of deposit for the crediting of interest; or
(2) Corresponded in writing with the banking organization concerning the deposit; or
(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

In any case where the owner has taken any of the actions specified in (1), (2) or (3) of this subsection (a),
there shall thereafter be no presumption of abandonment
unless and until another fifteen years have passed without
any increase or decrease in the amount of the deposit and
without any of such actions having been taken in the last
year of such further fifteen-year period.

(b) Any funds paid in this state toward the purchase
of shares or other interest in a financial organization
or any deposit made therewith in this state, and any
interest or dividends thereon, excluding any charges
that may lawfully be withheld, if the owner has not
within the immediately preceding fifteen years increased
or decreased the amount of the funds or deposit: Provided,
however, That notwithstanding the fact that there has
been no increase or decrease in the amount of the funds
or deposit within said fifteen-year period, there shall be
no presumption of abandonment if the owner has within
the immediately preceding year:

(1) Presented an appropriate record for the crediting
of interest or dividends; or

(2) Corresponded in writing with the financial organ-
ization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or
deposit as evidenced by a memorandum on file with the
financial organization.

In any case where the owner has taken any of the
actions specified in (1), (2) or (3) of this subsection
(b), there shall thereafter be no presumption of abandon-
ment unless and until another fifteen years have passed
without any increase or decrease in the amount of the
funds or deposit and without any of such actions having
been taken in the last year of such further fifteen-year
period.

(c) Any sum payable on any check certified in this
state or on any written instrument issued in this state
on which a banking or financial organization is directly
liable, including, by way of illustration but not of limita-
tion, a certificate of deposit, draft, and traveler's check,
that has been outstanding for more than fifteen years
from the date it was payable, or from the date of its
issuance if payable on demand, unless the owner has
within the preceding year corresponded in writing with
the banking or financial organization concerning it, or
otherwise indicated an interest as evidenced by a
memorandum on file with the banking or financial
organization.

(d) Any funds or other personal property, tangible
or intangible, removed from a safe-deposit box or any
other safekeeping repository in this state on which the
lease or rental period has expired due to nonpayment
of rental charges or other reason, or any surplus amounts
arising from the sale thereof pursuant to law, that have
been unclaimed by the owner for more than fifteen years
from the date on which the lease or rental period expired.

Sec. 3. Unclaimed Funds Held by Life Insurance
Corporations.—(a) Unclaimed funds, as defined in this
section, held and owing by a life insurance corporation
shall be presumed abandoned if the last known address,
according to the records of the corporation, of the person
entitled to the funds is within this state. If a person
other than the insured or annuitant is entitled to the
funds and no address of such person is known to the
corporation or if it is not definite and certain from the
records of the corporation what person is entitled to
the funds, it is presumed that the last known address
of the person entitled to the funds is the same as the
last known address of the insured or annuitant according
to the records of the corporation.

(b) “Unclaimed funds,” as used in this section, means
all moneys held and owing by any life insurance corpo-
ration unclaimed and unpaid for more than seven years
after the moneys became due and payable as established
from the records of the corporation under any life or
endowment insurance policy or annuity contract which
has matured or terminated. A life insurance policy not
matured by actual proof of the death of the insured is
deemed to be matured and the proceeds thereof are
deemed to be due and payable if such policy was in
force when the insured attained the limiting age under
the mortality table on which the reserve is based, unless
the person appearing entitled thereto has within the
preceding seven years, (1) assigned, readjusted, or paid
premiums on the policy, or subjected the policy to loan,
or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 4. Deposits and Refunds Held by Utilities.—The following funds held or owing by any utility are presumed abandoned:

(a) Any deposit made subsequent to one thousand nine hundred fifty-seven by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five years after the termination of the services for which the deposit or advance payment was made.

(b) Any sum which a utility has been ordered to refund and which was received subsequent to one thousand nine hundred fifty-seven for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five years after the date it became payable in accordance with the final determination or order providing for the refund.

Sec. 5. Undistributed Dividends and Distributions of Business Associations.—Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within five years after the date prescribed for payment or delivery, is presumed abandoned if:

(a) It is held or owing by a business association organized under the laws of or created in this state; or

(b) It is held or owing by a business association doing
business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

Sec. 6. Property of Business Associations and Banking or Financial Organizations Held in Course of Dissolution.—All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within one year after the date for final distribution, is presumed abandoned.

Sec. 7. Property Held by Fiduciaries.—All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within five years after the final date for distribution of such property and the cessation of all active fiduciary duties as required by law or the instrument under which the fiduciary is acting, increased or decreased the principal, accepted payment of principal or income, corresponded in writing with the fiduciary concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(a) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

(b) If it is held by a business association, doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(c) If it is held in this state by any other person.

Sec. 8. Property Held by Courts and Public Officers and Agencies.—(a) All intangible personal property held for the owner by any state or federal court, public corporation, public authority, or public officer in this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than five years is pre-
sumed abandoned: Provided, however, That this provision shall in no way affect such property in the custody or control of any state or federal court in any pending action: And provided further, That if any federal statute provides for the distribution of any unclaimed property subject to the jurisdiction of a federal court, this statute shall not apply.

(b) Notwithstanding the provisions of subsection (a) of this section, all intangible personal property in the custody or control of a general receiver of a state court of record appointed pursuant to the provisions of article six, chapter fifty-one of this code, that has remained unclaimed by the owner for more than fifteen years is presumed abandoned: Provided, however, That any such property in the custody or control of any such general receiver in which there is any contingent remainder interest, or any vested remainder interest which is subject to open to let in persons not yet in being or to open to let in members of any class, or any executory interest, or executory devise interest, or any base, qualified, conditional, or limited fee estate or interest, or any other qualified, conditional, limited or determinable estate or interest, shall not be presumed abandoned until such property has remained unclaimed for more than fifteen years after such estate or interest has vested or any such class has closed and the persons entitled to such property have been determined.

Sec. 9. Miscellaneous Personal Property Held for Another Person.—All intangible personal property not otherwise covered by this article, including any income or increment thereon and after deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned: Provided, however, That this section shall not apply to such property held or owing by a utility prior to one thousand nine hundred fifty-seven.

Sec. 10. Reciprocity for Property Presumed Abandoned or Escheated under the Laws of Another State.—If specific
property which is subject to the provisions of sections
two, five, six, seven and nine is held for or owed or
distributable to an owner whose last known address is
in another state by a holder who is subject to the juris-
diction of that state, the specific property is not presumed
abandoned in this state and subject to this article if:
(a) It may be claimed as abandoned or escheated
under the laws of such other state; and
(b) The laws of such other state make reciprocal pro-
vision that similar specific property is not presumed
abandoned or escheatable by such other state when held
for or owed or distributable to an owner whose last
known address is within this state by a holder who is
subject to the jurisdiction of this state.

Sec. 11. Report of Abandoned Property.—(a) Every
person holding funds or other property, tangible or intan-
gible, presumed abandoned under this article shall report
to the state treasurer with respect to the property as
hereinafter provided.
(b) The report shall be verified and shall include:
(1) The name, if known, and last known address, if
any, of each person appearing from the records of the
holder to be the owner of any property of the value of
fifty dollars or more presumed abandoned under this
article;
(2) In case of unclaimed funds of life insurance
corporations, the full name of the insured or annuitant
and his last known address according to the life insur-
ance corporation's records;
(3) The nature and identifying number, if any, or
description of the property and the amount appearing
from the records to be due, except that items of value
under fifty dollars each may be reported in aggregate;
(4) The date when the property became payable,
demandable, or returnable, and the date of the last trans-
action with the owner with respect to the property;
and
(5) Other information which the state treasurer pre-
scribes by rule as necessary for the administration of this
article.
(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November first of each year as of June thirtieth next preceding, but the report of life insurance corporations shall be filed before May first of each year as of December thirty-first next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this article knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, attempt to communicate with the owner so that the owner may take necessary steps to prevent abandonment from being presumed. A notice from the holder to the owner sent to the owner's last known address by United States mail, postage prepaid, shall satisfy the requirements of this subsection (e).

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(g) The initial report filed under this article shall include all items of property which, under the provisions hereof, would have been presumed abandoned on the effective date of this article had this article been in effect on July one, one thousand nine hundred fifty-two.

Sec. 12. Notice and Publication of Lists of Abandoned Property.—(a) Within one hundred twenty days from the filing of the report required by section eleven, the state treasurer shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address
is listed or if the address is outside this state, the notice
shall be published in the county in which the holder of
the abandoned property has his principal place of busi-
ness within this state.
(b) The published notice shall be entitled “Notice of
Names of Persons Appearing to Be Owners of Abandoned
Property,” and shall contain:
(1) The names in alphabetical order and last known
addresses, if any, of persons listed in the report and enti-
tled to notice within the county as hereinbefore specified.
(2) A statement that information concerning the
amount or description of the property and the name and
address of the holder may be obtained by any persons
possessing an interest in the property by addressing an
inquiry to the state treasurer.
(3) A statement that if proof of claim is not presented
by the owner to the holder and if the owner's right to
receive the property is not established to the holder's
satisfaction within sixty-five days from the date of the
second published notice, the abandoned property shall be
placed in the custody of the state treasurer, to whom all
further claims must thereafter be directed.
(c) The state treasurer is not required to publish in
such notice any item of less than fifty dollars unless he
deems such publication to be in the public interest.
(d) Within ten days after the first publication of the
notice required by subsection (a) of this section, the state
treasurer shall mail a notice to each person having an
address listed therein who appears to be entitled to prop-
erty of the value of fifty dollars or more presumed aban-
don under this article.
(e) The mailed notice shall contain:
(1) A statement that, according to a report filed with
the state treasurer, property is being held to which the
addressee appears entitled.
(2) The name and address of the person holding the
property and any necessary information regarding changes
of name and address of the holder.
(3) A statement that, if satisfactory proof of claim
is not presented by the owner to the holder by the date
specified in the published notice, the property will be
placed in the custody of the state treasurer, to whom all
further claims must be directed.

(f) Within five days after the date specified in the
published notice, the state treasurer shall mail to each
holder a notice specifying the date on which the holder's
payment or delivery of abandoned property is due to the
state treasurer.

Sec. 13. Payment or Delivery of Abandoned Property.
—Every person who has filed a report as provided by
section eleven shall within twenty-five days after the
time specified in section twelve for claiming the property
from the holder pay or deliver to the state treasurer all
abandoned property specified in the report, except that,
if the owner establishes his right to receive the abandoned
property to the satisfaction of the holder within the
time specified in section twelve, or if it appears that for
some other reason the presumption of abandonment is
erroneous, the holder need not pay or deliver the property,
which will no longer be presumed abandoned, to the state
treasurer, but in lieu thereof shall file a verified written
explanation of the proof of claim or of the error in the
presumption of abandonment.

Sec. 14. Relief from Liability by Payment or Delivery.
—The payment or delivery of property to the state treas-
er by any holder shall terminate any legal relationship
between the holder and the owner and shall release
and discharge such holder from any and all liability to
the owner, his heirs, personal representatives, successors
and assigns by reason of such delivery or payment, regard-
less of whether such property is in fact and in law aban-
doned property, and such delivery and payment may be
pleaded as a bar to recovery and shall be a conclusive
defense in any suit or action brought by such owner,
his heirs, personal representatives, successors and assigns,
or any claimant against the holder by reason of such
delivery or payment. The state treasurer shall reimburse
any holder who cannot be relieved of such liability by
this section for all liability to the owner, his heirs, per-
sonal representatives, successors and assigns, incurred
by reason of any such delivery or payment. The state
treasurer shall assume custody and shall be responsible for the safekeeping of any such property paid or delivered to him. Any holder who has paid moneys to the state treasurer pursuant to this article may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the state treasurer shall forthwith reimburse the holder for the payment.

Sec. 15. Income Accruing after Payment or Delivery. —When property is paid or delivered to the state treasurer under this article, the owner is not entitled to receive income or other increments accruing thereafter.

Sec. 16. Periods of Limitation Not a Bar.—The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this article or to pay or deliver abandoned property to the state treasurer.

Sec. 17. Sale of Abandoned Property.—(a) All abandoned property other than money delivered to the state treasurer under this article shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

(c) The purchaser at any sale conducted by the state treasurer pursuant to this article shall receive title to the property purchased, free from all claims of the owner
or prior holder thereof and of all persons claiming through or under them. The state treasurer shall execute all documents necessary to complete the transfer of title.

Sec. 18. Deposits of Funds; Trust and Expense Fund; Records of Deposits.—(a) All funds received under this article, including the proceeds from the sale of abandoned property under section seventeen, shall forthwith be deposited by the state treasurer in a special fund to be known as the “Trust and Expense Fund.”

(b) From said fund the state treasurer shall make prompt payment of claims duly allowed as hereinafter provided, and shall pay the necessary costs of selling abandoned property, of mailing notices, of making publications required by this article, and of paying other operating expenses and administrative expenses reasonably incurred by the treasurer in the administration and enforcement of the provisions of this article. At any time when the balance of said fund shall exceed one hundred fifty thousand dollars, the state treasurer may, and at least once every fiscal year shall, transfer to the general school fund the balance of the trust and expense fund which shall exceed one hundred fifty thousand dollars. The treasurer is authorized to draw his requisitions for such sums upon the auditor in the manner provided by law.

(c) Before making any deposit to said fund, the state treasurer shall record the name and last known address of each person appearing from the holder’s reports to be entitled to the abandoned property, and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. Such records shall be available for public inspection at all reasonable business hours.

Sec. 19. Claim for Abandoned Property Paid or Delivered.—Any person claiming an interest in any property paid or delivered to the state treasurer under this article may file a claim thereto or to the proceeds from the sale thereof on a form prescribed by the state
Sec. 20. Determination of Claims; Hearings.—(a) The state treasurer shall promptly consider any claim filed under this article, and if he is satisfied from the evidence submitted that such claim is valid, he shall immediately allow same. If he is not so satisfied, then he or an assistant designated by him in writing, shall hold a hearing, and all of the pertinent provisions of article five, chapter twenty-nine-a of this code, shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this section, except that where the property in question was located in a county within this state immediately before delivery or payment thereof to the state treasurer, the hearing shall be held in such county. Within thirty days after the filing of a claim, the state treasurer shall in writing, served in person or by registered or certified mail, notify the person making the claim that he has decided to allow the claim or that he has determined that a hearing as herein specified will be necessary. Any such hearing shall be held within thirty days after receipt of notice from the state treasurer that a hearing will be necessary, unless there is a postponement or continuance for good cause.

(b) For the purpose of any such hearing, the state treasurer shall have the power and authority to issue subpoenas and subpoenas duces tecum, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder. At any such hearing, any person claiming an interest in the property in question may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this state.
(c) After such hearing and consideration of all the testimony, evidence and record in the case, the state treasurer shall make and enter an order deciding the claim in question. Such order shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such order and accompanying findings and conclusions shall be served upon all of the parties and their attorneys of record, if any, in person or by registered or certified mail. The state treasurer shall also cause a notice to be served with the copy of such order, which notice shall advise the parties of their right to judicial review, in accordance with the provisions of section twenty-one of this article. The order of the state treasurer shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of section twenty-one of this article.

(d) The order and the accompanying findings of fact and conclusions of law shall be public records. When a claim is allowed by the state treasurer, whether with or without hearing, the same shall be paid forthwith without deduction for costs of notices or sale or for administrative charges.

Sec. 21. Judicial Review.—(a) Any party adversely affected by a final order made and entered by the state treasurer after such hearing, held in accordance with the provisions of section twenty of this article, is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like effect as if the provisions of said section four were set forth in extenso in this section, except that where the property in question was located in a county within this state immediately before delivery or payment thereof to the state treasurer, the petition shall be filed in the circuit court of such county.

(b) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.
Sec. 22. Election to Take Payment or Delivery; Destruction of Property Which Has No Obvious Commercial Value.—(a) The state treasurer, after receiving reports of property deemed abandoned pursuant to this article, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section eleven, the state treasurer shall be deemed to have elected to receive the custody of the property. (b) Any property delivered to the state treasurer pursuant to this article which has no obvious commercial value shall be retained by the state treasurer until such time as he determines to destroy or otherwise dispose of the same. If the state treasurer determines that any property delivered to him pursuant to this article has no obvious commercial value, he may at any time thereafter destroy or otherwise dispose of the same, and in that event no action or proceeding shall be brought or maintained against the state or any officer thereof or against the holder for or on account of any action taken by the state treasurer pursuant to this article with respect to said property.

Sec. 23. Examination of Records.—Whenever the state treasurer has reason to believe that a person has failed to report property which should have been reported pursuant to the provisions of this article, he may issue a subpoena duces tecum requiring such person to produce at a reasonable time at such person’s residence or principal place of business such of his books, records or papers as are reasonably necessary for the state treasurer to determine whether a report was required. Every such subpoena duces tecum shall be served at least five days before the return date thereof. Upon motion made promptly, and in any event before the time specified in a subpoena duces tecum for compliance therewith, the circuit court of the county in which such person resides or has his principal place of business, or the judge thereof
in vacation, may grant any relief with respect to such
subpoena duces tecum which such court, under the West
Virginia rules of civil procedure for trial courts of rec-
ord, could grant, and for any of the same reasons, with
respect to a subpoena duces tecum issued from such court.
In case of disobedience or neglect of any subpoena duces
tecum served on any person, the circuit court of the
county in which such person resides or has his principal
place of business, or the judge thereof in vacation, upon
application by the state treasurer, may compel obedience
by attachment proceedings for contempt as in the case
of disobedience of the requirements of a subpoena duces
tecum issued from such circuit court.

Sec. 24. Proceeding to Compel Delivery of Abandoned
Property.—If any person refuses to pay or deliver prop-
erty to the state treasurer as required under this article,
he may bring an action in the circuit court of the county
where the holder resides or has his principal place of
business to enforce such payment or delivery.

Sec. 25. Appeals from Circuit Courts.—Any person
adversely affected by the final judgment of any circuit
court under the provisions of this article may seek review
thereof by appeal to the supreme court of appeals of this
state, and jurisdiction is hereby conferred upon such
court to hear and entertain such appeals upon application
made therefor in the manner and within the time pro-
vided by law for civil appeals generally.

Sec. 26. Offenses and Penalties.—(a) Any person who
shall willfully fail to render any report required under
this article shall be guilty of a misdemeanor, and, upon
conviction thereof, shall be punished by a fine not to
exceed five hundred dollars.
(b) Any person who shall willfully refuse to pay or
deliver abandoned property to the state treasurer as
required under this article shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be punished
by a fine of not less than one hundred dollars nor more
than one thousand dollars, or by imprisonment for not
more than thirty days, or by both fine and imprisonment
in the discretion of the court.
Sec. 27. Rules and Regulations.—To carry out the provisions of this article the state treasurer may make necessary rules and regulations in accordance with the provisions of chapter twenty-nine-a of this code.

Sec. 28. Effect of Laws of Other States.—This article shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this article.

Sec. 29. Severability.—If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Sec. 30. Uniformity of Interpretation.—This article shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 31. Effective Date.—This article shall take effect on July one, one thousand nine hundred sixty-seven.

CHAPTER 2

(Com. Sub. for Senate Bill No. 32—By Mr. Carson, Mr. President, and Mr. Parker)

[Passed February 7, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article two-b, relating to the department of agriculture, to the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products, to the licensing of commercial slaughterers, custom slaughterers, and processors, and to the inspection of slaughterhouses and processing plants; and providing exclusions and penalties.
Be it enacted by the Legislature of West Virginia:

That article two-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that a new article two-b be enacted in lieu thereof to read as follows:

Article 2-b. Inspection of Animals, Meat and Meat Products.

Section 1. Purpose and construction.

2. Definitions.
3. Commissioner to enforce article; rules and regulations; cooperation with federal agencies, etc.
4. License required for commercial slaughterer, custom slaughterer, or processor; application for license; fees; refusal; revocation or suspension; suspension of inspection; establishment number or numbers.
5. Access to establishments, records, etc.
6. Inspection of animals, carcasses and establishments; scheduling of operations; conveyances; quarantine and segregation; labeling, branding, etc.; seizure and destruction of certain animals, products, etc.; reinspection; reprocessing; health examinations for employees; rejection tags; removal of inspection marks.
7. Exclusion of slaughterhouses and processing plants under supervision of the United States department of agriculture; exclusion of farmers.
8. Exemptions.
9. Hearings; judicial review.
10. Additional prohibitions.
11. Penalties.
12. Severability.

Section 1. Purpose and Construction.—Subject to the provisions of subsection (a) of section seven hereof, the basic purpose of this article is to provide for the inspection, labeling and disposition of animals, carcasses, meat, meat food products and meat by-products which are to be sold or offered for sale through commercial outlets for human consumption, the licensing of commercial slaughterers, custom slaughterers, and processors, and the inspection of slaughterhouses and processing plants located in the state of West Virginia. This article, being intended to protect the health of the citizens of West Virginia, shall be liberally construed.

Sec. 2. Definitions.—Unless the context in which used clearly requires a different meaning, as used in this article:
(a) “Department” means the department of agriculture of the state of West Virginia;
(b) “Commissioner” means the commissioner of agri-
culture of the state of West Virginia and his duly autor-
ized representatives;
(c) "Person" means any individual, partnership, cor-
poration, association, or other entity;
(d) "Contract veterinarian" means a graduate of a
school of veterinary medicine accredited by the American
veterinary medical association who provides services for
the department under contract;
(e) "Veterinary supervisor" means a graduate of a
school of veterinary medicine accredited by the American
veterinary medical association, and employed by the de-
partment to inspect and supervise the inspection of
animals, carcasses, meat, meat food products or meat by-
products;
(f) "Meat inspector" means an individual employed by
the department to inspect animals, carcasses, meat, meat
food products or meat by-products under the supervision
of a veterinary supervisor;
(g) "State inspection" means inspection services con-
ducted by the department at or in connection with estab-
ishments required to be licensed by this article;
(h) "W. Va. Condemned," or abbreviation thereof,
means the animal so marked has been inspected and found
to be in a dying condition, or to be affected with any other
condition or disease that would require condemnation of
its carcass;
(i) "W. Va. Inspected and Condemned," or abbrevia-
tion thereof, means that the carcass, meat, meat food
product or meat by-product, so marked or so identified, is
unwholesome or adulterated and shall be disposed of in
the manner prescribed by the commissioner;
(j) "W. Va. Retained" means that the carcass, meat,
meat food product or meat by-product so identified is held
for further examination by a veterinary supervisor or
contract veterinarian to determine its disposal;
(k) "W. Va. Suspect" means that the animal so marked
and identified is suspected of being affected with a disease
or condition which may require its condemnation, in
whole or in part, when slaughtered, and is subject to
further examination by a contract veterinarian or veter-
inary supervisor to determine its disposal;
(1) "W. Va. Inspected and Passed," or abbreviation thereof, means that the carcass, meat, meat food product or meat by-product, so marked or so identified, was at the time it was so marked or so identified found to be wholesome;

(m) "Country" when used in the name of a meat, meat food product or meat by-product means that such meat, meat food product or meat by-product was actually prepared on a farm;

(n) "Federal inspection" means the meat and poultry inspection service conducted or approved by the meat inspection division and the poultry inspection division of the United States Department of Agriculture;

(o) "Federal Meat Inspection Act" means the act of Congress approved March four, one thousand nine hundred seven, as amended and extended [21 U.S.C. 71 et seq.] and the imported meat provisions of subsections 306 (b) and (c) of the Tariff Act of 1930, as amended [19 U.S.C. 1306 (b) and (c)];

(p) "Federal Poultry Products Inspection Act" means the act of Congress approved August twenty-eight, one thousand nine hundred fifty-seven, as amended [21 U.S.C. 451 et seq.];

(q) "Inspection legend" means a mark or a statement on a carcass, meat, meat food product or meat by-product indicating the same has been inspected and passed in this state under the provisions of this article;

(r) "Meat label" means a display of written, printed or graphic matter on a container indicating the carcass, meat, meat food products or meat by-products contained therein have been inspected and passed in this state under the provisions of this article;

(s) "Official inspection mark" means any symbol prescribed by the commissioner for the purpose of identifying the inspection status of any article so inspected;

(t) "Establishment number" means an official number assigned by the commissioner to each establishment and included on the inspection legend and meat label to identify all inspected and passed carcasses, meat, meat
food products and meat by-products handled in that establishment;
(u) "Container" and "package" shall include but not be limited to any box, can, tin, cloth, plastic or any other receptacle, wrapper or cover;
(v) "Animals" mean cattle, swine, sheep, goats and rabbits;
(w) "Carcass" means all or any part of a slaughtered animal, including viscera, which is capable of being used for human consumption;
(x) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing; it does not include the muscle found in the lips, snout or ears;
(y) "Meat food product" means any article of food for human consumption or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of any animal, except organotherapeutic substances, meat juices, meat extract and the like which are only for medicinal purposes and are advertised only to the medical profession; any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall be considered a meat food product;
(z) "Meat by-product" means any edible part of an animal other than meat or meat food product;
(aa) "Commercial slaughterer" means a person engaged for profit in this state in the business of slaughtering or dressing animals for human consumption which are to be sold or offered for sale through a commercial outlet, and shall include a person who in addition to such commercial slaughtering also engages in the business of a custom slaughterer;
(bb) "Custom slaughterer" means a person engaged for profit in this state in the business of slaughtering or dressing animals for human consumption which are not to
be sold or offered for sale through a commercial outlet and shall include the boning or cutting up of carcasses of such animals and the grinding, chopping and mixing of the carcasses thereof;

(cc) "Slaughterhouse" shall include but not be limited to all buildings, structures and facilities used in the slaughtering or dressing of animals for human consumption;

(dd) "Processor" means a person who engages for profit in this state in the business of packing or packaging carcasses, meat, meat food products or meat by-products for human consumption or a person engaged for profit in the business of curing, salting, processing or other preparing of carcasses, meat, meat food products or meat by-products for human consumption;

(ee) "Processing plant" shall include but not be limited to all buildings, structures, chill rooms, aging rooms, processing rooms, sanitary facilities, other facilities, and utensils, used by or in connection with the operations of a processor;

(ff) "Establishment" means any slaughterhouse or processing plant in this state;

(gg) "Commercial outlet" means a place of business in this state in which carcasses, meat, meat food products or meat by-products are sold or offered for sale for human consumption by the purchaser or others;

(hh) "Commercial dealer" means any person who operates one or more commercial outlets and who sells or offers for sale thereat any carcasses, meat, meat food products or meat by-products for human consumption, and who does not can, cook, cure, dry, smoke or render any carcass, meat, meat food products or meat by-products at such outlets and who conducts no slaughtering or preparing of carcasses, meat, meat food products or meat by-products at such outlets other than boning or cutting up of carcasses, and other than grinding, chopping and mixing operations at such outlets with respect to trim or meat derived only from such boning or cutting up operations;

(ii) "Custom slaughtered carcass or meat," "custom slaughtered meat food products" or "custom slaughtered meat by-products" mean, respectively, carcasses, meat,
meat food products or meat by-products which were
slaughtered, dressed or otherwise processed by a custom
slaughterer;
(jj) "Wholesome" means sound, healthful, clean, and
otherwise fit for human consumption;
(kk) "Unwholesome" means any animal, carcass, meat,
meat food product or meat by-product which:
(i) Is unsound, injurious to health, contains any bio-
logical residue not permitted under reasonable rules and
regulations promulgated by the commissioner, or is other-
wise unfit for human consumption;
(ii) Consists in whole or in part of any filthy, putrid,
or decomposed substance;
(iii) Was processed, prepared, packed, or held under
insanitary conditions so that the same may have become
contaminated or may have become injurious to health;
and
(iv) Was produced in whole or in part from animals
which died other than by slaughter.
(ll) "Adulterated" means any animal, carcass, meat,
meat food product or meat by-product:
(i) Which bears or contains any poisonous or deleteri-
ous substance, whether added or natural, that may render
it injurious to health or unfit for human consumption;
(ii) Concerning which a substance has been substi-
tuted, wholly or in part;
(iii) In which damage or inferiority has been con-
cealed in any manner;
(iv) Concerning which any casing has been used which
contains any dye or artificial coloring not authorized by
reasonable rules and regulations promulgated by the
commissioner;
(v) From which a valuable constituent has been in
whole or in part omitted or abstracted; and
(vi) To or with which any substance has been added,
mixed or packed for the purpose of increasing its bulk
or weight, or so as to reduce its quality or strength, or to
make it appear better or of greater value than it is, unless
authorized by reasonable rules and regulations promul-
gated by the commissioner.
“Licensee” means any person licensed under the provisions of this article.

Sec. 3. Commissioner to Enforce Article; Rules and Regulations; Cooperation with Federal Agencies, etc.—(a) The commissioner shall administer and enforce the provisions of this article and for this purpose he is hereby authorized and empowered to promulgate reasonable rules and regulations and to employ or contract with such persons as may be appropriate. All rules and regulations shall be promulgated in accordance with the provisions of chapter twenty-nine-a of this code. Such rules and regulations shall, insofar as practicable, be in conformity with the rules and regulations issued under the federal Meat Inspection Act and the Federal Poultry Products Inspection Act.

(b) The commissioner is hereby authorized and empowered to cooperate with the federal government and any agencies, departments and instrumentalities thereof, the state of West Virginia and any agencies, departments or political subdivisions thereof, and any other state or commonwealth and any agencies, departments or political subdivisions thereof, in order to carry out the effective administration of this article.

Sec. 4. License Required for Commercial Slaughterer, Custom Slaughterer, or Processor; Application for License; Fees; Refusal; Revocation or Suspension; Suspension of Inspection; Establishment Number or Numbers.—(a) No commercial slaughterer, custom slaughterer, or processor shall operate an establishment unless he shall first have obtained a license from the commissioner so to do, which license remains unsuspended and unrevoked. Application for such license shall be made on forms prescribed by the commissioner and shall be accompanied by the fee required in this section. When such a person operates as a commercial slaughterer and also operates as a processor, whether such operations are located on the same or different premises in this state, each such operation shall be licensed. When such a person operates two or more slaughterhouses not on the same premises in this state, or operates two or more processing plants not on the same premises in this state, a separate license shall be re-
quired for each such slaughterhouse and each such proc-
essing plant. Each license shall expire on the thirtieth day
of June next following its issuance, and the annual fee for
each such license shall be one hundred dollars, except that
the annual fee for the license of a person who operates
solely as a custom slaughterer shall be twenty-five dollars.
Before issuing any license required by the provisions of
this section, the commissioner shall inspect the applicant's
establishment and if the commissioner is satisfied that
the establishment is clean and sanitary, is properly equip-
ped, and is in conformity with the provisions of this
article and any reasonable rules and regulations promul-
gated by the commissioner, and if he is further satisfied
that the carcasses, meat, meat food products or meat by-
products to be sold or offered for sale therefrom through
commercial outlets will be wholesome and unadulterated,
he shall issue the license. Each license shall specify the
location of the establishment at which the licensee shall
carry on his operations. The license shall also contain the
establishment number assigned by the commissioner.

(b) When a licensee changes the location of his estab-
ishment, he shall not operate at such new location unless
and until his establishment at such new location has been
inspected by the commissioner and a new license has
been issued in accordance with the provisions of subsec-
tion (a) of this section: Provided, That a fee shall not
be charged for such new license during the license year
in which the change in location was made.

(c) The commissioner may refuse to grant a license or
may suspend or revoke a license issued under the pro-
visions of this section whenever he finds that the appli-
cant's or licensee's establishment, as the case may be, is
not clean or sanitary, or is not properly equipped, or is
not in conformity with the provisions of this article or
any reasonable rules and regulations promulgated by
the commissioner, or if he finds that the carcasses, meat,
meat food products or meat by-products to be sold or
offered for sale therefrom through commercial outlets
are or will be unwholesome or adulterated. Upon the
refusal to grant a license, the commissioner shall fur-
nish a written statement to the applicant specifying the
grounds for such refusal. No such revocation or suspension of a license shall be effective until the licensee has received written notice thereof, which notice shall specify the grounds for such revocation or suspension. Whenever there is sufficient cause for the revocation or suspension of a license as hereinabove specified, the commissioner may in lieu of such revocation or suspension, suspend inspections at the establishment. Immediately upon suspension of such inspections, the commissioner shall give the licensee written notice thereof, and such notice shall contain a recitation of the deficiencies which must be fully and completely corrected before inspections shall be resumed. Upon receipt of a written statement advising that a license has been refused or upon receipt of a written notice of the revocation or suspension of a license, or upon the suspension of inspections at the licensee’s establishment, the applicant or licensee, as the case may be, may, in writing, demand a hearing. The commissioner shall hold such a hearing within ten days after receipt of such written demand, in accordance with the provisions of section nine of this article.

Sec. 5. Access to Establishments, Records, etc.—The commissioner may at any time enter upon and inspect any establishment, place, premises or conveyance, either private or public, where animals are slaughtered or carcasses, meat, meat food products or meat by-products are processed, handled, stored, transported, distributed, sold or offered for sale, for the purpose of examining such animals, carcasses, meat, meat food products or meat by-products. Any person engaged in the business of operating an establishment shall maintain such records as the commissioner may require directly pertaining to the movement, storage and distribution or other disposition of animals, carcasses, meat, meat food products or meat by-products, and such records shall be open to inspection by the commissioner at any time during the normal working hours at such establishment.

Sec. 6. Inspection of Animals, Carcasses and Establishments; Scheduling of Operations; Conveyances; Quarantine and Segregation; Labeling, Branding, etc.; Seizure
and Destruction of Certain Animals, Products, etc.; Re-
inspection; Reprocessing; Health Examinations for Em-
ployees; Rejection Tags; Removal of Inspection Marks.—

(a) The commissioner shall provide ante-mortem inspec-
tion of all animals before they are slaughtered for human
consumption in any establishment under state inspection.

(b) The commissioner shall provide post-mortem in-
spection of all animals slaughtered for human consump-
tion in any establishment under state inspection.

(c) All inspections under the provisions of this article
shall be performed in accordance with reasonable rules
and regulations promulgated by the commissioner.

(d) The commissioner shall inspect all establishments
under state inspection to make certain that they are oper-
at ing in accordance with the provisions of this article and
all reasonable rules and regulations promulgated by the
commissioner.

(e) When one inspector is assigned to make inspections
at two or more establishments where few animals are
slaughtered, or where small quantities of carcasses, meat,
meat food products or meat by-products are handled, or
where the operations at such establishments are sporadic,
and such establishments in any of such cases are in reason-
ably close proximity to one another, the commissioner,
giving full consideration to the convenience of the licen-
sees of such establishments, may by written notice to such
licensees specify a reasonable schedule for such opera-
tions: Provided, That the commissioner may not require
operations other than during normal working hours.

(f) Every conveyance used by any establishment under
state inspection, and, notwithstanding the provisions of
subsection (a) of section seven of this article, every con-
veyance used by any slaughterhouse or processing plant
operating under federal inspection or approved by the
United States Department of Agriculture, for the trans-
portation of carcasses, meat, meat food products or meat
by-products shall be maintained in a clean and sanitary
condition and may be inspected in accordance with the
provisions of this article and reasonable rules and regu-
lations promulgated by the commissioner.
(g) The commissioner shall require such quarantine and segregation of animals, carcasses, meat, meat food products and meat by-products in establishments as is deemed necessary to effectuate the provisions of this article.

(h) The head, tongue, tail, thymus glands, viscera, blood and other parts of any slaughtered animal shall be retained in such a manner as to preserve their identity until after the post-mortem inspection has been completed.

(i) Each licensee shall pay for such devices for the affixing of marks, brands or stamps and for such meat labels as may be prescribed for his establishment by the commissioner. Such devices and meat labels shall be under the exclusive control and supervision of the commissioner. The meat label used by any licensee shall be of the form and size prescribed by reasonable rules and regulations promulgated by the commissioner.

(j) Each carcass that has been inspected and passed in this state by the commissioner shall be marked at the time of inspection with the inspection legend. Any carcass which is not passed shall be marked conspicuously by the commissioner at the time of inspection in the following manner: "W. Va. Inspected and Condemned," or any abbreviation thereof.

(k) Each primal part of a carcass that has been inspected and passed shall be marked with the inspection legend, and each liver, beef heart and beef tongue that has been inspected and passed shall be branded with the inspection legend at the time of final inspection. Meat that has been boned out, cut from primal parts or otherwise changed so that the inspection legend is no longer plainly visible, and meat food products and meat by-products that are too small to be marked with the inspection legend shall be packed in closed containers to which shall be affixed the meat label indicating that the meat, meat food products or meat by-products contained therein have been inspected and passed. Upon removal of the contents of such containers bearing such label, the label shall be defaced to prevent its reuse.

(l) All carcasses, meat, meat food products and meat by-products which have been derived from an animal
slaughtered by a custom slaughterer shall be marked “W. Va. Custom Slaughtered” in letters not less than three eighths of an inch in height.

(m) Each official inspection mark shall contain the establishment number of the establishment involved, unless otherwise authorized by rules and regulations promulgated by the commissioner.

(n) The commissioner is hereby authorized and empowered to seize and destroy (i) any animal to be slaughtered in this state and thereafter sold or offered for sale through a commercial outlet which cannot be made fit for human consumption; (ii) any animal, carcass, meat, meat food product or meat by-product slaughtered or processed in this state in violation of the provisions of this article or any reasonable rules and regulations promulgated by the commissioner; (iii) any carcass, meat, meat food product or meat by-product that does not bear an inspection legend or meat label provided for by this article or which has not been inspected and passed under federal inspection or approved by the United States Department of Agriculture and which is intended to be sold or offered for sale through a commercial outlet; and (iv) any animal, carcass, meat, meat food product or meat by-product which is unwholesome or adulterated. Where appropriate the commissioner may in lieu of destruction as aforesaid denature, decharacterize, mutilate or slash any carcass, meat, meat food product or meat by-product intended to be sold or offered for sale through a commercial outlet. The commissioner is also authorized and empowered to seize and retain under a retained tag any animal, carcass, meat, meat food product or meat by-product until the commissioner determines to destroy, denature, decharacterize, mutilate, slash or release the same. Whenever the commissioner is authorized or empowered to take any of the actions specified in this subsection, he may order and direct the person having custody or possession of such animal, carcass, meat, meat food product or meat by-product, or the licensee of the establishment in which it is found, to be responsible for the disposition thereof, as well as any necessary storage, handling or other incidentals related thereto. Such dis-
position shall be carried out only under the direction and supervision of the commissioner.

(o) Whenever practicable, the commissioner shall forego the actions authorized in the immediately preceding subsection and permit reprocessing if such reprocessing will correct or eliminate the conditions which would have justified any of such actions. Any such reprocessing in this state shall be under the supervision of the commissioner.

(p) Whenever the commissioner has good cause to believe that any carcass, meat, meat food product or meat by-product, whether fresh, frozen, cured or otherwise prepared, and which is intended to be sold or offered for sale through a commercial outlet, may be unwholesome or adulterated or otherwise injurious to health, he may inspect or reinspect the same under the provisions of this article and any reasonable rules and regulations promulgated by him, even though such carcass, meat, meat food product or meat by-product may have been previously inspected and passed.

(q) No licensee shall employ in any establishment any person who has any communicable disease or infected wounds or who is a carrier of any communicable disease. To enforce the provisions of this subsection, the commissioner may require any employee or prospective employee to submit to a health examination by a physician and furnish to the commissioner a certificate from such physician concerning his findings. The cost of conducting such examination and furnishing such certificate shall be borne by the licensee concerned.

(r) Whenever the commissioner inspects any room, compartment, equipment or utensil in any establishment subject to state inspection and finds the same not to be clean and sanitary or finds the same to be otherwise unsuitable for the slaughtering or processing operations carried on in such establishment, he shall affix thereto a rejection tag or rejection notice. No such rejected room, compartment, equipment or utensil shall be used until the deficiencies requiring such rejection shall have been fully and completely corrected. No person other than the
commissioner shall remove any such rejection tag or notice.

(s) When any animal, carcass, meat, meat food product or meat by-product has been inspected hereunder, the appropriate official inspection mark shall be affixed thereto, and no person shall remove the same unless authorized so to do by the commissioner.

Sec. 7. Exclusion of Slaughterhouses and Processing Plants under Supervision of the United States Department of Agriculture; Exclusion of Farmers.—(a) The provisions of this article shall not apply to any slaughterhouse or processing plant operating under the federal Meat Inspection Act or the federal Poultry Products Inspection Act, or approved by the United States Department of Agriculture.

(b) For the purposes of this subsection, a farmer is a person who owns or operates a farm or farms in this state and does not engage, directly or indirectly, in the business of buying or selling any animals, other than as a part of his normal farming operations, and does not engage in any business that involves the slaughtering of any animals other than those owned by him, or the buying or selling of any carcasses, meat, meat food products or meat by-products of any animals other than those owned by him. Without being licensed under the provisions of this article, a farmer may slaughter or cause to be slaughtered his own animals for his own consumption on his own premises, on the premises of another person or in the establishment of a licensed custom slaughterer, and a farmer may sell or trade such animals or the carcasses, meat, meat food products or meat by-products thereof to other individuals in his county or immediately surrounding counties.

Sec. 8. Exemptions.—(a) The provisions of this article shall not apply to:

(i) Any commercial dealer, provided all carcasses, meat, meat food products and meat by-products sold or offered for sale by such dealer were slaughtered and/or processed in establishments under state inspection or federal inspection;
(ii) Persons slaughtering animals, or processing car-
casses, meat, meat food products or meat by-products, in
accordance with recognized religious dietary laws;
(iii) Any educational activities relating to animals, car-
casses, meat, meat food products or meat by-products and
conducted by four-H clubs, Future Farmers of America,
Future Homemakers of America;
(iv) Any meat by-product processed, offered, sold and
advertised for medicinal use only by physicians or other
persons engaged in the practice of the healing arts; and
(v) The West Virginia University meat laboratory.
(b) The commissioner may by reasonable rules and
regulations exempt any other activity, any animal, car-
cass, meat, meat food product or meat by-product, or
any person, from all of the provisions of this article or
one or more of such provisions.
(c) The commissioner may by reasonable rules and
regulations exempt a licensed custom slaughterer from
the requirements of this article relating to ante-mortem
and post-mortem inspection.
(d) The commissioner may by written order to the
person concerned suspend, limit or terminate any exemp-
tion provided under this section or granted by rules and
regulations authorized under subsections (b) and (c)
hereof when he determines that such suspension, limita-
tion or termination is necessary to effectuate the purposes
of this article: Provided, That the person affected by any
such suspension, limitation or termination may demand
a hearing in writing which shall be held by the commis-
sioner in accordance with the provisions of section nine
of this article. The commissioner shall hold such a hearing
within ten days after receipt of such written demand.

Sec. 9. Hearings; Judicial Review.—(a) When any per-
son is entitled to a hearing before the commissioner as
authorized in this article, the commissioner shall hold
such hearing and all of the pertinent provisions of article
five, chapter twenty-nine-a of this code shall apply to and
govern such hearing and the administrative procedures
in connection with and following such hearing, with like
effect as if the provisions of said article five were set forth
in extenso in this subsection, except that the hearing shall
be held in the county in which the establishment involved is located, or in which the affected person resides or has his principal place of business, or in Kanawha county, West Virginia, at the election of the person demanding the hearing. Any such hearing shall be held within the time limits hereinbefore specified in this article, unless there is a postponement or a continuance for good cause shown.

(b) For the purpose of any such hearing, the commissioner shall have the power and authority to issue subpoenas and subpoenas duces tecum, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder. At any such hearing, the person who demanded the same may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this state.

(c) After such hearing and consideration of all the testimony, evidence and record in the case, the commissioner shall make and enter an order deciding the matter in question. Such order shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such order and accompanying findings and conclusions shall be served upon all the parties and their attorneys of record, if any, in person or by registered or certified mail. The commissioner shall also cause a notice to be served with a copy of such order, which notice shall advise the parties of their right to judicial review, in accordance with the provisions of subsection (d) of this section. The order of the commissioner shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of subsection (d) of this section.

(d) Any party adversely affected by a final order made
and entered by the commissioner after such hearing, held in accordance with the provisions of subsections (a) through (c) of this section, is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like effect as if the provisions of said section four were set forth in extenso in this subsection, except that the petition shall be filed in the circuit court of the county in which the hearing before the commissioner was held.

(e) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

Sec. 10. Additional Prohibitions.—In addition to any other prohibitions contained in this article, it shall be unlawful:

(a) For any person to operate any establishment under state inspection which is not clean and sanitary;

(b) To slaughter any unwholesome or adulterated animal intended to be sold or offered for sale through a commercial outlet;

(c) To sell or offer for sale through a commercial outlet any carcass, meat, meat food product or meat by-product for human consumption which is unwholesome or adulterated;

(d) To slaughter for human consumption any animal tagged or permanently identified as “W. Va. Condemned,” or abbreviation thereof;

(e) To process, sell or offer for sale for human consumption any carcass, meat, meat food product or meat by-product which is mislabeled with intent to deceive or which is marked “W. Va. Inspected and Condemned,” or abbreviation thereof;

(f) To process in an establishment under state inspection for sale through any commercial outlet any carcass, meat, meat food product or meat by-product intended for human consumption and derived in whole or in part from any calf, pig, kid or lamb which is so immature as to be lacking in nutritional value;
(g) To knowingly or intentionally expose any carcass, meat, meat food product or meat by-product in any establishment under state inspection to insects, live animals or any contamination;

(h) To add kangaroo meat, horse meat, mule meat or other equine meat to any animal meat, or meat food product or meat by-product derived from animals and to be sold or offered for sale through commercial outlets for human consumption;

(i) To remove any hide, skin or any other part of an unborn or stillborn animal in the confines of a room in an establishment where any animals, carcasses, meat, meat food products or meat by-products are slaughtered or processed, as the case may be, to be sold or offered for sale through a commercial outlet;

(j) To process for human consumption in any establishment subject to state inspection any carcass, meat, meat food product or meat by-product derived from any animal which died other than by slaughter;

(k) To transport to any commercial outlet for the purpose of being sold or offered for sale therein, any carcass, meat, meat food product or meat by-product which is not marked, branded or stamped as having been inspected and passed by the commissioner or by the United States Department of Agriculture or which has not been approved by the United States Department of Agriculture;

(l) To slaughter any horse, mule or other equine in any establishment under state inspection in which animals are slaughtered for human consumption for the purpose of being sold or offered for sale through commercial outlets;

(m) To bring any kangaroo meat, horse meat, mule meat or other equine meat into any establishment under state inspection where animal carcasses, meat, meat food products or meat by-products are processed for human consumption for the purpose of being sold or offered for sale through commercial outlets;

(n) To transport, process, sell or offer for sale any kangaroo meat, horse meat, mule meat or other equine meat within this state for human consumption unless it
is conspicuously and plainly identified or stamped as such;

(o) For any person to use an establishment number not assigned to him or to use an establishment number in connection with operations concerning which a different establishment number was assigned by the commissioner;

(p) To remove from any article any retained tag affixed by the commissioner, unless such removal is authorized by him;

(q) For a licensee to use any container bearing an official inspection mark unless it contains the exact carcass, meat, meat food product or meat by-product which was in the container at the time such contents were inspected and passed: Provided, That such a container may be otherwise used if such official inspection mark thereon is removed, obliterated or destroyed, and such other use is authorized by reasonable rules and regulations promulgated by the commissioner;

(r) For any person, other than the commissioner, to possess, keep or use, except as authorized by the commissioner, any meat label or device for the affixing of a mark, brand or stamp prescribed for inspection purposes hereunder;

(s) For any person, with intent to deceive, to possess, keep or use any meat label, mark, brand or stamp similar in character or import to an official meat label, mark, brand or stamp prescribed by the commissioner hereunder or to an official meat label, mark, brand or stamp used by the United States Department of Agriculture;

(t) To falsely make, falsely issue, falsely publish, alter, forge, simulate or counterfeit any inspection certificate, memorandum, meat label, mark, brand, or stamp, or device for making an inspection mark, brand or stamp, or to possess, keep or use the same, with intent to deceive;

(u) For any person to refuse to permit the commissioner to enter and inspect at any time, upon presentation of appropriate credentials, an establishment under state inspection, or to interfere with any such lawful entry or inspection;

(v) For any person to refuse to permit the commis-
Sec. 11. Penalties.—Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof, shall for the first offense be fined not less than fifty dollars nor more than one hundred dollars and upon conviction of each subsequent offense shall be fined not less than one hundred dollars nor more than five hundred dollars.

Sec. 12. Severability.—If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

CHAPTER 3
(Senate Bill No. 44—By Mr. McCourt)

[Passed February 2, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections nine and eighteen of said article, relating to the continuation of the increase in the price of alcoholic liquors heretofore established and the deposit into the general revenue fund of revenue derived therefrom.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections nine and eighteen of said article be amended and reenacted to read as follows:
Article 3. Sales by Commissioner.

Section 9. Uniform prices; posting and distribution of price lists; continuation of price increase on alcoholic liquors.

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

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

The commissioner, in the exercise of his authority under this section, is hereby directed to continue the increase in the price of alcoholic liquors, heretofore effected pursuant to the provisions of this section as amended by chapter six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred fifty-one, which is presently producing an additional annual revenue of one million six hundred thousand dollars on an annual volume of business equal to the average for the past three years.

The revenue derived from the increase in the price of alcoholic liquors shall be deposited into the general revenue fund in the manner hereinafter provided in section seventeen of this article.

Sec. 18. Operating Fund; Continuation and Use; Amount of Operating Fund.—The operating fund of the commissioner, heretofore created in the state treasury, is hereby continued and shall be a revolving fund from which all operation and administration expenses of the commissioner shall be paid.

All moneys collected by the commissioner shall be credited to the operating fund until that fund reaches an amount sufficient for the current and routine requirements of the office of the West Virginia alcohol beverage control commissioner, this amount to be not in excess of
AN ACT making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the constitution.

Be it enacted by the Legislature of West Virginia:

Title

2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section

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

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

Sec. 2. Definitions.—For the purpose of this act:
2 “Board” shall mean the board of public works;
3 “Spending Unit” shall mean the department, agency or institution to which an appropriation is made;
4 The “fiscal year one thousand nine hundred sixty-seven” shall mean the period from July first, one thousand nine hundred sixty-six through June thirtieth, one thousand nine hundred sixty-seven.
5 “From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of
collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated “from collections” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by chapter 5, article 4 and chapter 5-A, article 2 of the code of West Virginia.

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

“Personal Services” shall be expended only for the payment of salaries, wages, fees and other compensation for skill, work, or employment, except from the appropriations made to the spending units of state government, there may be transferred upon approval of the Board of Public Works, to a special account an amount sufficient to match federal grants-in-aid for the various programs under the Federal Economic Opportunity Act and related federal acts;

Unless otherwise specified, appropriations for personal services shall include salaries of heads of spending unit;

“Current Expenses” shall be expended only for operating cost other than personal services or capital outlay;

“Repairs and Alterations” shall include all expenditures for materials, supplies and labor used in repairing and altering buildings, grounds and equipment, other than personal service;

“Equipment” shall be expended only for things which have an appreciable and calculable period of usefulness in excess of one year;

“Buildings” shall include construction and alteration of structures and the improvements of lands, sewer and water improvements, and shall include shelter, support, storage, protection, or the improvement of a natural condition;

“Lands” shall be expended only for the purchase of lands or interest in lands.

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

Sec. 4. Method of Expenditure.—Money appropriated by
2 this act, unless otherwise specifically directed, shall be ap-
3 propriated and expended according to the provisions of
4 chapter 12, article 3 of the code of West Virginia, or accord-
5 ing to any law detailing a procedure specifically limiting
6 that article.

Title 2. Appropriations.

Section
1. Appropriations from general revenue.

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</thead>
<tbody>
<tr>
<td>Archives and history</td>
<td>340</td>
<td>728</td>
</tr>
<tr>
<td>Bluefield state college</td>
<td>329</td>
<td>727</td>
</tr>
<tr>
<td>Concord college</td>
<td>325</td>
<td>726</td>
</tr>
<tr>
<td>Department of education (aid for exceptional children)</td>
<td>296</td>
<td>723</td>
</tr>
<tr>
<td>Department of education (comprehensive educational program)</td>
<td>290</td>
<td>722</td>
</tr>
<tr>
<td>Department of education (textbook aid)</td>
<td>297</td>
<td>724</td>
</tr>
<tr>
<td>Educational broadcasting authority</td>
<td>291</td>
<td>723</td>
</tr>
<tr>
<td>Fairmont state college</td>
<td>321</td>
<td>725</td>
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<tr>
<td>FFA-FHA camp and conference center</td>
<td>336</td>
<td>728</td>
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<tr>
<td>Glenville state college</td>
<td>322</td>
<td>726</td>
</tr>
<tr>
<td>Marshall university</td>
<td>329</td>
<td>725</td>
</tr>
<tr>
<td>Potomac state college of West Virginia university</td>
<td>315</td>
<td>725</td>
</tr>
<tr>
<td>Shepherd college</td>
<td>324</td>
<td>726</td>
</tr>
<tr>
<td>State board of education (to implement federal vocational educational act)</td>
<td>293</td>
<td>723</td>
</tr>
<tr>
<td>State board of education (vocational division)</td>
<td>294</td>
<td>723</td>
</tr>
<tr>
<td>State board of school finance (state aid to schools)</td>
<td>295</td>
<td>723</td>
</tr>
<tr>
<td>State commission on higher education</td>
<td>299</td>
<td>724</td>
</tr>
<tr>
<td>Teachers retirement board</td>
<td>298</td>
<td>724</td>
</tr>
<tr>
<td>West Liberty state college</td>
<td>323</td>
<td>726</td>
</tr>
<tr>
<td>West Virginia Institute of technology</td>
<td>327</td>
<td>727</td>
</tr>
<tr>
<td>West Virginia library commission</td>
<td>350</td>
<td>728</td>
</tr>
<tr>
<td>West Virginia schools for the deaf and blind</td>
<td>333</td>
<td>727</td>
</tr>
<tr>
<td>West Virginia state college</td>
<td>328</td>
<td>727</td>
</tr>
<tr>
<td>West Virginia state college (4-H camp)</td>
<td>330</td>
<td>727</td>
</tr>
<tr>
<td>West Virginia university</td>
<td>300</td>
<td>724</td>
</tr>
</tbody>
</table>

#### EXECUTIVE

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of personnel</td>
<td>121</td>
<td>718, 759</td>
</tr>
<tr>
<td>Governor’s office</td>
<td>120</td>
<td>717, 759</td>
</tr>
</tbody>
</table>

#### FISCAL

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor’s office (general administration)</td>
<td>150</td>
<td>718</td>
</tr>
<tr>
<td>Board of public works</td>
<td>220</td>
<td>721</td>
</tr>
<tr>
<td>Department of finance and administration</td>
<td>210</td>
<td>720, 760</td>
</tr>
<tr>
<td>Sinking fund commission</td>
<td>170</td>
<td>719</td>
</tr>
<tr>
<td>State board of insurance</td>
<td>225</td>
<td>721</td>
</tr>
<tr>
<td>State commissioner of public institutions</td>
<td>190</td>
<td>720</td>
</tr>
<tr>
<td>State tax commissioner</td>
<td>180</td>
<td>719</td>
</tr>
<tr>
<td>State tax commissioner (property appraisal)</td>
<td>185</td>
<td>719</td>
</tr>
<tr>
<td>Treasurer’s office</td>
<td>160</td>
<td>719</td>
</tr>
</tbody>
</table>

#### INCORPORATING AND RECORDING

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of state</td>
<td>250</td>
<td>722</td>
</tr>
</tbody>
</table>

#### LEGAL

<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney general</td>
<td>240</td>
<td>722</td>
</tr>
<tr>
<td>Commission on uniform state laws</td>
<td>245</td>
<td>722</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Institution</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barboursville state hospital</td>
<td>424</td>
<td>733</td>
</tr>
<tr>
<td>Berkeley Springs sanitarium</td>
<td>436</td>
<td>734</td>
</tr>
<tr>
<td>Colin Anderson Center</td>
<td>419</td>
<td>732</td>
</tr>
<tr>
<td>Commission on mental retardation</td>
<td>411</td>
<td>732</td>
</tr>
<tr>
<td>Denmar state hospital</td>
<td>432</td>
<td>734</td>
</tr>
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4. Reappropriations.
5. Special revenue appropriations.
6. Specific funds and collection accounts.
7. Appropriation for refunding erroneous payments.
8. Sinking fund deficiencies.
9. Appropriations from taxes and license fees.
10. Appropriations to pay costs of publication of delinquent corporations.
11. Appropriations for local governments.
12. Total appropriations.

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 5, article 4 and chapter 5-A, article 2 of the code of West Virginia, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred sixty-seven.

### LEGISLATIVE

1—Senate

Acct. No. 101

<table>
<thead>
<tr>
<th>Fiscal Year 1966-67</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Members $54,000.00</td>
</tr>
<tr>
<td>2 Compensation and per diem of officers and attaches $175,000.00</td>
</tr>
<tr>
<td>3 Mileage of Members $3,000.00</td>
</tr>
<tr>
<td>5 Current Expenses and Contingent Fund $112,000.00</td>
</tr>
<tr>
<td>6 To pay Clerk of the Senate for compiling and publishing the West Virginia Blue Book, the distribution of which shall be made by the office of the Clerk of the Senate and shall include seventy-five copies for each member of the Legislature and two copies to each classified and approved High and Junior High School and one to each Elementary School within the state $10,000.00</td>
</tr>
<tr>
<td>15 To pay cost of printing the 1966 edition of Blue Book $49,000.00</td>
</tr>
<tr>
<td>17 Drafting Service $18,000.00</td>
</tr>
</tbody>
</table>
The appropriations for the Senate for the fiscal year 1965-66 are to remain in full force and effect, and are hereby reappropriated to June 30, 1967.

Any balances so reappropriated may be transferred and credited to the 1966-67 accounts. Upon the written request of the Clerk of the Senate the State Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

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

The President of the Senate, upon recommendation of the Chairman of the Finance Committee and the Chairman of the Judiciary Committee, shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, and the Clerk of the Senate is hereby authorized to draw requisition upon the State Auditor, payable out of the appropriation for Contingent Expenses for such services.

2—House of Delegates
Acct. No. 102

1 Salaries of Members ...........................................$ 154,500.00
2 Compensation and per diem of officers and attaches ................................................................. 185,000.00
The appropriations for the House of Delegates for the fiscal year 1965-66 are to remain in full force and effect, and are hereby re-appropriated to June 30, 1967.

Any balances so reappropriated may be transferred and credited to the 1966-67 accounts.

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

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

For duties imposed by law and by the House of Delegates, including the salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a salary of $1,125.00 per month, payable from the contingent fund of the House of Delegates, and the Clerk may employ a secretary and a clerk at a salary to be determined by the Speaker of the House of Delegates.

The Speaker of the House of Delegates, upon recommendation of the Chairman of the
Taxation and Finance Committee, and the
Chairman of the Judiciary Committee,
shall have authority to employ such staff
personnel during and between sessions of
the Legislature as shall be needed, and the
Clerk of the House is hereby authorized
to draw requisition upon the State Aud-
tor, payable out of the appropriation for
Contingent Expenses for such services.

3—Joint Expenses
Acct. No. 103

1 To pay the cost of legislative printing and
stationery ............................................. $ 225,000.00
2 Commission on Interstate Cooperation ............... 20,000.00
3 Joint Committee on Government and Finance .......... 375,000.00
4 Other Authorized Legislative Committees ............. 35,000.00
5 The appropriation for Joint Expenses for the
fiscal year 1965-66 are to remain in full force
and effect, and are hereby reappropriated to
June 30, 1967.
6 Any balances so reappropriated may be trans-
ferred and credited to the 1966-67 accounts.
7 Upon the written request of the Clerk of the
Senate and the Clerk of the House of Dele-
gates the State Auditor shall transfer
amounts between items of the total appro-
priation in order to protect or increase the
7 efficiency of the service.

JUDICIAL
4—Supreme Court of Appeals
Acct. No. 110

1 Salaries of Judges ................................ $ 112,500.00
2 Other Personal Services ........................... 162,080.00
3 Current Expenses ................................. 32,000.00
4 Equipment .......................................... 3,000.00
5 Total ................................................... $ 309,580.00
<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>111</td>
<td>Salaries of Judges</td>
<td>317,400.00</td>
</tr>
<tr>
<td>114</td>
<td>Personal Services</td>
<td>94,840.00</td>
</tr>
<tr>
<td>117</td>
<td>Transfers to Judges' Retirement Fund</td>
<td>127,000.00</td>
</tr>
<tr>
<td>118</td>
<td>To pay expenses of Members of the Council</td>
<td>94,840.00</td>
</tr>
<tr>
<td>120</td>
<td>Salary of Governor</td>
<td>140,200.00</td>
</tr>
<tr>
<td>121</td>
<td>Other Personal Services</td>
<td>175,000.00</td>
</tr>
</tbody>
</table>

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APPROPRIATIONS

This appropriation shall be administered by the State Auditor, who shall draw his requisition for warrants in payment of salaries and other items, the appropriation for Judges' Retirement System is to be transferred to the Judges' Retirement Fund, in accordance with the law relating thereto, upon requisition of the State Auditor.
6 Of this appropriation there may be expended, at the discretion of the Governor, an amount not to exceed $1,000.00 as West Virginia's contribution to the Interstate Oil Compact Commission.

11 Custodial Fund .............................................. 75,000.00

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

18 Federal State Coordination ................................. 500,000.00

19 To match and aid Federal Programs, and any part of this appropriation may be transferred to any department for such purposes.

23 Total .............................................................. $ 955,200.00

24 Any balance remaining in Appalachian Regional Area Development Program and Office of Economic Opportunity is hereby appropriated for expenditure during the fiscal year 1966-67, to match and aid Federal Programs.

9—Department of Personnel

Acct. No. 121

1 Personal Services .............................................. $ 45,760.00
2 Current Expenses ............................................. 8,515.00
3 Equipment ...................................................... 5,725.00

4 Total .............................................................. $ 60,000.00

FISCAL

10—Auditor's Office—General Administration

Acct. No. 150

1 Salary of State Auditor ...................................... $ 18,000.00
2 Other Personal Services .................................... 405,040.00
3 Current Expenses ............................................. 119,600.00
<table>
<thead>
<tr>
<th>Department</th>
<th>Description</th>
<th>Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Equipment</td>
<td></td>
<td>10,000.00</td>
</tr>
<tr>
<td>5 Microfilm Program</td>
<td></td>
<td>5,000.00</td>
</tr>
<tr>
<td>6 Total</td>
<td></td>
<td>$ 557,640.00</td>
</tr>
<tr>
<td>11—Treasurer’s Office</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Salary of State Treasurer</td>
<td></td>
<td>17,500.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td></td>
<td>137,729.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td></td>
<td>20,150.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td></td>
<td>7,500.00</td>
</tr>
<tr>
<td>5 Total</td>
<td></td>
<td>$ 182,879.00</td>
</tr>
<tr>
<td>12—Sinking Fund Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td></td>
<td>23,469.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td></td>
<td>985.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td></td>
<td>1,000.00</td>
</tr>
<tr>
<td>4 Total</td>
<td></td>
<td>$ 25,454.00</td>
</tr>
<tr>
<td>13—State Tax Commissioner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Personal Services</td>
<td></td>
<td>1,934,177.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td></td>
<td>567,530.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td></td>
<td>23,500.00</td>
</tr>
<tr>
<td>4 Total</td>
<td></td>
<td>$ 2,525,207.00</td>
</tr>
<tr>
<td>5 Above appropriation includes amounts here-to-fore made available for administration and enforcement of Cigarette Tax and Store and General Licenses Division.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14—State Tax Commissioner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Property Appraisal</td>
<td></td>
<td>682,960.00</td>
</tr>
<tr>
<td>2 Any balance remaining in the 1964-65 and 1965-66 appropriations “Property Appraisal”</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67.

15—State Commissioner of Public Institutions
Acct. No. 190

1 Salary of Commissioner .......................................... $ 13,000.00
2 Salaries of Board Members—Board of Probation and Parole .......... 30,000.00
3 Other Personal Services .............................................. 358,513.00
4 Current Expenses ................................................... 136,925.00
5 Equipment ............................................................. 5,500.00

7 Total ........................................................................ $ 543,938.00
8 Above appropriation includes the Administration of Board of Probation and Parole.

16—Department of Finance and Administration
Acct. No. 210

1 Personal Services ..................................................... $ 674,683.00
2 Current Expenses ........................................................ 275,431.00
3 Repairs and Alterations ............................................... 51,100.00
4 Equipment .................................................................... 17,800.00
5 Postage ........................................................................ 130,000.00
6 Records Management .................................................... 18,380.00
7 Office of State Emergency Planning .................................. 30,649.00
8 Transportation Division—Vehicles .................................... 90,000.00
9 State Agency for Surplus Property .................................... 25,000.00

10 Total ........................................................................ $ 1,313,043.00
11 The Workmen’s Compensation Commission,
12 Department of Welfare, Public Service
13 Commission, Department of Natural Resources, Department of Motor Vehicles, State
14 Road Commission, State Health Department
15 and State Tax Commissioner—Income Tax
16 Division, shall reimburse the Postage appropriation of the Department of Finance and
17 Administration monthly for all meter serv-
ice. Any spending unit operating from
Special Revenue or receiving reimbursement
for postage costs from the Federal Govern-
ment shall refund to the Postage Account of
the Department of Finance and Admin-
istration such amounts. Should this appro-
priation for Postage be insufficient to meet
the mailing requirements of the State spend-
ing units as set out above, any excess post-
age meter service requirements shall be a
proper charge against the units, and each
spending unit shall refund to the Postage
appropriation of the Department of Finance
and Administration any amounts required
for that Department for postage in excess
of this appropriation.

Any unexpended balance remaining in the
"Postage Account" and "Records Manage-
ment Account" at the close of the fiscal year
1965-66 is hereby reappropriated for expend-
iture during the fiscal year 1966-67.

The State Road Commission shall reimburse
the appropriation of the Department of Fi-
nance and Administration monthly for all
actual expenses incurred pursuant to (the
provisions of) chapter 17, article 2-A, sec-
tion 13 of the code of West Virginia.

17—The Board of Public Works
Acct. No. 220

1 Contingent Fund ........................................ $50,000.00

18—State Board of Insurance
Acct. No. 225

1 Personal Services ........................................ $15,680.00
2 Current Expenses ........................................ 3,650.00
3 Equipment .................................................. 400.00
4 Total ......................................................... $19,730.00
LEGAL

19—Attorney General
Acct. No. 240

1 Salary of Attorney General .................. $ 18,500.00
2 Other Personal Services ......................... 263,317.00
3 Current Expenses .................................. 26,145.00
4 Equipment ........................................... 9,500.00
5 To protect the resources or tax structure of the State in controversies or legal proceedings affecting same .......... 3,250.00

8 Total.................................................. $ 320,712.00
9 When legal counsel or secretarial help is appointed by the Attorney General, for any state spending unit, this account shall be reimbursed from such unit’s appropriated account in an amount agreed upon by the Attorney General and the proper authority of said spending unit.

20—Commission on Uniform State Laws
Acct. No. 245

1 Total.................................................. $ 2,000.00
2 To pay expenses of members of the Commission on Uniform State Laws.

INCORPORATING AND RECORDING

21—Secretary of State
Acct. No. 250

1 Salary of Secretary of State .................. $ 17,000.00
2 Other Personal Services ......................... 81,400.00
3 Current Expenses .................................. 20,670.00
4 Equipment ........................................... 7,500.00

5 Total.................................................. $ 126,570.00

EDUCATIONAL

22—Department of Education
Acct. No. 290

1 Comprehensive Educational Program ........ $ 1,000,000.00
2 To be used in accordance with Senate Bill No. 102, 1965 Regular Session of the Legislature.

23—*Educational Broadcasting Authority*

*Acct. No. 291*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Administration of Educational Broadcasting</td>
<td></td>
</tr>
</tbody>
</table>

24—*State Board of Education—Vocational Division*

*Acct. No. 293*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To implement Vocational Education Act of 1963 P.L. 88-210</td>
<td>$500,000.00</td>
</tr>
<tr>
<td>3</td>
<td>The above appropriation includes $100,000.00 for Manpower Training.</td>
<td></td>
</tr>
</tbody>
</table>

25—*State Board of Education—Vocational Division*

*Acct. No. 294*

1 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67.

26—*State Board of School Finance—State Aid to Schools*

*Acct. No. 295*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State Aid to supplement the General School Fund</td>
<td>$83,098,136.00</td>
</tr>
<tr>
<td>3</td>
<td>To be transferred to the General School Fund upon the requisition of the Governor.</td>
<td></td>
</tr>
</tbody>
</table>

27—*Department of Education—Aid for Exceptional Children*

*Acct. No. 296*

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$29,108.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>7,300.00</td>
</tr>
<tr>
<td>3</td>
<td>Out-of-State Instruction</td>
<td>54,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Aid to Counties</td>
<td>569,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$659,408.00</td>
</tr>
<tr>
<td>6</td>
<td>The appropriation for “Out-of-State Instruction” may be expended to provide instruc-</td>
<td></td>
</tr>
</tbody>
</table>
tion, care and maintenance for educable persons who have multiple handicaps and for whom the state provides no facilities.

28—Department of Education—Textbook Aid
Acct. No. 297
1 Textbooks for Schools........................................... $150,000.00
2 To be distributed according to chapter fifty-one, acts of the Legislature, regular session, one thousand nine hundred and thirty-nine.

29—Teachers Retirement Board
Acct. No. 298
1 Benefit Fund—Payments to Retired Teachers $3,505,974.00
2 Employers’ Accumulation Fund — To match contributions of members 3,344,000.00
4 Expense Fund ........................................................... 33,304.00
5 Total................................................................. $6,883,278.00

30—State Commission on Higher Education
Acct. No. 299
1 Personal Services ............................................. $18,700.00
2 Current Expenses ............................................. 1,300.00
3 Total................................................................. $20,000.00

31—West Virginia University
Acct. No. 300
1 Personal Services ............................................. $12,106,238.00
2 Current Expenses ............................................. 1,820,000.00
3 Repairs and Alterations ........................................ 500,000.00
4 Equipment .......................................................... 970,200.00
5 Oak Wilt Control Research .................. 10,000.00
6 State aid to students of Veterinary Medicine.. 36,500.00
7 Office of Research and Development .................... 162,000.00
8 Bureau for Coal Research .............................. 137,000.00
9 National Youth Science Camp ......................... 65,600.00
10 Forestry Products ............................................... 67,000.00
11 Appalachian Center—Third Phase ...................... 75,000.00
12 Educational TV Program ................................. 125,000.00
13 Regional Research Institute ........................................ 62,500.00
14 West Virginia University Centennial Prepara-
tions ............................................................... 30,000.00

16 Total........................................................................ $ 16,167,038.00

17 Out of the above appropriation for Personal
18 Services, the sum of $8,500.00 shall be used
19 only for the employment of a Spray Special-
20 ist who shall be stationed only at West Vir-
21 ginia University Farm at Kearneysville, and
22 $7,200.00 for the employment of a Labor
23 Specialist.

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

1 Personal Services ................................................... $ 525,605.00
2 Current Expenses .................................................... 78,500.00
3 Repairs and Alterations ........................................... 43,225.00
4 Equipment .................................................................. 39,125.00

5 Total ....................................................................... $ 686,455.00

33—Marshall University
Acct. No. 320

1 Personal Services ................................................... $ 3,638,204.00
2 Current Expenses .................................................... 304,556.00
3 Repairs and Alterations ........................................... 109,521.00
4 Equipment .................................................................. 163,528.00
5 Flood Wall Assessment .............................................. 3,200.00
6 Experimental Projects in Teacher Education ......... 33,561.00
7 Educational TV Program .......................................... 125,000.00

8 Total ....................................................................... $ 4,377,570.00

34—Fairmont State College
Acct. No. 321

1 Personal Services ................................................... $ 1,335,188.00
2 Current Expenses .................................................... 111,900.00
3 Repairs and Alterations ........................................... 49,400.00
4 Equipment .................................................................. 74,400.00

5 Total ....................................................................... $ 1,570,888.00
### Appropriations

#### 35—Glenville State College

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$802,853.00</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>82,360.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>45,340.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>47,665.00</td>
</tr>
<tr>
<td>5</td>
<td>Community Development and Research</td>
<td>15,500.00</td>
</tr>
<tr>
<td>6</td>
<td><strong>Total</strong></td>
<td><strong>$993,718.00</strong></td>
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</table>

#### 36—West Liberty State College

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$1,272,896.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>125,000.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>68,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>72,000.00</td>
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<tr>
<td>5</td>
<td><strong>Total</strong></td>
<td><strong>$1,537,896.00</strong></td>
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#### 37—Shepherd College

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<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$746,661.00</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>95,700.00</td>
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<td>3</td>
<td>Repairs and Alterations</td>
<td>50,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>60,000.00</td>
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<tr>
<td>5</td>
<td>Community Development and Research</td>
<td>25,000.00</td>
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<td>6</td>
<td><strong>Total</strong></td>
<td><strong>$977,361.00</strong></td>
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#### 38—Concord College

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>1,300,702.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>133,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>40,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>90,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Center for Economic Action</td>
<td>50,000.00</td>
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<tr>
<td>6</td>
<td><strong>Total</strong></td>
<td><strong>$1,613,702.00</strong></td>
</tr>
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</table>

7 Any unexpended balance remaining in the appropriation “Center for Economic Action” at the close of the fiscal year 1965-66
is hereby reappropriated for expenditure during the fiscal year 1966-67.

### 39—West Virginia Institute of Technology
**Acct. No. 327**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,240,230.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$136,827.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$78,957.00</td>
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<tr>
<td>4 Equipment</td>
<td>$113,956.00</td>
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<tr>
<td><strong>Total</strong></td>
<td>$1,569,970.00</td>
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</table>

### 40—West Virginia State College
**Acct. No. 328**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,591,524.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$178,100.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$89,484.00</td>
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<td>4 Equipment</td>
<td>$80,968.00</td>
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<tr>
<td><strong>Total</strong></td>
<td>$1,940,076.00</td>
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</table>

### 41—Bluefield State College
**Acct. No. 329**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$595,227.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$67,096.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$34,888.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$59,725.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$756,936.00</td>
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</table>

### 42—West Virginia State College—4-H Camp
**Acct. No. 330**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$14,152.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,270.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$6,160.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,120.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$26,702.00</td>
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</table>

### 43—West Virginia Schools for the Deaf and Blind
**Acct. No. 333**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$682,269.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$165,330.00</td>
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</table>
### Appropriations

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>44</td>
<td>State FFA-FHA Camp and Conference Center</td>
<td>$901,149.00</td>
</tr>
<tr>
<td>45</td>
<td>Department of Archives and History</td>
<td>$59,853.00</td>
</tr>
<tr>
<td>46</td>
<td>West Virginia Library Commission</td>
<td>$176,808.00</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>336</td>
<td>Personal Services</td>
<td>$35,153.00</td>
</tr>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$8,200.00</td>
</tr>
<tr>
<td></td>
<td>Repairs and Alterations</td>
<td>$8,000.00</td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$8,500.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$59,853.00</td>
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</tbody>
</table>

#### 45—Department of Archives and History

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>340</td>
<td>Personal Services</td>
<td>$48,300.00</td>
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<tr>
<td></td>
<td>Current Expenses</td>
<td>$7,900.00</td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$14,700.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$70,900.00</td>
</tr>
</tbody>
</table>

#### 46—West Virginia Library Commission

<table>
<thead>
<tr>
<th>Account No.</th>
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<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>350</td>
<td>Personal Services</td>
<td>$121,308.00</td>
</tr>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$5,000.00</td>
</tr>
<tr>
<td></td>
<td>Books and Periodicals</td>
<td>$43,500.00</td>
</tr>
<tr>
<td></td>
<td>Library Services for the Blind</td>
<td>$7,000.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$176,808.00</td>
</tr>
</tbody>
</table>

### Charities and Correction

#### 47—West Virginia Industrial School for Boys

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>370</td>
<td>Personal Services</td>
<td>$368,872.00</td>
</tr>
<tr>
<td></td>
<td>Current Expenses</td>
<td>$153,460.00</td>
</tr>
<tr>
<td></td>
<td>Repairs and Alterations</td>
<td>$44,400.00</td>
</tr>
<tr>
<td></td>
<td>Equipment</td>
<td>$22,250.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$588,982.00</td>
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</tbody>
</table>
### Ch. 4] Appropriations

#### 48—Forestry Camp for Boys

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$106,707.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$83,700.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,900.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$13,650.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$214,957.00</strong></td>
</tr>
</tbody>
</table>

#### 49—West Virginia Industrial Home for Girls

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$207,731.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$82,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$13,500.00</td>
</tr>
<tr>
<td>5 Vocational Training</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$323,731.00</strong></td>
</tr>
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</table>

#### 50—West Virginia State Prison for Women

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$45,455.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$35,595.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,550.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$93,000.00</strong></td>
</tr>
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</table>

#### 51—West Virginia Penitentiary

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$760,840.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$517,200.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$38,600.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$33,200.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,349,840.00</strong></td>
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</table>

#### 52—Medium Security Prison

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$441,920.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$192,420.00</td>
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### APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Repairs and Alterations</td>
<td>25,400.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>30,900.00</td>
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<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 690,640.00</strong></td>
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#### 53—West Virginia Children's Home

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 58,204.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>43,980.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>7,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>6,750.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 115,934.00</strong></td>
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#### 54—Andrew S. Rowan Memorial Home

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 243,020.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>175,000.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>35,200.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>8,575.00</td>
</tr>
<tr>
<td><strong>5 Total</strong></td>
<td><strong>$ 461,795.00</strong></td>
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### HEALTH AND WELFARE

#### 55—State Health Department

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$ 412,913.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>134,174.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>19,248.00</td>
</tr>
<tr>
<td>4 Cancer Control and Treatment</td>
<td>150,000.00</td>
</tr>
<tr>
<td>5 Tuberculosis Field Clinic and Nursing Service</td>
<td>10,580.00</td>
</tr>
<tr>
<td>6 Out-Patient Pneumothorax Treatment</td>
<td>20,000.00</td>
</tr>
<tr>
<td>7 Local Health Services</td>
<td>550,000.00</td>
</tr>
<tr>
<td>8 Dental Clinics</td>
<td>45,520.00</td>
</tr>
<tr>
<td>9 Heart Disease Control</td>
<td>25,070.00</td>
</tr>
<tr>
<td>10 Maternal and Child Health-</td>
<td></td>
</tr>
<tr>
<td>11 mobile Medical Examination Clinic</td>
<td>30,000.00</td>
</tr>
<tr>
<td>12 Radiological Health</td>
<td>18,800.00</td>
</tr>
<tr>
<td>13 Mobile Chest X-Ray</td>
<td>39,534.00</td>
</tr>
<tr>
<td>14 Hospital and Medical Facilities Construction</td>
<td></td>
</tr>
<tr>
<td>15 Program</td>
<td>17,501.00</td>
</tr>
<tr>
<td><strong>16 Total</strong></td>
<td><strong>$ 1,473,340.00</strong></td>
</tr>
</tbody>
</table>
56—Department of Veterans Affairs
Acct. No. 404

1 Personal Services ........................................... $ 203,520.00
2 Current Expenses ........................................... 46,490.00
3 Equipment ...................................................... 4,500.00
4 To provide Educational Opportunities for
   Children of War Veterans as provided by
   Chapter thirty-nine, Acts of the Legislature,
   one thousand nine hundred and forty-three $ 15,000.00

Total .................................................................... $ 269,510.00

8
9 Any unexpended balance remaining in the ap-
10 propriation “To Provide Educational Op-
11 portunities for Children of War Veterans”
12 at the close of the fiscal year 1965-66 is
13 hereby reappropriated for expenditure dur-
14 ing the fiscal year 1966-67.

57—Department of Welfare
Acct. No. 405

1 Personal Services ........................................... $ 4,919,826.00
2 Current Expenses ........................................... 1,398,377.00
3 Equipment ...................................................... 30,875.00
4 Public Assistance Grants (Classified Aid) ..... 8,797,721.00
5 Aid to Crippled Children .................................. 470,000.00
6 Medical Services and M.A.A. ......................... 2,500,000.00
7 Conservation of Vision and Prevention of
8 Blindness ......................................................... 40,000.00
9 Child Welfare Services ..................................... 171,600.00
10 General Relief and Boarding Care ................... 1,140,000.00
11 Social Security Matching Fund ......................... 206,920.00

12 Total ................................................................ $ 19,675,319.00

58—State Agency on Aging
Acct. No. 406

1 Total .............................................................. $ 33,300.00

59—Department of Mental Health
Acct. No. 410

1 Personal Services ........................................... $ 344,818.00
<table>
<thead>
<tr>
<th>2 Current Expenses</th>
<th>64,172.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Equipment</td>
<td>2,600.00</td>
</tr>
<tr>
<td>4 Research and Training</td>
<td>25,000.00</td>
</tr>
<tr>
<td>5 Civil Service Costs</td>
<td>61,000.00</td>
</tr>
<tr>
<td>6 Division of Alcoholism</td>
<td>180,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$677,590.00</td>
</tr>
</tbody>
</table>

8 Any unexpended balance remaining in the appropriation for “Research and Training” at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67.

60—Commission on Mental Retardation
Acct. No. 411

| 1 Total               | $26,000.00 |

61—Colin Anderson Center
Acct. No. 419

<table>
<thead>
<tr>
<th>1 Personal Services</th>
<th>$1,232,336.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Current Expenses</td>
<td>329,950.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>53,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>25,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td>$1,640,286.00</td>
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62—Weston State Hospital
Acct. No. 420

<table>
<thead>
<tr>
<th>1 Personal Services</th>
<th>$2,105,789.00</th>
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</thead>
<tbody>
<tr>
<td>2 Current Expenses</td>
<td>927,605.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>140,000.00</td>
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<td>4 Equipment</td>
<td>50,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td>$3,223,394.00</td>
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63—Spencer State Hospital
Acct. No. 421

<table>
<thead>
<tr>
<th>1 Personal Services</th>
<th>$1,062,380.00</th>
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</thead>
<tbody>
<tr>
<td>2 Current Expenses</td>
<td>441,250.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>50,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>23,900.00</td>
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<td><strong>Total</strong></td>
<td>$1,577,530.00</td>
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<td>Hospital</td>
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<td>--------------------------</td>
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<tr>
<td><strong>Huntington State Hospital</strong></td>
<td>Acct. No. 422</td>
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<tr>
<td></td>
<td></td>
</tr>
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<td></td>
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</tr>
<tr>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Lakin State Hospital</strong></td>
<td>Acct. No. 423</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
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<td></td>
<td></td>
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<tr>
<td><strong>Barboursville State Hospital</strong></td>
<td>Acct. No. 424</td>
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</tr>
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<tr>
<td><strong>Fairmont Emergency Hospital</strong></td>
<td>Acct. No. 425</td>
</tr>
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</tr>
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<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Welch Emergency Hospital</strong></td>
<td>Acct. No. 426</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Appropriations</td>
<td>Amount</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>55,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>17,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>443,180.00</td>
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</table>

**69—Hopemont State Hospital**

<table>
<thead>
<tr>
<th>Acct. No. 430</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>507,520.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>313,540.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>23,000.00</td>
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<td>4 Equipment</td>
<td>12,000.00</td>
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<tr>
<td>5 Total</td>
<td>856,060.00</td>
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</table>

**70—Pinecrest Sanitarium**

<table>
<thead>
<tr>
<th>Acct. No. 431</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>784,870.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>560,105.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>31,100.00</td>
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<td>4 Equipment</td>
<td>19,020.00</td>
</tr>
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<td>5 Total</td>
<td>1,395,095.00</td>
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</table>

**71—Denmar State Hospital**

<table>
<thead>
<tr>
<th>Acct. No. 432</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>559,790.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>245,000.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>38,730.00</td>
</tr>
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<td>4 Equipment</td>
<td>20,000.00</td>
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<tr>
<td>5 Total</td>
<td>863,520.00</td>
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</table>

**72—Berkeley Springs Sanitarium**

<table>
<thead>
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<th>Acct. No. 436</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>37,675.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>7,860.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>9,700.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>3,700.00</td>
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<tr>
<td>5 Total</td>
<td>58,935.00</td>
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73—State Board of Education—Rehabilitation Division  
Acct. No. 440

<table>
<thead>
<tr>
<th>Item Description</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$342,565.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>47,895.00</td>
</tr>
<tr>
<td>3 Rehabilitation Center</td>
<td>324,618.00</td>
</tr>
<tr>
<td>4 Case Services</td>
<td>396,000.00</td>
</tr>
<tr>
<td>5 Supervisory Services for Vending Stand Program for the Blind</td>
<td>20,490.00</td>
</tr>
<tr>
<td>6 Training and Special Projects</td>
<td>35,617.00</td>
</tr>
<tr>
<td>7 Social Security Matching Fund</td>
<td>28,000.00</td>
</tr>
<tr>
<td>9 Total</td>
<td>$1,195,185.00</td>
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</table>

BUSINESS AND INDUSTRIAL RELATIONS

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

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$396,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>114,325.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>4,500.00</td>
</tr>
<tr>
<td>4 Total</td>
<td>$515,325.00</td>
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</table>

75—Department of Mines  
Acct. No. 460

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$821,850.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>188,650.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>64,500.00</td>
</tr>
<tr>
<td>4 Total</td>
<td>$1,075,000.00</td>
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</table>

76—Department of Commerce  
Acct. No. 465

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$471,404.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>323,930.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>11,500.00</td>
</tr>
<tr>
<td>4 Mt. State Forest Festival</td>
<td>15,000.00</td>
</tr>
<tr>
<td>5 Alpine Festival</td>
<td>500.00</td>
</tr>
<tr>
<td>6 Governor's Conference on Wood Utilization</td>
<td>3,000.00</td>
</tr>
</tbody>
</table>
736

APPROPRIATIONS

7 Industrial Development Revolving Fund .......................... 250,000.00
8 West Virginia Historical Drama Association ..................... 35,000.00

9 Total .................................................................................. $ 1,110,334.00

10 The above appropriations, Mountain State Forest Festival, Alpine Festival, Governor’s Conference on Wood Utilization, and West Virginia Historical Drama Association shall be expended only upon authorization of the Commerce Commissioner and in accordance with the provisions of chapter 5-A of the code of West Virginia.

18 All federal moneys heretofore or hereafter received as reimbursements to the Department of Commerce, for moneys expended from General Revenue funds, are hereby re-appropriated for the purposes as originally made, including Personal Services, Current Expenses, Equipment, in-service training programs.

26 Special Revenue Account be created and outstanding loans in Urban Planning Revolving Fund be deposited into Special Revenue Account instead of General Revenue Fund.

30 Industrial Development Revolving Fund may be transferred to Special Revenue.

77—State Commission on Manpower, Technology and Training

1 Total .................................................................................. $ 30,000.00

78—Southern Interstate Nuclear Board

1 Total .................................................................................. $ 4,280.00

79—Commission on Interstate Cooperation

1 Total .................................................................................. $ 9,000.00

2 Out of the above appropriation the sum of $7,500.00 may be made available for West Virginia’s membership in The Council of State Governments.
80—Interstate Commission on Potomac River Basin
   Acct. No. 473
1 West Virginia’s contribution to Potomac River
2 Basin Interstate Commission .......................... $ 4,500.00

81—Ohio River Valley Water Sanitation Commission
   Acct. No. 474
1 West Virginia’s contribution to the Ohio River
2 Valley Water Sanitation Commission .......... $ 14,755.00

82—Southern Regional Education Board
   Acct. No. 475
1 West Virginia’s contribution to Southern Regional Education Board $ 43,900.00
3 To be expended upon requisition of the Governor.

83—West Virginia Air Pollution Commission
   Acct. No. 476
1 Personal Services .................................. $ 54,083.00
2 Current Expenses .................................... 28,090.00
3 Repairs and Alterations ............................. 400.00
4 Equipment ........................................... 23,777.00
5 Total .................................................. $ 106,350.00

84—West Virginia Historic Commission
   Acct. No. 477
1 Personal Services .................................. $ 800.00
2 Current Expenses .................................... 16,700.00
3 Total .................................................. $ 17,500.00

85—Department of Banking
   Acct. No. 480
1 Personal Services .................................. $ 128,000.00
2 Current Expenses .................................... 49,430.00
3 Equipment ........................................... 4,100.00
4 Total .................................................. $ 181,530.00
86—West Virginia State Aeronautics Commission
Acct. No. 485

1 Personal Services ........................................ $ 20,636.00
2 Current Expenses ......................................... 16,380.00
3 Equipment ................................................ 1,000.00
4 Aerial Markers ........................................... 1,000.00
5 Civil Air Patrol Expenses .............................. 8,000.00

6 Total .................................................. $ 47,016.00

87—West Virginia Non-Intoxicating Beer Commissioner
Acct. No. 490

1 Personal Services ........................................ $ 150,060.00
2 Current Expenses ......................................... 59,350.00
3 Equipment ................................................ 1,500.00

4 Total .................................................. $ 210,910.00

88—West Virginia Racing Commission
Acct. No. 495

1 Personal Services ........................................ $ 107,310.00
2 Current Expenses ......................................... 30,740.00
3 Equipment ................................................ 1,000.00

4 Total .................................................. $ 139,050.00

AGRICULTURE

89—Department of Agriculture
Acct. No. 510

1 Salary of Commissioner ................................ $ 17,000.00
2 Other Personal Services ................................ 611,355.00
3 Current Expenses ......................................... 239,365.00
4 Equipment ................................................ 15,000.00

5 Total .................................................. $ 882,720.00

6 Any balance remaining in the appropriation
7 “Slaughterhouse and Meat Packing Inspection” at the close of the fiscal year 1965-66
8 is hereby reappropriated for expenditure during the fiscal year 1966-67.
11 Funds may be used to match Federal Funds for the eradication and control of oak wilt.
90—Department of Agriculture—Soil Conservation Committee
   Acct. No. 512
1 Personal Services ............................................ $ 80,795.00
2 Current Expenses .............................................. 39,200.00
3 Total .................................................................. $ 119,995.00

91—Department of Agriculture—Marketing and Research
   Acct. No. 513
1 For cooperation with the Federal Government
2 in a program of marketing and research................. $ 155,000.00
3 Any part or all of this appropriation may be
4 transferred to Special Revenue Fund for the
5 purpose of matching Federal Funds for the
6 above named program.

92—Department of Agriculture—Agricultural Awards
   Acct. No. 515
1 West Virginia State Fair .................................... $ 25,000.00
2 Agricultural Awards ............................................. 43,000.00
3 Walnut Festival ................................................... 3,500.00
4 Total .................................................................. $ 71,500.00

CONSERVATION AND DEVELOPMENT
93—Geological and Economic Survey Commission
   Acct. No. 520
1 Personal Services ............................................ $ 161,127.00
2 Current Expenses .............................................. 49,570.00
3 Equipment ......................................................... 10,890.00
4 Cooperative Mapping Program ......................... 60,000.00
5 Total .................................................................. $ 281,587.00
6 Of the above appropriations for Current Ex-
7 penses, the sum of $15,000.00 may be used
8 to cooperate with the United States Geolog-
9 ical Survey in Ground Waters Resources
10 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 Vir-
15 ginia.

94—Department of Veterans Affairs
   Acct. No. 564

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

95—Department of Natural Resources
   Acct. No. 565

1 Personal Services .............................................$ 1,236,391.00
2 Current Expenses ............................................ 511,620.00
3 Repairs and Alterations ..................................... 98,500.00
4 Equipment .......................................................... 62,533.00
5 Clarke-McNary—Fire Prevention ............................. 120,000.00
6 Area Redevelopment Administration ........................ 22,046.00
7 Water Resources Board ......................................... 2,000.00
8 Rabies Control ................................................... 30,000.00

9 Total .................................................................$ 2,083,090.00
10 Out of the above appropriation for Current
11 Expenses, subsistence for conservation offi-
12 cers shall be paid at the rate of two dollars
13 and fifty cents per calendar day to the chief
14 conservation officer and to each full-time
15 uniformed conservation officer, under his
16 direct supervision, whose primary duties and
17 responsibilities are law enforcement.
18 Any unexpended balance remaining in the ap-
19 propriation “Clarke-McNary—Fire Preven-
20 tion” at the close of the fiscal year 1965-66
21 is hereby reappropriated for expenditure
22 during the fiscal year 1966-67.
## PROTECTION

### 96—Department of Public Safety

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$2,023,546.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$987,347.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$56,940.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>$262,880.00</td>
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<tr>
<td>5</td>
<td>Total</td>
<td>$3,330,713.00</td>
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### 97—Adjutant General—State Militia

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<th>Item</th>
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<th>Amount</th>
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<tr>
<td>1</td>
<td>Personal Services</td>
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<td>2</td>
<td>Current Expenses</td>
<td>$100,756.00</td>
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<td>3</td>
<td>Repairs and Alterations</td>
<td>$7,050.00</td>
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<td>4</td>
<td>Equipment</td>
<td>$6,300.00</td>
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<td>5</td>
<td>Compensation of Commanding Officers, Clerical Allowances and Uniform Allowances</td>
<td>$85,000.00</td>
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<tr>
<td>6</td>
<td>Property Maintenance</td>
<td>$41,245.00</td>
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<tr>
<td>7</td>
<td>State Armory Board</td>
<td>$799,649.00</td>
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<td>8</td>
<td>Total</td>
<td>$1,110,000.00</td>
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### 98—Department of Civil and Defense Mobilization

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<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$37,090.00</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$11,045.00</td>
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<td>3</td>
<td>Equipment</td>
<td>$4,300.00</td>
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<td>$52,435.00</td>
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### 99—Auditor’s Office—Social Security

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<th>Item</th>
<th>Description</th>
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</tr>
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<tbody>
<tr>
<td>1</td>
<td>To match contributions of state employees for social security</td>
<td>$2,304,758.00</td>
</tr>
<tr>
<td>2</td>
<td>The above appropriation is intended to cover the state's share of social security costs for those spending units operating from General Revenue Fund and General School Fund Appropriations. The State Road</td>
<td></td>
</tr>
</tbody>
</table>
Commission, Department of Motor Vehicles, Workmen's Compensation Commission, Public Service Commission, and other departments operating from Special Revenue Funds and/or Federal Funds shall pay their proportionate share of the social security cost for their respective divisions. Any unexpended balance remaining in this appropriation at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67.

100—State Board of Education—Insurance
Acct. No. 584
1 Insure Contents of Buildings ................................ $ 12,500.00

101—West Virginia Board of Examiners for Practical Nurses
Acct. No. 587
1 To pay the per diem of members and other general expenses ........................................ $ 16,000.00
3 From Collections .................................................. 16,000.00

102—State Board of Dental Examiners
Acct. No. 589
1 To pay the per diem of members and other general expenses ........................................ $ 5,500.00
3 From Collections .................................................. 5,500.00

103—State Board of Professional Foresters
Acct. No. 5895
1 To pay the per diem of members and other general expenses ........................................ $ 2,000.00
3 From Collections .................................................. 2,000.00

104—State Board of Pharmacy
Acct. No. 590
1 To pay the per diem of members and other general expenses ........................................ $ 10,500.00
3 From Collections .................................................. 10,500.00
105—State Board of Osteopathy
Acct. No. 591

1 To pay the per diem of members and other general expenses $ 1,610.00
2 From Collections $ 1,610.00

106—State Board of Optometry
Acct. No. 592

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

107—State Board of Embalmers and Funeral Directors
Acct. No. 593

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

108—State Board of Registration for Professional Engineers
Acct. No. 594

1 To pay the per diem of members and other general expenses $ 28,000.00
2 From Collections $ 28,000.00

109—State Board of Architects
Acct. No. 595

1 To pay the per diem of members and other general expenses $ 4,000.00
2 From Collections $ 4,000.00

110—State Veterinary Board
Acct. No. 596

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

111—State Board of Law Examiners
Acct. No. 597

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

#### 112—Human Rights Commission

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$31,950.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$14,800.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,250.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$48,000.00</strong></td>
</tr>
</tbody>
</table>

#### 113—State Board of Chiropractic Examiners

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To pay the per diem of members and other general expenses</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

#### 114—West Virginia State Board of Sanitarians

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To pay the per diem of members and other general expenses</td>
<td>$800.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>$800.00</td>
</tr>
</tbody>
</table>

#### 115—West Virginia Public Employees Retirement Board

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employers Accumulation Fund</td>
<td>$750,000.00</td>
</tr>
<tr>
<td>Expense Fund</td>
<td>$25,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$775,000.00</strong></td>
</tr>
</tbody>
</table>

The above appropriation is intended to cover the state's share of the West Virginia Public Employees' Retirement cost in accordance with chapter 5, article 10 of the code of West Virginia for those departments operating from General Revenue Fund and General School Fund appropriations. The State Road Commission, Department of Motor Vehicles, State Tax Commissioner—Gasoline Tax Division, Workmen's Compensation Commission, Public Service Commission, and other departments operating from Special Revenue Funds and/or Federal Funds shall pay their proportionate share.
of the retirement costs for their respective divisions. When specific appropriations are not made such payments may be made from the balances in the various Special Revenue Funds in excess of specific appropriations.

116—Insurance Commissioner

Acct. No. 616

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$154,477.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>25,610.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$183,087.00</td>
</tr>
</tbody>
</table>

5 Special Fees collected under authority of chapter 33, article 3, of the code of West Virginia shall be deposited to General Revenue Fund. Any balance remaining in Special Revenue Fund Acct. No. 826 at the end of fiscal year 1965-66 is to be transferred to State Fund General Revenue.

117—Insurance Commissioner—Fire Marshal

Acct. No. 617

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$128,525.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>31,595.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>1,800.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,650.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$163,570.00</td>
</tr>
</tbody>
</table>

6 Special Fees collected under authority of chapter 29, article 3, of the code of West Virginia shall be deposited to General Revenue Fund. Any balance remaining in Special Revenue Fund Acct. No. 827 at the end of fiscal year 1965-66 is to be transferred to State Fund General Revenue.

118—State Road Commission

Acct. No. 641

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$6,345,000.00</td>
</tr>
</tbody>
</table>
The purpose of the above appropriation is to aid in payment of interest and principal on outstanding road bonds and may be transferred to the state road fund upon the requisition of the Governor.

**Sec. 2. Appropriations from Other Funds.**—From the funds designated there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter 5, article 4, and chapter 5-A, article 2, of the code of West Virginia the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred sixty-seven.

### 119—State Road Commission

**Acct. No. 670**

**TO BE PAID FROM STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal-Aid Construction — Interstate Program</td>
<td>$74,521,500.00</td>
</tr>
<tr>
<td>Federal-Aid Construction — ABC Program</td>
<td>34,700,000.00</td>
</tr>
<tr>
<td>Interstate Maintenance</td>
<td>1,056,000.00</td>
</tr>
<tr>
<td>Special Maintenance and State Construction — Primary</td>
<td>9,006,500.00</td>
</tr>
<tr>
<td>Special Maintenance and State Construction — Secondary</td>
<td>10,532,500.00</td>
</tr>
<tr>
<td>Routine Maintenance — Primary</td>
<td>6,318,250.00</td>
</tr>
<tr>
<td>Routine Maintenance — Secondary</td>
<td>6,318,250.00</td>
</tr>
<tr>
<td>Emergency Operations — Snow and Ice Control — Flood and Slides</td>
<td>3,000,000.00</td>
</tr>
<tr>
<td>General Operations</td>
<td>27,432,524.00</td>
</tr>
<tr>
<td>Equipment Purchases</td>
<td>1,500,000.00</td>
</tr>
<tr>
<td>Inventory Purchases</td>
<td>3,000,000.00</td>
</tr>
<tr>
<td>Debt Service</td>
<td>9,370,888.00</td>
</tr>
</tbody>
</table>

**Total** | $186,756,412.00

It is the intent to appropriate and make available for expenditure, the balances and all revenues and income of the state road fund, including the proceeds from the sale of bonds, for the maintenance, construction and reconstruction of state roads and for
appropriations in accordance with the provisions of chapter 17, code of West Virginia, one thousand nine hundred thirty-one, as amended.

Funds in excess of amounts herein appropriated may be made available by budget amendment upon request of the Road Commissioner and approval of the Board of Public Works.

The State Road Commissioner shall have the authority to operate revolving funds within the state road fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories of materials and supplies: Provided, however, That the operation of such revolving funds shall not cause expenditures in excess of the foregoing appropriations.

There is hereby appropriated, within the above line items, sufficient moneys for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with chapter 14, article 2, sections 7 and 8, code of West Virginia, one thousand nine hundred thirty-one, as amended.

120—Department of Motor Vehicles

Acct. No. 671

TO BE PAID FROM STATE ROAD FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$955,239.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$422,708.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>4 Purchase of License Plates</td>
<td>$230,000.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$38,574.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$45,041.00</td>
</tr>
<tr>
<td>7 Total</td>
<td>$1,721,562.00</td>
</tr>
</tbody>
</table>
### 121—State Tax Commissioner—Gasoline Tax Division

**Acct. No. 672**

**TO BE PAID FROM STATE ROAD FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$193,825.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$72,475.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$8,027.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$278,327.00</strong></td>
</tr>
</tbody>
</table>

### 122—State Board of Education

**Acct. No. 700**

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$42,823.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$15,100.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,050.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$58,973.00</strong></td>
</tr>
</tbody>
</table>

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

**Acct. No. 701**

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$58,517.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$9,370.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,250.00</td>
</tr>
<tr>
<td>4 Vocational Aid</td>
<td>$410,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$479,137.00</strong></td>
</tr>
</tbody>
</table>

### 124—Department of Education—Veterans Education

**Acct. No. 702**

**TO BE PAID FROM GENERAL SCHOOL FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,320.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,691.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,011.00</strong></td>
</tr>
</tbody>
</table>

Expenditures from this appropriation shall not exceed the amount to be reimbursed by the Federal Government.
Federal funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the State Superintendent of Schools and approval of the Board of Public Works for any emergency which might arise in the operation of this Division during the fiscal year.

125—Department of Education
Acct. No. 703
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of State Superintendent</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$404,080.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$92,185.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$3,950.00</td>
</tr>
<tr>
<td>National Defense Education Act</td>
<td>$189,500.00</td>
</tr>
<tr>
<td>Statewide Testing Program</td>
<td>$176,000.00</td>
</tr>
<tr>
<td>Experimental Projects</td>
<td>$16,480.00</td>
</tr>
</tbody>
</table>

Total $900,195.00

Any part or all of the appropriation for "National Defense Education Act" may be transferred to a Special Revenue Fund for the purpose of matching Federal Funds for this program.

126—State Board of School Finance
Acct. No. 704
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$19,714.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

Total $24,714.00

127—Department of Education—School Lunch Program
Acct. No. 705
TO BE PAID FROM GENERAL SCHOOL FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$66,071.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$18,000.00</td>
</tr>
</tbody>
</table>
3 Aid to Counties—Includes hot lunches and canning for hot lunches $ 300,000.00

5 Total $ 384,071.00

128—Department of Education
Acct. No. 706
TO BE PAID FROM GENERAL SCHOOL FUND
1 Salaries of County Superintendents $ 61,000.00

129—Department of Education
Acct. No. 707
TO BE PAID FROM GENERAL SCHOOL FUND
1 State Aid to Children’s Home $ 25,000.00

130—Department of Education
Acct. No. 715
TO BE PAID FROM GENERAL SCHOOL FUND
1 Scholarships for Teacher Training $ 50,000.00

131—Real Estate Commission
Acct. No. 801
TO BE PAID FROM SPECIAL REVENUE FUND
1 Personal Services $ 30,861.00
2 Current Expenses $ 18,404.00
3 Social Security Matching Fund $ 1,212.00
4 Public Employees Retirement Matching Fund $ 1,578.00

5 Total $ 52,055.00

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

132—West Virginia Racing Commission
Acct. No. 808
TO BE PAID FROM SPECIAL REVENUE FUND
1 Medical Expenses $ 5,000.00
2 The total amount of this appropriation shall be paid from Special Revenue Fund out
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.

133—Auditor’s Office—Land Department Operating Fund
Acct. No. 812
TO BE PAID FROM SPECIAL REVENUE FUND

1 Current Expenses ........................................ $ 15,000.00
2 The total amount of this appropriation shall
3 be paid from Special Revenue Fund out of
4 fees and collections as provided by law.
5 Special funds in excess of the amount herein
6 appropriated may be made available by
7 budget amendments upon request of the
8 State Auditor and the approval of the
9 Board of Public Works.

134—Department of Finance and Administration
Division of Purchases—Revolving Fund
Acct. No. 814
TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services ........................................ $ 97,650.00
2 Current Expenses ........................................ 14,200.00
3 Equipment .................................................. 12,000.00
4 Social Security Matching Fund ................... 4,100.00
5 Public Employees Retirement Matching Fund 4,500.00

6 Total ......................................................... $132,450.00
7 The total amount of this appropriation shall
8 be paid from Special Revenue Fund as pro-
9 vided by chapter 5, article 4 and chapter
10 5-A, article 2, of the code of West Vir-
11 ginia.
12 The above appropriation includes salaries and
13 operating expenses.
14 There is hereby appropriated from this fund,
15 in addition to the above appropriation, the
necessary amount for the purchase of supplies for resale.

Special funds in excess of the amounts hereby appropriated may be made available by budget amendments upon request of the Department of Finance and Administration and approval of the Board of Public Works.

135—Department of Agriculture
Acct. No. 818

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$171,438.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$40,700.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$6,601.00</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>$8,707.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$232,446.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of collections made by the Department of Agriculture as provided by law. It is the intention that special funds in excess of the amounts hereby appropriated shall be made available by budget amendments upon request of the Commissioner of Agriculture, and approval of the Board of Public Works.

136—State Committee of Barbers and Beauticians
Acct. No. 822

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$54,180.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$31,795.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$888.00</td>
</tr>
<tr>
<td>Social Security Matching Fund</td>
<td>$2,297.00</td>
</tr>
<tr>
<td>Public Employees Retirement Matching Fund</td>
<td>$2,764.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$91,924.00</strong></td>
</tr>
</tbody>
</table>

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

### 137—Public Service Commission

**Acct. No. 828**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$411,218.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$53,703.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$6,440.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$12,341.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$20,162.00</td>
</tr>
</tbody>
</table>

**Total** $545,864.00

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

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

**Acct. No. 829**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$235,855.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$57,990.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,860.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$6,650.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$10,234.00</td>
</tr>
</tbody>
</table>

**Total** $315,589.00

The total amount of this appropriation shall be paid from Special Revenue Fund out of receipts collected for or by the Public Service Commission pursuant to and in the exerci-
cise of regulatory authority over motor carriers as authorized by law.

139—Department of Natural Resources
Acct. No. 830
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,067,145.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>427,061.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>74,022.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>131,330.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,699,558.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected by the Department of Natural Resources. Expenditures shall be limited to the amounts appropriated except for Federal Funds received and Special Funds collected at state parks. Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Natural Resources and approval of the Board of Public Works.

140—Department of Public Safety—Inspection Fees
Acct. No. 835
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$115,640.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>69,770.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>7,100.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>13,400.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>499.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$206,409.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected for inspection stickers as provided by law.
Special funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Department of Public Safety and approval of the Board of Public Works for the purpose of repairs to, or construction of police barracks.

141—West Virginia Alcohol Beverage Control
Acct. No. 837
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$14,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$3,303,524.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$863,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$35,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>6 Social Security Matching Fund</td>
<td>$141,204.00</td>
</tr>
<tr>
<td>7 Public Employees Retirement Matching Fund</td>
<td>$168,896.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$4,585,624.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of liquor revenues. The above appropriation includes the salaries of store personnel, store inspectors, store operating expenses and equipment; and salaries, expenses and equipment of administration offices. There is hereby appropriated from liquor revenues, in addition to the above appropriation, the necessary amount for the purchase of liquor, as provided by law.

142—West Virginia Civil Service System
Acct. No. 840
TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$125,100.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$31,435.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$4,614.00</td>
</tr>
<tr>
<td>4 Public Employees Retirement Matching Fund</td>
<td>$5,936.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$167,085.00</strong></td>
</tr>
</tbody>
</table>
6 The total amount of this appropriation shall be paid from Special Revenue Fund supported by participating agencies as provided by law.

10 The Board of Public Works is hereby authorized to make available by budget amendment, upon request of the Civil Service Commission, funds in excess of the amounts hereby appropriated.

143—West Virginia University—Special Capital Improvement Fund

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Debt Service</td>
<td>$665,000.00</td>
</tr>
<tr>
<td>2 Creative Arts Building</td>
<td>7,100,000.00</td>
</tr>
<tr>
<td>3 Educational Television</td>
<td>500,000.00</td>
</tr>
<tr>
<td>4 Chemistry Annex</td>
<td>1,500,000.00</td>
</tr>
<tr>
<td>5 Potomac State Auditorium</td>
<td>800,000.00</td>
</tr>
<tr>
<td>6 Small Projects</td>
<td>400,000.00</td>
</tr>
<tr>
<td>7 Property Acquisition</td>
<td>400,000.00</td>
</tr>
<tr>
<td>8 Utilities, Roads, and Parking</td>
<td>200,000.00</td>
</tr>
</tbody>
</table>

9 Total...........................................$11,565,000.00

10 The total amount of this appropriation shall be paid from the non-revolving Capital Improvement Fund created by the 1959 Legislature, amended by the 1963 Legislature. Any unexpended balance remaining in this appropriation at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67.

144—State Board of Education—Special Capital Improvement Fund

Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Payment of Principal and Interest on Bonds</td>
<td>$1,071,800.00</td>
</tr>
<tr>
<td>2 Marshall University—Dormitory Furniture</td>
<td>292,275.00</td>
</tr>
</tbody>
</table>
3 Concord College—Dormitory Furniture............................................................... 364,500.00
4 Glenville State College—Dormitory Furniture ................................................. 81,000.00
5 Bluefield State College—Addition to Technical Science Facilities ........................................... 256,000.00
7 Glenville State College — Renovation Old Library Building ........................................ 75,000.00
9 West Liberty State College—Renovation Top Floor of Library or addition to Fine Arts Building ................................................................. 75,000.00
12 Fairmont State College — Campus Electrical Vault and Connection ........................................ 30,000.00
14 West Virginia Institute of Technology — Cafeteria Furniture and Equipment ............................................. 30,000.00
16 Shepherd College — Renovation Home Economics Building ................................. 40,000.00
18 Concord College—Purchase of Land ................................................................. 23,000.00
19 Total .......................................................................................................................... $2,338,575.00

As required by law, the above projects are listed in a stated order of priority and are to be paid on a cash basis. It is intended that only complete and useable units or projects be constructed and then only in the listed order of priority.

The total amount of this appropriation shall be paid from the non-revolving Capital Improvement Fund created by the 1959 Legislature, amended by the 1963 Legislature.

The above appropriation to Glenville State College for Dormitory Furniture of $81,000 is to be made available from passage date of this act.

Any unexpended balance remaining in this appropriation at the close of the fiscal year 1965-66 is hereby reappropriated for expenditure during the fiscal year 1966-67, and the priority appropriation made to Shepherd College for Renovation, Admin-
Shepherd College—Renovation, Administration Building to Classrooms .......... $ 145,000.00
Administration Building ........................................... 215,000.00

145—West Virginia University—Medical School
TO BE PAID FROM MEDICAL SCHOOL FUND
Acct. No. 873

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Supplemental Retirement</td>
<td>$ 70,000.00</td>
</tr>
<tr>
<td>2. Social Security</td>
<td>110,825.00</td>
</tr>
<tr>
<td>3. Physical Planning</td>
<td>2,130.00</td>
</tr>
<tr>
<td>4. Purchasing Inventory</td>
<td>22,735.00</td>
</tr>
<tr>
<td>5. Registrar</td>
<td>19,950.00</td>
</tr>
<tr>
<td>6. Medical Center Library</td>
<td>51,215.00</td>
</tr>
<tr>
<td>7. Administration</td>
<td>303,830.00</td>
</tr>
<tr>
<td>8. Animal Quarters</td>
<td>15,270.00</td>
</tr>
<tr>
<td>9. Multilith Department</td>
<td>5,060.00</td>
</tr>
<tr>
<td>10. Electronics Laboratory</td>
<td>14,350.00</td>
</tr>
<tr>
<td>11. Academic Communication</td>
<td>8,250.00</td>
</tr>
<tr>
<td>12. Medical Center Information (News Media)</td>
<td>13,650.00</td>
</tr>
<tr>
<td>13. Photography and Illustrations</td>
<td>23,050.00</td>
</tr>
<tr>
<td>14. Vice President’s Office</td>
<td>43,000.00</td>
</tr>
<tr>
<td>15. School of Medicine</td>
<td>1,297,095.00</td>
</tr>
<tr>
<td>16. Medical Technology</td>
<td>43,760.00</td>
</tr>
<tr>
<td>17. School of Dentistry</td>
<td>533,335.00</td>
</tr>
<tr>
<td>18. School of Nursing</td>
<td>225,480.00</td>
</tr>
<tr>
<td>19. School of Pharmacy</td>
<td>17,775.00</td>
</tr>
<tr>
<td>20. Medical Biochemistry</td>
<td>834,925.00</td>
</tr>
<tr>
<td>21. University Hospital</td>
<td>3,351,497.00</td>
</tr>
<tr>
<td>22. Other Operating Expenses</td>
<td>2,984,261.00</td>
</tr>
</tbody>
</table>

23. Total ........................................................................ $ 9,991,443.00

Special funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Board of Governors of West Virginia University and approval of the Board of Public Works.
146—Workmen’s Compensation Commission
Acct. No. 900

TO BE PAID FROM WORKMEN’S COMPENSATION FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$870,120.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$291,937.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$16,689.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$34,835.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$44,081.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,257,662.00</strong></td>
</tr>
</tbody>
</table>

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

Sec. 3. Supplemental and Deficiency Appropriation.—
2 From the State Fund, General Revenue, except as otherwise provided, there are hereby appropriated the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred sixty-six to supplement the 1965-66 appropriations, and to be available for expenditure upon date of passage.

147—Supreme Court of Appeals
Acct. No. 110

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$18,000.00</td>
</tr>
</tbody>
</table>

148—Governor’s Office
Acct. No. 120

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Contingent Fund</td>
<td>$60,000.00</td>
</tr>
</tbody>
</table>

149—Department of Personnel
Acct. No. 121

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$18,162.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$1,338.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$21,500.00</strong></td>
</tr>
</tbody>
</table>
150—Department of Finance and Administration
   Acct. No. 210
1 Mansion Repairs and Refurbishing $ 88,000.00

151—Forestry Camp for Boys
   Acct. No. 371
1 Rebuild Forestry Camp $ 180,000.00

152—Industrial Home for Girls
   Acct. No. 372
1 Repairs and Alterations $ 6,000.00

153—West Virginia Penitentiary
   Acct. No. 375
1 Paving Assessment $ 5,100.00

154—Department of Welfare
   Acct. No. 405
1 Medical Service $ 2,300,000.00
2 General Relief $ 200,000.00
3 Food Stamp Program $ 120,000.00
4 Total $ 2,620,000.00

155—Department of Labor
   Acct. No. 450
1 Equipment $ 28,000.00

156—Department of Commerce
   Acct. No. 465
1 Personal Services—Arts and Crafts $ 11,000.00

157—Racing Commission
   Acct. No. 495
1 Personal Services $ 10,000.00

Sec. 4. Reappropriations.—The date for expiring the un-
2 expended balances, if any, in items XXVII, XXXI, XXXVII,
3 and XXXIX, in the appropriations made by and under au-
4 thority of Section 4 of the 1963 Budget Act and items 3 and 39
5 in the appropriations made by and under authority of Sec-
6 tion 6 of the 1964 Budget Act and items I, II, III, IV, V, VI,
7 VIII, XII, XVI, and XVII in the appropriations made by and under authority of Section 6 of the 1965 Budget Act are hereby reappropriated from their respective dates of expiration to June 30, 1967.

11 Item III—Governor’s Office as herein reappropriated may be used to match and aid Federal Programs, and any part of this appropriation may be transferred to any department for such purposes.

15 Item IV—Department of Finance and Administration as herein reappropriated is only the item “To Establish Motor Pool.”

18 Item XXXIX—Forestry Camp for Boys, and, Item VIII—Forestry Camp for Boys, as herein reappropriated may be used to begin relocation of present Forestry Camp and/or preliminary plans for establishing a new camp.

Sec. 5. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred sixty-seven appropriations made by general law from special revenue which are not paid into the state fund as general revenue under the provisions of chapter 12, article 2, section 2, 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 chapter 12, articles 2 and 3, chapter 5, article 4 and chapter 5-A, article 2, of the code of West Virginia, unless the spending unit has filed with the state director of the budget and the state auditor prior to the beginning of each fiscal year:

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

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

Sec. 6. Specific Funds and Collection Accounts.—A fund or collection account, which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account, and shall be expended according to the provisions of chapter 12, article 3, of the code of West Virginia.
There is hereby appropriated to Marshall University the sum of $122,000.00 representing interest earned on construction funds in the hands of the State Sinking Fund Commission for the purpose of purchasing additional land and/or equipment, and/or for matching federal funds which may become available, all for the purpose of improving existing facilities at Marshall University.

Sec. 7. Appropriation 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 soft drink tax revenues for administration and enforcement of the law relating to said tax, a sum not to exceed two and one-half per cent of the total revenues collected. All such salaries and expenses, authorized by law as aforesaid, shall be paid by the
Sec. 10. Appropriations to Pay Costs of Publication of Delinquent Corporations.—There is hereby appropriated out of the state fund, general revenue, out of funds not otherwise appropriated to be paid upon requisition of the auditor and/or the Governor, as the case may be, a sum sufficient to pay the cost of publication of delinquent corporations as provided by chapter 11, article 12, sections 75 and 77, of the code of West Virginia.

Sec. 11. Appropriations for Local Governments.—There is hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due county, district and municipal corporations and which have been paid into the treasury:
(a) For the redemption of lands;
(b) By public service corporations;
(c) For tax forfeitures.

Sec. 12. Total Appropriations.—Where only a total sum is appropriated to a spending unit that total sum shall include personal services, current expenses, and capital outlay, except as otherwise provided in Title I, Section 3.

Sec. 13. General School Fund.—The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with chapter 18, article 9, section 6, of the code of West Virginia.

Title 3. Administration.

Section 1. Appropriations Conditional.—The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of chapter 5, article 4 and chapter 5-A, article 2, of the code of West Virginia.

Where former spending units have been absorbed by or combined with other spending units by acts of this Legisla-
10ture, it is the intent of this act that reappropriation shall be
to the succeeding or later spending unit created unless other-
wise indicated.

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

CHAPTER 5
(Senate Bill No. 75—By Mr. McCourt)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT directing the state auditor to transfer immediately a
certain accrued balance from the barbers and beauticians
special fund to the general revenue fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Transfer of sum from barbers and beauticians special fund.

Section 1. Transfer of Sum from Barbers and Beauti-
cians Special Fund.—The state auditor shall immediately
transfer to the general revenue fund the sum of one hun-
dred forty thousand dollars from the barbers and beauti-
ticians special fund established by the provisions of ar-
ticle fourteen, chapter sixteen of this code.

CHAPTER 6
(Senate Bill No. 83—Originating in the Senate Committee
on Finance)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend chapter twenty-six of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, designated article ten,
relating to the establishment and charging of fees for the
maintenance of persons admitted to hospitals, homes and sanitariums under the jurisdiction and control of the commissioner of public institutions.

Be it enacted by the Legislature of West Virginia:

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

Article 10. Hospitals, Homes and Sanitarium Fees.

Section 1. Authority of commissioner of public institutions to establish; exonerating persons from payment.

Section 1. Authority of Commissioner of Public Institutions to Establish; Exonerating Persons from Payment.—Notwithstanding any limitation contained in this chapter or any provision therein to the contrary, the commissioner of public institutions is authorized to establish and charge the inmate or patient reasonable fees for the maintenance of each person admitted to a hospital, home or sanitarium under his jurisdiction and control: Provided, That the commissioner of public institutions may, whenever it is deemed just and expedient to do so, exonerate any such person chargeable with such maintenance from the payment thereof, in whole or in part, if the commissioner finds that such person is unable to pay or that payment would work an undue hardship upon him.

CHAPTER 7

(Senate Bill No. 9—By Mr. Barnett and Mr. Parker)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two-a, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refunding bonds, form, interest rates, and negotiability of same.

Be it enacted by the Legislature of West Virginia:

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

**Article 2-a. Revenue Bond Refinancing.**

Section

5. Form of bonds; interest rates; negotiability.

**Section 5. Form of Bonds; Interest Rates; Negotiability.**

The refunding bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, not in any event exceeding forty years from their respective dates; may bear interest at such rate or rates not exceeding the maximum rate of interest borne by the notes, bonds, or other obligations refinanced thereby; may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared or become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen, or lost bonds, may be authenticated in such manner and upon compliance with such conditions; and may contain such other terms and covenants, as may be provided by resolution or resolutions of the governing body of the public body: Provided, That if the refinancing is for the sole purpose of discharging at less than their face or par value all of the outstanding notes, bonds or other obligations of a class I or class II city, as defined in chapter eight-a of this code, and such notes, bonds or other obligations are to be refinanced, then such refunding bonds may bear interest at any rate or rates, not exceeding six per cent per annum, which results in a total interest cost of not more than the total amount of interest, including interest then in arrears, that would have been payable from the date of such refinancing to maturity of the notes, bonds or other obligations so refinanced.
Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

CHAPTER 8
(Com. Sub. for Senate Bill No. 42—By Mr. Carson, Mr. President, and Mr. Moreland)

[Passed February 9, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, three and seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, changing the name of the state office building commission to "The State Building Commission of West Virginia"; designating the members, chairman and secretary of such commission; specifying the powers, duties and responsibilities of the commission; defining certain terms; and setting forth the duties, powers and responsibilities of the commission with respect to the issuance of revenue bonds and the acceptance of gifts and grants.

Be it enacted by the Legislature of West Virginia:

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


Section
1. Name of state office building commission changed; composition; chairman and secretary; expenses of members; powers and duties generally.
2. Definitions.
7. Commission empowered to issue state building revenue bonds; form and requirements for bonds; procedure for issuance; temporary bonds; funds, grants and gifts.

Section 1. Name of State Office Building Commission Changed; Composition; Chairman and Secretary; Ex-
penses of Members; Powers and Duties Generally.—“The State Office Building Commission of West Virginia,” heretofore created, shall continue in existence but on and after the effective date of this section shall be known and designated as “The State Building Commission of West Virginia” and shall continue as a body corporate and as an agency of the state of West Virginia. On and after the effective date of this section, the commission shall consist of the governor, the attorney general, the treasurer, the auditor, the commissioner of agriculture, the secretary of state, the president of the senate, the speaker of the house of delegates, the minority leader of the senate and the minority leader of the house of delegates. The governor shall be chairman and the secretary of state shall be secretary of the commission. The members of the commission shall be paid or reimbursed for their necessary expenses incurred under this article, but shall receive no compensation for their services as members or officers of the commission. Such expenses shall be paid solely from funds provided under the authority of this article, and the commission shall not proceed to exercise or carry out any authority or power herein given it to bind said commission beyond the extent to which money has been provided under the authority of this article. The commission shall have the duties, powers and responsibilities provided for in this article.

Sec. 2. Definitions.—The following terms, wherever used or referred to in this article, shall have the following meanings, unless a different meaning clearly appears from the context:

The term “commission” shall mean the state building commission of West Virginia, or if said commission shall be abolished, any board or officer succeeding to the principal functions thereof, or upon whom the powers given to said commission shall be given by law.

The term “bonds” shall mean bonds issued by the commission pursuant to this article.

The term “project” shall be deemed to mean collectively the acquisition of land, the construction, equipping and furnishing of a building or buildings, together with inci-
dental approaches, structures and facilities, herein authorized to be constructed.

The term "cost of project" shall embrace the cost of construction, the cost of equipping and furnishing same, the cost of all land, property, material and labor which are deemed essential thereto, the cost of improvements, financing charges, interest during construction, and all other expenses, including legal fees, trustees', engineers' and architects' fees which are necessarily or properly incidental to the project.

The term "rent" or "rental" shall include all moneys received for the use of any part of a project either from the state of West Virginia or any officer, department or public corporation thereof: Provided, That nothing in this article shall be taken to authorize the payment by or on behalf of the state of any rent in excess of the fair rental value of property used by or for such state officer or department or public corporation in the exercise of his or its statutory duties.

**Sec. 3. Powers of the Commission.—** The commission shall have power:

1. To sue and be sued, plead and be impleaded;
2. To have a seal and alter the same at pleasure;
3. To contract to acquire and to acquire, in the name of the commission or of the state, by purchase or otherwise, real property or rights or easements necessary or convenient for its corporate purposes;
4. To acquire, hold and dispose of personal property for its corporate purposes;
5. To make by-laws for the management and regulation of its affairs;
6. With the consent of the attorney general of the state of West Virginia to use the facilities of his office, assistants and employees in all legal matters relating to or pertaining to the commission;
7. To appoint officers, agents and employees, and fix their compensation;
8. To make contracts, and to execute all instruments necessary or convenient to effectuate the intent of, and to exercise the powers granted to it by, this article;
9. To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the commission that its interest will be best served;

10. To construct a building or buildings on real property, which it may acquire, or which may be owned by the state of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to such consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space therein, in Kanawha county for the West Virginia alcohol beverage control commissioner, and equip and furnish the same; and to acquire or construct buildings and additions to buildings (and equip and furnish the same), including remodeling, renovation and repair, as may be required for the safety and care of patients, guests and inmates at hospitals under the jurisdiction and supervision of the department of mental health and at institutions under the jurisdiction and supervision of the commissioner of public institutions; and to formulate and program plans for the orderly and timely capital improvement of all of said hospitals and institutions and the state capitol buildings;

11. To maintain, construct and operate a project authorized hereunder;

12. To charge rentals for the use of any part of a project, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided;

13. To issue negotiable bonds and to provide for the rights of the holders thereof;

14. To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

15. To do all things necessary or convenient to carry out the powers given in this article.

The rights and powers set forth in subdivision ten of this section shall not be construed as in derogation of any rights and powers now vested in the West Virginia alcohol beverage control commissioner, the department of mental health or the commissioner of public institutions.
Sec. 7. Commission Empowered to Issue State Building Revenue Bonds; Form and Requirements for Bonds; Procedure for Issuance; Temporary Bonds; Funds, Grants and Gifts.—The commission is hereby empowered to raise the cost of a project, as defined hereinabove, by the issuance of state building revenue bonds of the state, the principal of and interest on which bonds shall be payable solely from the special fund herein provided for such payment. Such bonds shall be authorized by resolution of the commission which shall recite an estimate by the commission 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 funds, grant or grants, gift or gifts received, or in the opinion of the commission expected to be received from the United States of America or from any other source. The acceptance by the commission of any and all such funds, grants and gifts, whether in money or in land, labor or materials, is hereby expressly authorized. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than four per cent per annum, payable semiannually, and shall mature in not more than twenty-five years from their date or dates, and may be made redeemable at the option of the state, to be exercised by the commission, at such price and under such terms and conditions as the commission may fix prior to the issuance of such bonds. The commission shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the chairman and secretary of the commission, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of said chairman of the commission. In case any of the officers whose signatures appear on the bonds or coupons issued as hereinbefore authorized shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The commission shall fix the denominations of said bonds, the princi-
pal and interest of which shall be payable at the office of
the treasurer of the state of West Virginia, at the capitol
of said state, or, at the option of the holder, at some bank
or trust company in the city of New York to be named in
the bonds in such medium as may be determined by the
commission. The said bonds shall be exempt from tax-
ation by the state of West Virginia, or any county or
municipality therein. The commission may provide for
the registration of such bonds in the name of the owner
as to principal alone, and as to both principal and interest
under such terms and conditions as the commission may
determine, and shall sell such bonds in such manner as
it may determine to be for the best interest of the state,
taking into consideration the financial responsibility of
the purchaser, and the terms and conditions of the pur-
chasew, and especially the availability of the proceeds of
the bonds when required for payment of the cost of the
project, such sale to be made at a price not lower than a
price which, computed upon standard tables of bond
values, will show a net return of not more than four per
cent per annum to the purchaser upon the amount paid
therefor. The proceeds of such bonds shall be used solely
for the payment of the cost of the project for which bonds
were issued, and shall be deposited and checked out as
provided by section four of this article, and under such
further restrictions, if any, as the commission may pro-
vide. If the proceeds of bonds issued for a project shall
exceed the cost thereof, the surplus shall be paid into
the fund hereinafter provided for payment of the principal
and interest of such bonds. Such fund may be used for
the purchase of any of the outstanding bonds payable from
such fund at the market price, but at not exceeding the
price, if any, at which such bonds shall in the same year
be redeemable, and all bonds redeemed or purchased
shall forthwith be cancelled, and shall not again be issued.
Prior to the preparation of definitive bonds, the commis-
ion may, under like restrictions, issue temporary bonds
with or without coupons, exchangeable for definitive
bonds upon the issuance of the latter. Revenue bonds
issued under the authority herein granted shall be eligible
as investments for the workmen's compensation fund,
state sinking fund, teachers’ retirement fund and as se-
curity for the deposit of all public funds. Such revenue
bonds may be issued without any other proceedings or
the happenings of any other conditions or things than
those proceedings, conditions and things which are speci-
fied and required by this article, or by the constitution
of the state: Provided, That the aggregate amount of all
issues of bonds outstanding at one time for all projects
authorized hereunder shall not exceed twenty-five million
dollars including the renegotiation, reissuance or refi-
nancing of any such bonds: Provided, however, That no
bonds or other obligations shall be issued or incurred
hereunder, unless and until the Legislature by concur-
rent resolution has approved the purpose and amount
of each separate project.

CHAPTER 9

(Com. Sub. for Senate Bill No. 48—By Mr. Carson, Mr. President,
and Mr. Montgomery)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article six, chapter
twenty-nine of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the selec-
tion and appointment of the director of personnel of the
civil service system, and his duties, qualifications and re-
moval.

Be it enacted by the Legislature of West Virginia:

That section four, article six, 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:

Article 6. Civil Service System.

Section

4. Selection and appointment of director of personnel; duties; qualifi-
cations; removal.

Section 4. Selection and Appointment of Director of
2 Personnel; Duties; Qualifications; Removal.—After selec-
tion through open competitive examination, then upon recommendation of the civil service commission, the governor shall appoint a director of personnel, who shall be experienced in the field of personnel administration, and who shall be knowledgeable concerning scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation and welfare of employees, and who is in known sympathy with the application of merit principles in public employment. The selection and appointment must be in conformity with civil service rules. The present merit system supervisor may be the appointee. It shall be his duty to administer this article so as to effectuate the general purpose of such article as set forth in section one hereof. The director of personnel may be removed by the civil service commission for cause only after he has been presented in writing with the reasons for his removal. He shall be given an opportunity, not less than fifteen days, to answer any charges either in writing or upon his request to be heard by the commission. The statement of reasons and answer or transcript of hearing shall be filed with the secretary of state as a public record. The decision of the commission, after a hearing, shall be final and not subject to appeal.

None of the provisions of section two-a, article seven, chapter six of this code, except the annual salary provision, shall be applicable to the director of personnel of the civil service system.

CHAPTER 10

(House Bill No. 230—By Mr. Armistead)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section two, article fourteen thereof, relating to making amendments to the constitution.
Be it enacted by the Legislature of West Virginia:

Constitutional Improvement Amendment.

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-six, which proposed amendment is as follows:

That section two, article fourteen of the constitution of the state of West Virginia be amended so as to read as follows:

"Article XIV. Amendments.

"Section 2. Any amendment to the Constitution of the State may be proposed in either House of the Legislature at any regular or extraordinary session thereof; 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 a special election, or 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 Constitution 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. The Legislature may provide by law for the submission of all such amendments on a single ballot whereon each amendment shall be listed separately and distinctly so as to provide a clear choice of ratification or rejection with respect to each proposal. Any ballot submitting proposed constitutional change shall include no other type of question or issue.”

Sec. 2. Amendment to Be Known as “Constitutional Improvement 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 “Constitutional Improvement Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of enabling the voters of the state to vote on the question of this proposed amendment and any other amendment or amendments that may be submitted to the constitution at the said general election to be held in the year one thousand nine hundred sixty-six, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballot to be voted upon at that election, a heading reading “Ballot on Constitutional Amendment(s).”

In the first position under said heading the board of ballot commissioners of each county shall place the following:

No. 1. Constitutional Improvement Amendment

☐ For Ratification
☐ Against Ratification

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

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

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

Amendment No. 1. Constitutional Improvement
Amendment

"For ratification ______ votes.
"Against ratification ______ votes.

"Given under our hands this ___ day of ____________,
one thousand nine hundred sixty-six."

The said two certificates shall correspond with each
other in all respects and contain the full and true returns
in said election at each place of voting on said question.
The said commissioners, or any one of them (or said
canvassers or any one of them, as the case may be), shall,
within four days, excluding Sunday, after that on which
said election was held, deliver one of said certificates to
the clerk of the county court of his county, together with
the ballots, and the other to the clerk of the circuit court
of the county.
The said certificates, together with the ballots cast on
the question of said proposed amendment, shall be laid
before the commissioners of the county court at the
courthouse at the same time the ballots, poll books, and
the certificates of election of the members of the Legis-
lature are laid before them; and as soon as the result of
said election in the county upon the question of such
ratification or rejection is ascertained, two certificates of
such result shall be made out and signed by said com-
missoners as a board of canvassers, in the form or to
the following effect:

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

"Amendment No. 1. Constitutional Improvement

"For ratification __________ votes.
"Against ratification __________ votes.
"Given under our hands this ______ day of ________,
one thousand nine hundred sixty-six."

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

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

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

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

CHAPTER 11
(Senate Bill No. 29—By Mr. Carson, Mr. President,
and Mr. Moreland)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to provide for the submission to the voters of the state
of an amendment to the constitution of the state of West
Virginia, amending section four, article seven thereof, pro-
hibiting certain executive officers from holding any other
office during their term of service, and relating to the terms
of office of the governor.

Be it enacted by the Legislature of West Virginia:

Governor’s Succession Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “Governor’s Succession Amend-
   ment.”
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.

Section 1. Submitting an Amendment to the State Con-
stitution.—That the question of the ratification or rejection
of an amendment to the constitution of West Virginia, pro-
posed 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-six,
which proposed amendment is as follows:

That section four, article seven of the constitution of
the state of West Virginia be amended to read as follows:

"Article VII. Executive Department.

"Section 4. Eligibility.—None of the executive officers
mentioned in this article shall hold any other office dur-
ing the term of his service. A person who has been elected
or has served as Governor during all or any part of two
consecutive terms, shall be ineligible for the office of Gov-
ernor during any part of the term immediately following
the second of the two consecutive terms."

Sec. 2. Amendment to Be Known as the "Governor's
Succession Amendment."—For convenience in referring
to said proposed amendment, and in the preparation of
the form of the ballot hereinafter provided for, said pro-
posed amendment is hereby designated as the "Governor's
Succession 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-six, the board of ballot commissioners
of each county is hereby required to place upon, and at
the foot of, the official ballot to be voted at that election,
under the heading reading "Ballot on Constitutional
Amendment(s)," in the second position under said head-
ing, the following:

No. 2. Governor's Succession Amendment.

☐ For Ratification
☐ Against Ratification.

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

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

“We the undersigned, who acted as commissioners (or
canvassers, as the case may be) of the election held at
Precinct No. ____________ , in the district of ____________, in the
county of ____________, on the ____ day of __________,
one thousand nine hundred sixty-six, upon the question
of the ratification or rejection of the proposed constitu-
tional amendment, do hereby certify that the result of
said election is as follows:

“Amendment No. 2. Governor’s Succession Amend-
ment.

“For ratification ______________ votes.
“Against ratification ______________ votes.

“Given under our hands this ______________ day
of ______________, one thousand nine hundred sixty-
six.”

The said two certificates shall correspond with each
other in all respects and contain the full and true returns
in said election at each place of voting on said question.
The said commissioners, or any one of them (or said can-
vassers or any one of them, as the case may be), shall,
within four days, excluding Sunday, after that on which
said election was held, deliver one of said certificates to
the clerk of the county court of the county, together with
the ballots, and the other to the clerk of the circuit court
of the county.
The said certificates, together with the ballots cast on
the question of said proposed amendment, shall be laid
before the commissioners of the county court at the court-
house at the same time the ballots, poll books and the
certificates of election of the members of the Legislature
are laid before them; and as soon as the result of said
election in the county upon the question of such ratifi-
cation or rejection is ascertained, two certificates of such
result shall be made out and signed by said commissioners
as a board of canvassers, in the form or to the following
effect:

"We, the board of canvassers of the county of ............,
having carefully and impartially examined the returns
of the election held in said county, in each district there-
of, on the ........... day of November, one thousand nine
hundred sixty-six, do certify that the result of the elec-
tion in said county, on the question of the ratification or
rejection of the proposed amendment is as follows:

"Amendment No. 2. Governor's Succession Amend-
ment.

"For ratification ............... votes.

"Against ratification ............... votes.

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

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

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

On the twenty-fifth day after the election is held, or
as soon thereafter as practicable, the said certificates shall
be laid before the governor, whose duty it shall be to
ascertain therefrom the result of said election in the
state, and declare the same by proclamation published
in one or more newspapers printed in the seat of gov-
ernment. If a majority of the votes cast at said election
upon said question be for ratification of said amendment,
the proposed amendment so ratified shall be in force and
effect from and after the time of such ratification, as part
of the constitution of the state.
Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as here- inbefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor’s contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.

CHAPTER 12
(House Bill No. 300—Originating in the House Committee on the Judiciary)

[Passed February 9, 1966: in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section ten, article eight thereof, relating to courts of record and the judges thereof.

Be it enacted by the Legislature of West Virginia:

Judicial Circuit Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “Judicial Circuit 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.

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-six, which proposed amendment is as follows:
That section ten, article eight of the constitution of the state of West Virginia, be amended to read as follows:

"Article VIII—Judicial Department.

"Section 10. Circuit Courts.—The State shall be divided into as many judicial circuits as the Legislature may prescribe. The judges of the circuit courts shall be elected by the qualified voters of the circuit in the manner prescribed by law and shall hold their offices for the term of eight years unless sooner removed in the manner prescribed by this constitution. Any such judge in office when this amendment takes effect shall continue in office in the circuit in which he resides until his term shall expire, unless he is sooner removed, as aforesaid. During his continuance in office a judge of a circuit court shall reside in the circuit of which he is a judge.

"The Legislature may increase or decrease the number of circuit judges in any circuit. The judicial circuits existing at the time of the adoption of this amendment shall remain as they are until changed by law. A judge of a circuit court in office at the time of any such change shall continue as a judge of the circuit in which he shall continue to reside after such change, unless his term shall expire, or unless he is sooner removed, as aforesaid.

"A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals.

"There shall be at least one judge for each circuit and as many more as may be necessary to transact the business of such circuit. If there be two or more judges of a circuit, the business shall be apportioned among them by the chief judge of the circuit in the manner provided by law. The judge longest in continuous service as a circuit court judge shall be chief judge of the circuit. If two or more have so served for the same period, the senior in years of these shall be chief judge: Provided, That if such judge declines to serve as chief judge, then another judge of the circuit shall be designated chief judge in accordance with the rules of that circuit. If the chief judge is temporarily disqualified or unable to serve, one
of the judges of the circuit designated in accordance
with the rules of that circuit shall serve temporarily in
his stead.

"The Legislature may, by appropriate legislation at the
session thereof next after the time of the ratification of
this amendment, provide for the continuance of the legis-
lative courts of record of limited jurisdiction in existence
at the time of such ratification, or make one or more of
the judges thereof judges of the judicial circuits in which
they shall then reside: Provided, however, That the term
of any circuit judge, whether originally elected to office
as judge of a judicial circuit or originally elected to office
as judge of a legislative court of record of limited juris-
diction, shall not extend beyond the thirty-first day of
December, one thousand nine hundred seventy-six."

Sec. 2. Amendment to Be Known as the “Judicial Cir-
cuit 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 “Judicial Circuit
Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of
enabling the voters of the state to vote on the question
of this proposed amendment to the constitution and any
other amendments that may be submitted to the consti-
tution at the said general election to be held in the year
one thousand nine hundred sixty-six, the board of ballot
commissioners of each county is hereby required to place
upon, and at the foot of, the official ballot to be voted at
that election under the heading reading “Ballot on Consti-
tutional Amendment(s),” in the third position under
said heading, the following:

No. 3. Judicial Circuit Amendment

☐ For Ratification.

☐ Against Ratification.

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

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

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

“Amendment No. 3. Judicial Circuit Amendment
“For ratification ..................... votes.
“Against ratification ..................... votes.
“Given under our hands this ........... day of ............,
one thousand nine hundred sixty-six.”

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

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

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

Amendment No. 3. Judicial Circuit Amendment

"For ratification __________ votes.

"Against ratification __________ votes.

"Given under our hands this __________ day of __________, one thousand nine hundred sixty-six."

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

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

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

CHAPTER 13
(Com. Sub. for House Bill No. 295—By Mr. Auvil)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending sections twenty-two and thirty-three, article six thereof, relating to the Legislature of the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

Legislative Amendment.

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
That sections twenty-two and thirty-three, article six of the constitution be amended to read as follows:

"Article VI—The Legislature.

"Section 22. Length of Legislative Session.—The regular session of the Legislature held in the year one thousand nine hundred sixty-seven and every year thereafter shall not exceed sixty days. Any such regular session may be extended by the concurrence of two thirds of the members elected to each house.

"Sec. 33. Compensation and Expenses of Members.—Each member of the Legislature shall receive for his services the sum of two thousand five hundred dollars a year, and such expenses in connection with any session and party caucuses and the performance of authorized interim assignments as may be provided for by general law.

"Notwithstanding any other provisions of the Constitution, the compensation herein provided for, and such expenses as may be provided for by general law, shall be paid to each member of the Legislature on and after the ratification of this amendment."

Sec. 2. Amendment to Be Known as the "Legislative 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 "Legislative 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-six, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballot to be voted at that election, under the heading reading "Ballot on Constitutional Amendment(s)," in the fourth position under said heading, the following:
No. 4. Legislative Amendment

☐ For Ratification
☐ Against Ratification

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

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

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

“Amendment No. 4. Legislative Amendment

“For ratification ________ votes.

“Against ratification ________ votes.

“Given under our hands this ________ day of __________, one thousand nine hundred sixty-six.”

The said two certificates shall correspond with each other in all respects and contain the full and true returns in said election at each place of voting on said question. The said commissioners, or any one of them (or said canvassers or any one of them, as the case may be), shall,
26 within four days, excluding Sunday, after that on which
27 said election was held, deliver one of said certificates
28 to the clerk of the county court of the county, together
29 with the ballots, and the other to the clerk of the circuit
30 court of the county.
31 The said certificates, together with the ballots cast on
32 the question of said proposed amendment, shall be laid
33 before the commissioners of the county court at the
34 courthouse at the same time the ballots, poll books and
35 the certificates of election of the members of the Legis-
36 lature are laid before them; and as soon as the result
37 of said election in the county upon the question of such
38 ratification or rejection is ascertained, two certificates
39 of such result shall be made out and signed by said
40 commissioners as a board of canvassers, in the form or
41 to the following effect:
42 “We, the board of canvassers of the county of _____________,
43 having carefully and impartially examined the returns
44 of the election held in said county, in each district there-
45 of, on the _____________ day of November, one thousand nine
46 hundred sixty-six, do certify that the result of the elec-
47 tion in said county, on the question of the ratification or
48 rejection of the proposed amendment is as follows:
49 “Amendment No. 4. Legislative Amendment
50 “For ratification ______________ votes.
51 “Against ratification ______________ votes.
52 “Given under our hands this _____________ day of _____________,
53 one thousand nine hundred sixty-six.”
54 One of the certificates shall be filed in the office of the
55 clerk of the county court, and the other forwarded by
56 mail to the secretary of state, who shall file and preserve
57 the same until the day on which the result of said election
58 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
3 as soon thereafter as practicable, the said certificates
4 shall be laid before the governor, whose duty it shall be
5 to ascertain therefrom the result of said election in the
6 state, and declare the same by proclamation published
7 in one or more newspapers printed in the seat of govern-
8 ment. If a majority of the votes cast at said election
upon said question be for ratification of said amendment, the proposed amendment so ratified shall be in force and effect from and after the time of such ratification, as part of the constitution of the state.

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

CHAPTER 14
(Senate Bill No. 80—Originating in the Senate Committee on Finance)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending section ten of article ten thereof, known and designated as the “Better Schools Amendment,” and ratified by the voters in the year one thousand nine hundred fifty-eight.

Be it enacted by the Legislature of West Virginia:
Amendment to the Better Schools Amendment.

Section
1. Submitting an amendment to the state constitution.
2. Amendment to be known as the “Amendment to the Better Schools Amendment.”
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.
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-six, which proposed amendment is as follows:

That section ten, article ten of the constitution of the state of West Virginia be amended to read as follows:

“Article X. Taxation and Finance.

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

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

“Notwithstanding the provisions of section eight of this article to the contrary, or any other provisions of the Constitution to the contrary, a county board of education may contract indebtedness and issue bonds for public school purposes as provided by law, if, when submitted to a vote of the people of the county, in the manner provided by
law, the question of contracting indebtedness and issuing bonds is approved by a majority of the votes cast for and against the same."

Sec. 2. Amendment to Be Known as the “Amendment to the Better Schools Amendment.”—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as the “Amendment to the Better Schools Amendment.”

Sec. 3. Form of Ballot; Election.—For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the said general election to be held in the year one thousand nine hundred sixty-six, the board of ballot commissioners of each county is hereby required to place upon, and at the foot of, the official ballot to be voted at that election, a heading reading “Ballot on Constitutional Amendment(s).” In the fifth position under said heading the board of ballot commissioners of each county shall place the following:

No. 5. Amendment to the Better Schools Amendment.

☐ For Ratification.
☐ Against Ratification.

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

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

"We, the undersigned, who acted as commissioners (or
canvassers, as the case may be) of the election held at
Precinct No. .........., in the District of ........................., in
the County of ........................., on the .......... day of
November, one thousand nine hundred sixty-six, upon
the question of the ratification or rejection of the pro-
posed constitutional amendment, do hereby certify that
the result of said election is as follows:

"Amendment No. 5. Amendment to the Better Schools
Amendment.

"For ratification ............... votes.
"Against ratification ............... votes.
"Given under our hands this ........ day of .........................,
one thousand nine hundred sixty-six."

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

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

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

“Amendment No. 5. Amendment to the Better Schools Amendment.

“For ratification ...................... votes.

“Against ratification ..................... votes.

“Given under our hands this ______ day of .............., one thousand nine hundred sixty-six.”

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

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

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

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the said proposed amendment, with the proper designation for the same as herebefore adopted, to be published one time at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall in the first instance, if found necessary by him, be paid out of the governor’s contingent fund and be afterwards repaid to such fund by appropriation of the Legislature.
AN ACT to amend and reenact section sixteen, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to boards of directors of corporations; powers, number, qualifications, terms, quorum, and classes of directors; committees; designation, composition, appointment, powers and action of committees; and protections extended to directors.

Be it enacted by the Legislature of West Virginia:

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


Section 16. Board of directors; qualifications; committees; classes; reliance upon corporate records.

(a) The business of every corporation organized under the provisions of this chapter, or existing under the laws of this state, shall be managed by a board of directors, except as hereinafter or in its charter otherwise provided.

(b) The number of directors which shall constitute the whole board shall be such as from time to time shall be fixed by, or in the manner provided in, the by-laws, but in no case shall the number be less than three: Provided, That when all the shares of a corporation are owned beneficially and of record by either one or two stockholders, the number of directors may be less than three but not less than the number of stockholders. Directors need not be stockholders unless so required by the charter or the by-laws. The directors shall hold office until their successors are respectively elected and qualified, and a majority of them shall constitute a quorum for the transaction of busi-
ness, unless the by-laws shall provide that a different number shall constitute a quorum, which in no case shall be less than one third of the total number of directors nor less than two directors: Provided, however, That when a board of one director is authorized under the provisions of this section, then one director shall constitute a quorum.

(c) The board of directors may, by resolution or resolutions passed by a majority of the whole board, designate one or more committees, each committee to consist of two or more of the directors of the corporation. Any such committee, to the extent provided in the resolution or resolutions or in the by-laws, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it. The by-laws may provide that, in the absence or disqualification of any member of any such committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Such committee or committees shall have such name or names as may be stated in the by-laws or as may be determined from time to time by resolution adopted by the board of directors. Unless otherwise provided in the by-laws or ordered by the board, any such committee may act by a majority of its members at a meeting or by a writing signed by all of its members and filed with the minutes of proceedings of the board.

(d) The directors of any corporation may, by the charter or any amendment thereto, or by a vote of the stockholders, be divided into one, two or three classes; the term of office of those of the first class to expire at the annual meeting next ensuing; of the second class one year thereafter; of the third class two years thereafter; and at each annual election held after such classification and election, directors shall be chosen for a full term, as the case may be, to succeed those whose terms expire.

(e) A director of any corporation, or a member of any committee designated by the board of directors pursuant
CHAPTER 16
(House Bill No. 277—By Mr. Myles and Mr. Armistead)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section eight, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to penalties for attempted crimes.

Be it enacted by the Legislature of West Virginia:

That section eight, article eleven, 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 8. Attempts; Classification and Penalties therefor.

Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows: If the offense attempted be punishable with life imprisonment, the person making such attempt shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years. If it be punishable by confinement in the penitentiary for a term less than life, he shall be guilty of a misdemeanor, and, upon conviction,
12 shall be confined in jail not less than six nor more than
13 twelve months, and fined not exceeding five hundred
14 dollars. If it be punishable by confinement in jail, he
15 shall be guilty of a misdemeanor, and, upon conviction,
16 shall be confined in jail not more than six months, or
17 fined not exceeding one hundred dollars.

CHAPTER 17
(House Bill No. 299—By Mr. Madden)

[Passed February 9, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section fourteen, article twelve,
chapter sixty-two of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended, relating to the
salaries of probation and parole officers.

Be it enacted by the Legislature of West Virginia:

That section fourteen, 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 14. Officers and Staff.—The director shall have
2 authority to appoint such state probation and parole
3 officers as may be necessary to the proper administration
4 of this article, and to employ clerical assistants. He shall
5 determine the qualifications of probation and parole offi­
cers and may from time to time conduct competitive
6 examinations as a basis for their selection.
7 The director shall fix the salaries of state probation and
8 parole officers and all clerical assistants. All persons ap­
9 pointed or employed by the director shall be paid all
10 necessary expenses incurred in the discharge of their
11 duties.
AN ACT to amend and reenact section six, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compensation of the director and deputy director of the division of correction, and empowering the commissioner of public institutions to fix their salaries.

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

That section six, article thirteen, 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:

**Article 13. Division of Correction.**

**Section 6. Compensation of Director and Employees Fixed by Commissioner; Traveling and Other Expenses; Payment of Salaries.**—The commissioner of public institutions shall fix the salaries of the director, deputy directors and of the other officers and employees employed pursuant to the provisions of this article. All persons employed hereunder shall receive necessary traveling and other expenses. The compensation, salaries, expenses and appropriations provided for the division of correction and its employees shall be paid in the same manner as are those of other state employees and agencies upon recommendation of the director and certification and approval of the commissioner of public institutions.
CHAPTER 19  
(Senate Bill No. 84—By Mr. Brotherton)

[Passed February 9, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to time for trial of criminal cases; depositions of witnesses for accused; counsel, copy of indictment, and lists of jurors for accused; and remuneration for appointed counsel.

Be it enacted by the Legislature of West Virginia:

That section 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:

Article 3. Trial of Criminal Cases.

Section 1. Time for Trial; Depositions of Witnesses for Accused; Counsel, Copy of Indictment, and Lists of Jurors for Accused; Remuneration for Appointed Counsel.—

When an indictment is found in a court having jurisdiction, in any county, against a person for a felony, the accused, if in custody, or if he appear in discharge of his recognizance, or voluntarily, shall, unless good cause be shown for a continuance, be tried at the same term. If any witness for the accused be a nonresident of the state, or absent therefrom in any service or employment, so that service of a subpoena cannot be had upon him in this state, or is aged or infirm so that he cannot attend upon the court at the trial, the accused may present to the court in which the case is pending, or to the judge thereof in vacation, an affidavit showing such facts, and stating therein what he expects to prove by any such
witness, his name, residence, or place of service or em-
ployment; and if such court or judge be of the opinion
that the evidence of any such witness, as stated in such
affidavit, is necessary and material to the defense of the
accused on his trial, an order may be made by such court
or judge for the taking of the deposition of any such
witness upon such notice to the prosecuting attorney, of
the time and place of taking the same, as the court or
judge may prescribe; and in such order the court or
judge may authorize the employment of counsel, prac-
ticing at or near the place where the deposition is to be
taken, to cross-examine the witness on behalf of the state,
the reasonable expense whereof shall be paid out of the
treasury of the state, upon certificate of the court wherein
the case is pending. Every deposition so taken may, on
motion of the defendant, so far as the evidence therein
contained is competent and proper, be read to the jury
on the trial of the case as evidence therein. A court of
record having criminal jurisdiction may appoint counsel
to assist an accused in criminal cases, except traffic viola-
tions and violations of municipal ordinances, at any time
upon request. A copy of the indictment and of the
list of the jurors selected or summoned for his trial,
as provided in the third section of this article, shall be
furnished him, upon his request, at any time before the
jury is impaneled. In every case where the court appoints
counsel for the accused and the accused presents an
affidavit showing that he cannot pay therefor, the court,
may, in its discretion, by order entered of record allow
an attorney so appointed a fee of not to exceed twenty-
five dollars in any misdemeanor case, and a fee of not
to exceed fifty dollars in any felony case. In misdemeanor
cases, the fee so allowed shall be paid out of the general
county fund, and in felony cases shall be paid by the state
auditor as other fees in felony cases are paid. The amount
so paid, in the event the accused shall not prevail, shall
be and constitute a judgment of said court against the
accused to be recovered as any other judgment for costs.
CHAPTER 20

(Senate Bill No. 37—By Mr. Carson, Mr. President, and Mr. Jasper)

[Passed February 5, 1966: in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen-f, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a supplemental retirement plan for persons employed by the state board of education at institutions of higher education under its control.

Be it enacted by the Legislature of West Virginia:

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

Article 2. State Board of Education.

Section

13-f. Payroll deductions for employees participating in supplemental retirement plan; authority to match employee contributions.

Section 13-f. Payroll Deductions for Employees Participating in Supplemental Retirement Plan; Authority to Match Employee Contributions.—The state board of education shall have the authority to contract for retirement benefits for any or all persons employed by the board at institutions of higher education under its control to supplement the benefits such employees will receive under the state teachers' retirement system. The board shall have the authority to make additional periodic deductions from the salary payments due such employees in the amount they are required to contribute for the supplemental retirement plan selected by the board. The additional deductions shall not exceed five per cent of the salary of employees thirty through thirty-four years of age, six per cent of the salary of those thirty-five through forty-four years of age, and seven and one-half per cent of the salary of those forty-five years of age and above,
and shall not cover any portion of an employee's salary which is covered by the state teachers' retirement system.

The board is further authorized, by way of additional compensation to such employees, to pay an amount equal to the contributions of such employees into such retirement plan from funds appropriated for personal services at the several institutions of higher education under its control. Each participating employee shall have a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into such supplemental retirement plan for his benefit. 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 and for the board's matching funds.

The provisions of this section as hereby amended shall apply to all calendar years beginning on and after December thirty-one, one thousand nine hundred sixty-five, and to the entirety of the year beginning January one, one thousand nine hundred sixty-six, including that part of said year that has elapsed prior to the effective date of this section.

CHAPTER 21

(Com. Sub. for Senate Bill No. 58—By Mr. Carson, Mr. President, and Mr. McKown)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]
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 seven-a, to read as follows:

**Article 5. District Board of Education.**

Section 7-a. Disposition of school property in flood control projects.

Section 7-a. Disposition of School Property in Flood Control Projects.—If at any time the board shall ascertain that any land or part thereof then being used for school purposes is to be included in any federal flood control project the board may (a) sell, dismantle, remove or re-locate any buildings thereon; (b) contract with the United States of America, or any instrumentality, agency or political subdivision thereof, for the sale or exchange of its interest in such land or any part thereof; and (c) without auction sell or exchange its interest in such land or any part thereof to the United States of America, or any instrumentality, agency or political subdivision thereof, in accordance with the terms and provisions of such contract. Notwithstanding the provisions of section seven of this article, neither the grantor of such land or any part thereof nor his heirs or assigns shall have the right to purchase said land or any part thereof or have any other rights whatever under section seven of this article.

**CHAPTER 22**

(House Bill No. 233—By Mr. Lohr and Mr. Boiarsky)

[Passed February 9, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section two-b, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sick-leave compensation for full-time nonteaching personnel.
Be it enacted by the Legislature of West Virginia:

That section two-b, 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:

Article 7. Teachers.

Section 2-b. Sick-leave compensation for full-time nonteaching personnel.

Section 2-b. Sick-leave Compensation for Full-time Nonteaching Personnel.—The county board of education shall establish and maintain in its annual budget a separate fund to be known as the “Nonteaching Personnel Sick-leave Fund.” In allocating money to this fund, the board shall provide and maintain a reasonable reserve to meet the cost of any accumulated sick leave that may occur.

Any full-time nonteaching employee employed by a county board of education shall be entitled to at least five days of sick leave per year, accumulative to a total of twenty school days. Money allocated to the sick-leave fund shall be used to pay the salary of any full-time nonteaching employee who loses time from assigned duties due to personal accident, sickness, death in the immediate family, or any other emergency cause that may be authorized or approved by the board.

All sick-leave benefits shall be paid at the end of the school year. If funds budgeted for sick leave are insufficient to pay the amount due, the per diem salaries for all nonteaching employees claiming sick-leave benefits shall be reduced proportionately. The board is authorized to prescribe such other regulations as it may deem necessary.

CHAPTER 23

(House Bill No. 221—By Mr. Speaker, Mr. White, and Mr. Boiarisky)

[Passed January 28, 1966; in effect ninety days from passage. Approved by the Governor.]
chapter eighteen of the code of West Virginia, one thousand ninety-one, as amended, relating to compu-
tation of local share in allocation of state aid for schools
and appraisal and assessment of property.

Be it enacted by the Legislature of West Virginia:

That section four, article nine-a, chapter eighteen of the
code of West Virginia, one thousand ninety-one, as amended, be
repealed and that a new section four, article nine-a, chapter eighteen of the code of West Virginia, one thousand ninety-one, be enacted in its stead:

Article 9-a. Allocation of State Aid for Schools.

Section 4. Computation of Local Share; Appraisal and Assessment of Property.-On the basis of the most recent survey of property valuations in the state, completed as to all classes of property in all counties determined by the tax commissioner under present or former provisions of this article, the state board shall for each county compute by application of the levies for general current expenditure purposes, as defined in section two of this article, the amount of revenue which such levies would produce if levied upon one hundred per cent of the appraised value of each of the several classes of property contained in the report or revised report of such value, made to it by the tax commissioner as follows: (1) The value of each of the several classes of property con-
tained in the report or revised report of such value, as determined by the tax commissioner, shall first be multiplied by ninety-seven and one-half per cent of the appraised valuation of all public utility property in each classification. (2) The state board shall then multiply these rates to the appraised value of other property in each classification in the county as determined by the tax commissioner and shall deduct therefrom five per cent as an allowance for the usual losses in collections due to discounts, exceptions, delinquencies and the like. Fifty per cent of the amount so determined shall be added to the ninety-seven and one-half per cent of the amount so determined, and the like, for public utility taxes in each classification of property in the county as determined by the tax commissioner. The state board shall next take ninety-seven and one-half per cent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in each county determined by the tax commissioner under present or former provisions of this article, and shall then reduce therefrom the total value of all the property in each classification in the county, as determined by the tax commissioner, and shall deduct therefrom five per cent as an allowance for the usual losses in collections due to discounts, exceptions, delinquencies and the like. The amount thus reduced shall be the local share of such county.

Section 4-a. Computation of Local Share; Appraisal and Assessment of Property.

As amended, be amended and reenacted to read as follows:

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

As amended, be amended and reenacted to read as follows:

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

As amended, be amended and reenacted to read as follows:

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

As amended, be amended and reenacted to read as follows:

That section four, article nine-a, chapter eighteen of the code of West Virginia, one thousand ninety-one, be amended and reenacted to read as follows:
The tax commissioner shall make or cause to be made an appraisal in the several counties of the state of all nonutility real property and of all nonutility personal property which shall be based upon true and actual value as set forth in article three, chapter eleven of this code. In determining the value of personal property—other than all machinery, equipment, furniture and fixtures of any industrial plant, mine, quarry or installation and of any commercial, industrial, or professional establishment—the tax commissioner shall prescribe accepted methods of determining such values. The tax commissioner shall in accordance with such methods determine the value of such property.

For the purpose of appraising commercial, industrial, and professional properties the tax commissioner after consultation with the county court shall employ a competent property appraisal firm or firms which appraisals shall be under his supervision and direction.

In making or causing to be made such appraisal, the tax commissioner shall employ such assistants as available appropriations will permit and shall prescribe and use such accepted methods and procedures for checking property values and determining the amount of property in the several classes of property provided by law as are customarily employed for appraisal purposes.

Such appraisal of all said property in the several counties shall be completed prior to the first day of July, one thousand nine hundred sixty-seven. Each year after the completion of the property appraisal in a county the tax commissioner shall maintain the appraisal by making or causing to be made such surveys, examinations, audits, maps and investigations of the value of the several classes of property in each county which should be listed and taxed under the several classifications, and shall determine the appraised value thereof. On the basis of information so ascertained, the tax commissioner shall annually revise his reports to the Legislature and to the state board concerning such appraisals, such reports to be made not later than the first day of January of each year.
As information from such appraisal of property in a county under the provisions of this section becomes available for a district, municipality and county, the tax commissioner shall notify the county court and the assessor of said county that such information is available and shall make available to said county court and assessor all data, records, and reports or other information relating to said work, along with a list of any properties in said district, municipality, and county which are entered on the assessment rolls but for which no appraisal has been made, a list of any properties which were appraised but which cannot be found on the assessment rolls and a list of all properties carried on the assessment rolls which have not been identified on the maps. Said lists shall set forth the name of the owner and a description of the property and the reason, if known, for its failure to have been entered on the assessment rolls or to have been appraised or to have been identified on the map, as the case may be.

As such appraisal of property in a county, under this section, is completed to the extent that a total valuation for each class of property can be determined, such appraisal shall be delivered to the assessor and the county court, and in each assessment year commencing after such appraisal is so delivered and received, the county assessor and the county court, sitting as a board of equalization and review, shall use such appraised valuations as a basis for determining the true and actual value for assessment purposes of the several classes of property. The total assessed valuation in each of the four classes of property shall be not less than fifty per cent nor more than one hundred per cent of the appraised valuation of each said class of property: Provided, That (1) until the completion of the appraisal herein provided for in all fifty-five counties of the state; and (2) upon completion of the appraisal of any county and delivery of the appraised valuations to the county by the tax commissioner; and (3) when it shall appear that the total assessed valuations of any class of property in such county are less than fifty per cent of the total appraised valuations of
such class of property; then in such events the tax commissioner may authorize a total assessed valuation in each such class of less than fifty per cent of the total appraised valuation of such class of property; except that such authorized total assessed valuation shall be increased each year thereafter, as nearly as practicable in equal steps, so that in the third assessment year after the delivery of the appraised valuations in each class of property, as required above, the total assessed valuation of each class of property shall be not less than fifty per cent nor more than one hundred per cent of the appraised valuation of each class of property as delivered by the tax commissioner: Provided further, That upon the tax commissioner's delivery of the appraised valuation to a county, such appraised valuations shall serve as the basis for the spot check appraisal in said county until all of the fifty-five counties of the state have been reappraised.

The determination of appraised values in those counties where the full appraisal has not been completed as defined above and delivered to the assessor and the county court prior to the first day of the assessment year shall be continued by the tax commissioner on the annual spot survey basis. Beginning with the fiscal year one thousand nine hundred sixty and for each year thereafter until the full survey is so completed and delivered in a county, the assessed value in each of the four classes of property in such county shall be not less than fifty per cent nor more than one hundred per cent of the appraised valuation of each said class of property as determined by the last previous state-wide report of the tax commissioner: Provided, however, That in those counties where the full appraisal has not been completed and delivered, as aforesaid, to the county assessor and the county court prior to the first day of the assessment year, the requirements of this paragraph shall be satisfied if:

(1) The total tax yield from the four classes of property based upon the allowable school levy rates defined in section two of this article equals or exceeds the amount required to meet the local share as provided in this section; or
(2) For the assessment year one thousand nine hundred sixty-one, the assessor has increased the total valuations of property in an amount not less than thirty-three and one-third per cent of the difference between the total assessed valuations for the assessment year one thousand nine hundred sixty-one and the valuations required by this section; or

(3) For the assessment year one thousand nine hundred sixty-two, the assessor has increased the total valuations of property in an amount not less than fifty per cent of the difference between the total assessed valuations of property for the assessment year one thousand nine hundred sixty-one and the total valuations for such class required by this section; or

(4) For the assessment year one thousand nine hundred sixty-three, the assessor has increased the total valuation of property so that the same meet the requirements of this section.

Whenever in any year a county assessor and/or county court shall fail or refuse to comply with the provisions of this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the state tax commissioner shall review the valuations for assessment purposes made by the county assessor and the county court and shall direct the county assessor and county court to make such corrections in the valuations as may be necessary so that they shall comply with the requirements of chapter eleven and of this section and the tax commissioner shall enter the county and fix the assessments at the required ratios. Refusal of the assessor and/or the county court to make such corrections shall constitute grounds for removal from office.

In any year in which the total assessed valuation of a county shall fail to meet the minimum requirements above set forth, the county court of such county shall allocate for such year to the county board of education from the tax levies allowed to the county court a sufficient portion of its levies as will, when applied to the valuations for assessment purposes of such property in
the county, provide a sum of money equal to the difference between the amount of revenue which will be produced by application of the allowable school levy rates defined in section two of this article upon the valuations for assessment purposes of such property and the amount of revenue which would be yielded by the application of such levies to fifty per cent of the total of appraised valuations of such property. In the event the county court shall fail or refuse to make the reallocation of levies as provided for herein, the county board of education, the tax commissioner, the state board of school finance, or any other interested party, shall have the right to enforce the same by writ of mandamus in any court of competent jurisdiction.

In conjunction with and as a result of the appraisal herein set forth the tax commissioner shall have the power and it shall be his duty, to establish a permanent records system for each county in the state, consisting of:

(1) Tax maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property and lot lines, set forth dimensions or areas, indicate whether the land is improved, and identify the respective parcels or lots by a system of numbers, or symbols and numbers, whereby the ownership of such parcels and lots can be ascertained by reference to the property record cards and property owner’s index;

(2) Property record cards arranged geographically according to the location of property on the tax maps, which cards shall set forth the location and description thereof, the acreage or dimensions, description of improvements, if any, the owner's name, address and date of acquisition, the purchase price, if any, set forth in the deed of acquisition, the amount of tax stamps, if any, on the deed, the assessed valuation, and the identifying number or symbol and number, shown on the tax map;

(3) Property owner’s index consisting of an alphabetical listing of all property owners, setting forth brief descriptions of each parcel or lot owned, and cross-indexed with the property record cards and the tax map.

The tax commissioner is hereby authorized and em-
powered to enter into such contracts as may be necessary, and for which funds may be available, to establish the permanent records system herein provided for, or may through his staff and employees, prepare and complete such system.

All microfilm, photography and original copies of tax maps created under the provisions of this section are the property of the state of West Virginia and the reproduction, copying, distribution or sale of such microfilm, photography or tax maps or any copies thereof without the written permission of the state tax commissioner is prohibited. Any person who shall violate the provisions of this paragraph shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than three hundred dollars or imprisoned for not less than thirty days nor more than one year, or both, in the discretion of the court. Justices of the peace shall have concurrent jurisdiction with other courts having jurisdiction for the trial of all misdemeanors arising under this paragraph.

The tax commissioner shall by uniform regulations establish a procedure for the sale of reproduction of microfilm, photography and maps and may pay for having such reproductions made from the appropriation for "Property Appraisal." Any funds received as a result of the sale of such reproductions shall be deposited to the appropriated account from which the payment for reproductions is made.

The cost of conducting the appraisal herein provided for shall be borne jointly by the state and the several counties in the following manner and terms: There shall be appropriated from the general revenue fund not less than one million five hundred thousand dollars for each fiscal year until sufficient funds have been appropriated to complete the appraisal in all counties of the state. Each county shall furnish, through its county court, not more than ten per cent of the cost of such appraisal or reappraisal and permanent records system for such county. Such county costs may be paid over a period of three years with the approval of the tax commissioner. In
those instances where the cost of the appraisal, reappraisal or permanent records system required by this section has been paid by the tax commissioner from funds appropriated for these purposes, the share of such cost allocated to each county shall, upon receipt thereof by the tax commissioner, be deposited to the appropriated account from which such payments have been made. If a county has employed a professional appraisal firm to conduct an appraisal or reappraisal of all or a part of nonutility property within the past five years, and such appraisal, or any other appraisal or reappraisal has been or shall have been accepted by the tax commissioner, credit shall be allowed to such county for its portion of the statewide appraisal costs and any contract with appraisal firm or firms shall not be made for appraisal or reappraisal of such property except and unless requested by such county, or shown to be necessary by the tax commissioner: Provided, That until the completion of the appraisal herein provided for in all of the fifty-five counties of the state, the local share for each county shall be determined on the basis of the annual spot survey of property valuations by the tax commissioner in this state, as heretofore provided, but in no way shall this be interpreted as affecting the assessment provisions set forth above; however, in any county having accepted and used appraised valuations developed by an appraisal made by the tax commissioner or accepted by him as a basis in determining the true and actual valuation for assessment purposes, the county board of education may annually request that the local share shall be that which was in effect under the last applicable spot survey preceding such acceptance and usage and until the full reappraisal has been completed in all counties the board of school finance shall comply with such request: Provided further, That the sample pieces of property employed in making the annual spot survey shall be used by the tax commissioner for this purpose only and shall be open to none other than the Legislature by its request through a resolution approved by both the Senate and the House of Delegates and as otherwise provided in this section; however, if on
the basis of the current state-wide report of the tax commissioner available the first day of January of each year, it appears that any county shall not have complied with the requirements regarding the ratio of assessed valuations, the tax commissioner shall notify the assessor and the county court of each such county and, if they file a request for review of the appraisals which they believe to be in error, he shall review the appraisal of such properties and shall correct such errors as he may discover in such individual appraisal and/or in the preparation or recording of the report by the tax commissioner. The corrected figures shall be reported to the board of school finance prior to the first day of June and shall be used in determining the allocations of state aid to the county boards of education for the subsequent fiscal year.

The county assessor and the county court shall comply with the provisions of chapter eleven of this code in determining the true and actual value of property for assessment purposes and shall not arbitrarily use a direct percentage application to the appraisal valuations (whether complete appraisal or spot survey) of any class of property or property within a class for such purpose.

The provisions of this section shall not be construed to alter or repeal in any manner the provisions of chapter eleven of this code, but shall be construed in pari materia therewith, and compliance with this section by the assessor and county court shall be considered, pro tanto, as compliance with said chapter eleven.

CHAPTER 24

(Senate Bill No. 38—By Mr. Moreland)

[Passed February 5, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five-c, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a supple-
mental retirement plan for employees of the board of governors of West Virginia University.

Be it enacted by the Legislature of West Virginia:

That section five-c, 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:

Article 11. West Virginia University.

Section 5-c. Payroll deductions for employees participating in supplemental retirement plan; authority to match employee contributions.

Section 5-c. Payroll Deductions for Employees Participating in Supplemental Retirement Plan; Authority to Match Employee Contributions.—The board of governors of West Virginia University shall have the authority to contract for retirement benefits for any or all of its employees to supplement the benefits such employees will receive under the state teachers’ retirement system. The board shall have the authority to make additional periodic deductions from the salary payments due such employees in the amount they are required to contribute for the supplemental retirement plan selected by the board. The additional deductions shall not exceed five per cent of the salary of employees thirty through thirty-four years of age, six per cent of the salary of those thirty-five through forty-four years of age, and seven and one-half per cent of the salary of those forty-five years of age and above, and shall not cover any portion of an employee’s salary which is covered by the state teachers’ retirement system.

The board is further authorized, by way of additional compensation to such employees, to pay an amount equal to the contributions of such employees into such retirement plan from funds appropriated for personal services at the university and at Potomac State College. Each participating employee shall have a full and immediate vested interest in the retirement and death benefits accrued from all the moneys paid into such supplemental retirement plan for his benefit. Upon proper requisition of the board, the auditor shall periodically issue a warrant, payable as specified in the requisition, for the total con-
tributions so withheld from the salaries of all participating employees and for the board's matching funds. The provisions of this section as hereby amended shall apply to all calendar years beginning on and after December thirty-one, one thousand nine hundred sixty-five, and to the entirety of the year beginning January one, one thousand nine hundred sixty-six, including that part of said year that has elapsed prior to the effective date of this section.

CHAPTER 25

(Senate Bill No. 20—By Mr. McCourt and Mr. Floyd)

[Passed February 5, 1966; in effect ninety days from passage. Approved by the Governor.]

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 eleven-b, relating to the authority of the board of governors of West Virginia University to issue revenue bonds to finance the construction of new facilities, buildings and structures, including the cost of acquisition of land therefor and the necessary equipment thereof, for West Virginia University, and to issue revenue bonds to refund bonds issued and outstanding under the provisions of said article eleven-b and preceding article eleven-a, and to pledge as security for such bonds certain enrollment, tuition and other fees collected at the university.

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 eleven-b, to read as follows:


Section 1. Board of governors of West Virginia University authorized to issue revenue bonds for certain capital improvements.
2. Special university capital improvements fund continued in state treasury; collections to be paid into special fund; authority of board of governors to pledge such collections as security for revenue bonds.
3. Board of governors to fix fees.
4. Issuance of revenue bonds.
5. Issuance of revenue refunding bonds.
6. Bonds may be issued for combined purposes.
7. Bonds shall be negotiable instruments.
8. Trust agreements for holders of bonds.
10. Credit of state not pledged.
12. Conflicting laws repealed.

Section 1. Board of Governors of West Virginia University Authorized to Issue Revenue Bonds for Certain Capital Improvements.—The board of governors of West Virginia University shall have authority, as provided in this article, to issue revenue bonds of the state, not to exceed twenty million dollars in principal amount thereof, to refund bonds issued and outstanding under and pursuant to the provisions of article eleven-a of this chapter and this article and to finance the cost of providing new facilities, buildings and structures for West Virginia University including, but not limited to, buildings and structures suitable for use as an academic building, library, laboratory, research facility, maintenance or storage or utility facility and other facilities related thereto or essential or convenient for the instruction of students or the conducting of research or the operation of West Virginia University as an institution for higher education, and also including athletic facilities and stadia as well as parking and other facilities, buildings or structures essential or convenient for the orderly conduct of West Virginia University as an institution for higher education, together with, in each case, land for current or future use in connection therewith and equipment and machinery and other similar items essential or convenient for the operation of a particular facility, building or structure in the manner for which its use is intended but not including such items as books, fuel, supplies or other items which are customarily deemed to result in a current operating charge. The principal of and interest on such bonds shall be payable solely from the special non-revolving fund herein provided for such payment. The
cost of any such facility, building or structure shall in-
clude the cost of acquisition of land, the construction and
equipment of any such facility, building or structure and
the provision for roads, utilities and other services neces-
sary, appurtenant or incidental to such facilities, build-
ings or structures, and shall also include all other charges
or expenses necessary, appurtenant or incidental to the
construction, financing and placing in operation of any
such facility, building or structure.

Sec. 2. Special University Capital Improvements Fund
Continued in State Treasury; Collections to Be Paid into
Special Fund; Authority of Board of Governors to Pledge
Such Collections as Security for Revenue Bonds.—The
special nonrevolving university capital improvements
fund heretofore created in the state treasury pursuant
to the provisions of article eleven-a of this chapter shall
be continued and shall exist so long as any bonds issued
pursuant to said article eleven-a or this article remain
outstanding and unpaid. Subject only to the prior lien
thereon of outstanding bonds heretofore issued pursuant
to the provisions of article eleven-a of this chapter, on
and after the first day of July, one thousand nine hundred
sixty-six, there shall be paid into such special university
capital improvements fund all fees collected under the
provisions of section one, article one-a, chapter twenty-
five of this code, from students at the university other
than students in the schools of medicine, medical tech-
nology, dentistry, dental technology, nursing and phar-
macy, except such fees as are now required by that section
to be paid into other special funds: Provided, That any
future allocation of all or any of such fees to other spe-
cial funds shall, so long as any bonds issued pursuant
to said article eleven-a or this article remain outstanding
and unpaid, be expressly subordinate, junior and in-
fierior to the requirements of and pledges made pursuant
to this section.
The board of governors shall have authority to pledge
all or such part of the revenue paid into the special uni-
versity capital improvements fund as may be needed to
meet the requirements of the sinking fund established in
connection with any revenue bond issue authorized by
this article, including a reserve fund for the payment of
the principal of and interest on such revenue bond issue
when other moneys in the sinking fund are insufficient
therefor and including such additional margin of safety
as may be provided in the resolution authorizing any
issue of such bonds and in any trust agreement made in
connection therewith, and may provide in the resolution
authorizing any issue of such bonds, and in any trust
agreement made in connection therewith, for such priori-
ties on the revenues paid into the special fund as may
be necessary for the protection of the prior rights of the
holders of bonds issued at different times under the pro-
visions of this article.

Any balance remaining in the special university capital
improvements fund after the board has issued the maxi-
mum of twenty million dollars worth of bonds authorized
by this article, and after the requirements of all sinking
funds and reserve funds established in connection with
the bonds issued pursuant to this article have been satis-
fied, may and shall be used solely for the redemption of
any of the outstanding bonds issued hereunder which
by their terms are then redeemable, or for the purchase
of such bonds at the market price, but at not exceeding
the price, if any, at which such bonds shall in the same
year be redeemable, and all bonds redeemed or purchased
shall forthwith be cancelled and shall not again be issued.
Whenever all outstanding bonds issued hereunder shall
have been paid, the special university capital improve-
ments fund shall cease to exist and any balance then re-
main ing in such fund shall be transferred to the general
revenue fund of the state. Thereafter all fees formerly
paid into such special fund shall be paid into the gen-
eral revenue fund of the state.

Sec. 3. Board of Governors to Fix Fees.—The board of
governors shall fix, establish, maintain and collect the
fees provided for in section one, article one-a, chapter
twenty-five of this code, from students at the university
other than students in the schools of medicine, medical
technology, dentistry, dental technology, nursing and
pharmacy, in amounts at least sufficient, at all times,
after depositing in the other special funds such fees as
are now required to be deposited therein pursuant to section one, article one-a, chapter twenty-five of this code, to provide revenues for deposit in the special university capital improvements fund which are adequate to pay the principal of and interest on the outstanding bonds here-tofore issued pursuant to article eleven-a of this chapter as the same mature and become due and to make all reserve and other payments required by the proceedings which authorized such outstanding bonds, to pay the principal of and interest on any outstanding bonds issued pursuant to this article as the same mature and become due and to provide any margin of safety and reserve or other payments required by the resolution authorizing any issue of bonds pursuant to this article and any trust agreement made in connection therewith, and to make all other payments required by this article or any such proceedings, resolutions or trust agreements.

Sec. 4. Issuance of Revenue Bonds.—The issuance of revenue bonds under the provisions of this article shall be authorized by a resolution of the board of governors, which shall recite an estimate by the board of the cost of the proposed facilities, buildings or structures; and shall provide for the issuance of bonds in an amount sufficient, when sold as hereinafter provided, to provide moneys sufficient to pay such cost, less the amount of any other funds available for the construction of the facilities, buildings or structures from any appropriation, grant or gift therefor. Such resolution shall prescribe the rights and duties of the bondholders and the board, and for such purpose may prescribe the form of the trust agreement hereinafter referred to. The bonds shall be of such series, bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rate or rates not exceeding five per cent per annum, payable semiannually; be in such denomi-

ations; be in such form, either coupon or fully registered without coupons, carrying such registration, exchange-
ability and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption at such prices not exceeding one hundred five per cent of the principal
amount thereof, and be entitled to such priorities on the
revenues paid into the special university capital improve-
ments fund as may be provided in the resolution authoriz-
ing the issuance of the bonds or in any trust agreement
made in connection therewith. The bonds shall be signed
by the governor, and by the president of the board of
governors, under the great seal of the state, attested by
the secretary of state, and the coupons attached thereto
shall bear the facsimile signature of the president of the
board. In case any of the officers whose signatures appear
on the bonds or coupons cease to be such officers before
the delivery of such bonds, such signatures shall never-
theless be valid and sufficient for all purposes the same
as if such officers had remained in office until such de-
livery.

Such bonds shall be sold in such manner as the board
may determine to be for the best interest of the state,
taking into consideration the financial responsibility of
the purchaser, the terms and conditions of the purchase,
and especially the availability of the proceeds of the bonds
when required for payment of the cost of such facilities,
buildings or structures, such sale to be made at a price
not lower than a price which, when computed upon
standard tables of bond values, will show a net return of
not more than five per cent per annum to the purchaser
upon the amount paid therefor. The proceeds of such
bonds shall be used solely for the payment of the cost of
such facilities, buildings or structures, and shall be de-
posited in the state treasury in a special fund and checked
out as provided by law for the disbursement of other
state funds. If the proceeds of such bonds, by error in
calculation or otherwise, shall be less than the cost of
such facilities, buildings or structures, additional bonds
may in like manner be issued to provide the amount of the
deficiency; and unless otherwise provided for in the reso-
lution or trust agreement hereinafter mentioned, shall be
deemed to be of the same issue, and shall be entitled to
payment from the same fund, without preference or
priority, as the bonds before issued for such facilities,
buildings or structures. If the proceeds of bonds issued
for such facilities, buildings or structures shall exceed the
cost thereof, the surplus shall be paid into the sinking
fund to be established for payment of the principal and
interest of such bonds as hereinafter provided. Prior to
the preparation of definitive bonds, the board may, under
like restrictions, issue temporary bonds with or without
coupons, exchangeable for definitive bonds upon their
issuance. The term “cost,” as used in this section, shall be
deemed to include all of the items contemplated by the
use of this term in section one of this article.

Sec. 5. Issuance of Revenue Refunding Bonds.—The
issuance of revenue refunding bonds under the provisions
of this article shall be authorized by resolution of the
board of governors and shall otherwise be subject to the
limitations, conditions and provisions of section four of
this article. Such revenue refunding bonds may be issued
in an amount sufficient to pay (1) the principal of any
outstanding bonds heretofore issued pursuant to the pro-
visions of article eleven-a of this chapter or this article
(hereinafter referred to as “outstanding bonds”); (2) the
redemption premium, if any, on such outstanding bonds
on the prior redemption thereof; (3) the interest due and
payable on such outstanding bonds to and including the
first date upon which said outstanding bonds are callable
prior to maturity, not exceeding, however, ten years from
the date of issuance of such revenue refunding bonds, or
the dates upon which the principal of said outstanding
bonds matures before such first date on which the same
are callable prior to maturity, including any interest
theretofore accrued and unpaid; and (4) all expenses of
the issuance and sale of said revenue refunding bonds,
including all necessary financial and legal expenses, and
also including the creation of initial debt service reserve
funds. Any moneys in the sinking or reserve funds or
other funds for the outstanding bonds may be used for
the purposes stated in (1), (2), (3) and (4) above or may
be deposited in a sinking fund or reserve fund or other
funds for the issue of bonds which have been issued
wholly or in part for the purpose of such refunding. Such
amount of the proceeds of the revenue refunding bonds
as shall be sufficient for the payment of the principal,
interest and redemption premiums, if any, on such out-
standing bonds which will not be due and payable im-
immediately shall be deposited in trust, for the sole purpose
of making such payments, with the treasurer of the state
of West Virginia. Any of the moneys so deposited in
trust may, prior to the date on which such moneys will
be needed for the payment of principal, interest and re-
demption premiums, if any, on such outstanding bonds,
be invested and reinvested in direct obligations of the
United States of America.

Sec. 6. Bonds May Be Issued for Combined Purposes.—
The board of governors may authorize by one resolution
a single issue of bonds for the combined purposes of re-
funding the outstanding bonds as herein authorized and
financing one or more of the facilities, buildings and
structures herein authorized.

Sec. 7. Bonds Shall Be Negotiable Instruments.—The
revenue bonds, revenue refunding bonds and bonds issued
for combined purposes under the provisions of this article
shall, independently of the requirements of any other
provision of law and solely by virtue of the provisions of
this section, be and have all the qualities and incidents
of negotiable instruments.

Sec. 8. Trust Agreements for Holders of Bonds.—The
board may enter into an agreement or agreements with
any trust company, or with any bank having the powers
of a trust company, either within or outside the state, as
trustee for the holders of bonds issued hereunder, setting
forth therein such duties of the board in respect to the
payment of the bonds, the fixing, establishing and collect-
ing of the fees hereinbefore referred to, the acquisition,
construction, improvement, maintenance, operation, re-
pair and insurance of authorized facilities, buildings or
structures, the conservation and application of all moneys,
the security for moneys on hand or on deposit, and the
rights and remedies of the trustee and the holders of the
bonds, as may be agreed upon with the original purchas-
ers of such bonds; and including therein provisions re-
stricting the individual right of action of bondholders as
is customary in trust agreements respecting bonds and
debentures of municipal corporations, protecting and en-
forcing the rights and remedies of the trustee and the
bondholders, and providing for approval by the original
purchasers of the bonds of the appointment of consulting
engineers and of the security given by those who contract
to construct such facilities, buildings or structures and
for approval by the consulting engineers of all contracts
for construction. Any such agreement entered into by the
board shall be binding in all respects on such board and
its successors from time to time in accordance with its
terms; and all the provisions thereof shall be enforceable
by appropriate proceedings at law or in equity, or other-
wise.

Sec. 9. Sinking Fund for Payment of Bonds.—From the
special university capital improvements fund the board
shall, subject only to the prior lien thereon of the out-
standing bonds heretofore issued pursuant to the pro-
visions of article eleven-a of this chapter, make periodic
payments to the state sinking fund commission in an
amount sufficient to meet the requirements of any issue of
bonds sold under the provisions of this article, as specified
in the resolution of the board authorizing the issue thereof
and in any trust agreement entered into in connection
therewith. The payments so made shall be placed by the
commission in a special sinking fund which is hereby
pledged to and charged with the payment of the principal
of the bonds of such issue and the interest thereon, and
to the redemption or repurchase of such bonds, such sink-
ing fund to be a fund for all bonds of such issue without
distinction or priority of one over another, except as may
be provided in the resolution authorizing such issue of
bonds. The moneys in the special sinking fund, less such
reserve for payment of principal and interest as may be
required by the resolution of the board authorizing the
issue and any trust agreement made in connection ther-
with, may be used for the redemption of any of the out-
standing bonds payable from such fund which by their
terms are then redeemable, or for the purchase of bonds
at the market price, but at not exceeding the price, if any,
at which such bonds shall in the same year be redeemable;
and all bonds redeemed or purchased shall forthwith be
cancelled and shall not again be issued.
Sec. 10. Credit of State Not Pledged.—No provisions of this article shall be construed to authorize the board at any time or in any manner to pledge the credit or taxing power of the state, nor shall any of the obligations or debts created by the board under the authority herein granted be deemed to be obligations of the state.

Sec. 11. Bonds Exempt from Taxation.—All bonds issued by the board under the provisions of this article, and the interest thereon, shall be exempt from taxation by the state of West Virginia, or by any county, school district, municipality or other political subdivision thereof.

Sec. 12. Conflicting Laws Repealed.—The powers conferred by this article shall be in addition and supplemental to the existing powers of the board of governors. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict.

CHAPTER 26
(House Bill No. 303—By Mr. Slonaker)

[Passed February 8, 1966; In effect from passage. Approved by the Governor.]

AN ACT to amend article seventeen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seven, relating to sale of lands comprising the West Virginia schools for the deaf and the blind.

Be it enacted by the Legislature of West Virginia:

That article seventeen, 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 seven, to read as follows:

Article 17. West Virginia Schools for the Deaf and the Blind.

Section 7. Sale of lands; application of proceeds.
Section 7. Sale of Lands; Application of Proceeds.—
2 The state board of education may, from time to time, 
3 sell and transfer such part or portion of the lands com-
4 prising the West Virginia schools for the deaf and the 
5 blind as the board may deem surplus to the needs of such 
6 schools, and shall expend the proceeds therefrom for the 
7 maintenance, operation and improvement of such schools.

CHAPTER 27
(Com. Sub. for Senate Bill No. 8—By Mr. Moreland 
and Mr. Floyd)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the 
Governor.]

AN ACT to amend and reenact sections four, five, six, eight and 
nine, article two; and sections six, seven and eight, article 
four, chapter three of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, abolishing the 
voting machine commission and transferring its duties and 
functions to the state election commission; terminating the 
terms of the members of the state election commission and 
changing the composition thereof; providing for the ap-
pointment of members of the state election commission and 
prescribing their qualifications, term, duties and functions; 
and relating to the general powers, authority, functions 
and duties of the secretary of state with respect to elec-
tions, and certain rules, regulations and orders concerning 
elections.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, eight and nine, article two; and 
sections six, seven and eight, 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:

Article
2. Registration of Voters.
4. Voting Machines.
Article 2. Registration of Voters.

Section
4. Election commission continued; composition; chairman; traveling expenses.
5. Qualification of members of commission.
6. Terms of office of commission members; termination of terms of present members; filling vacancies.
9. Election rules; powers and duties of secretary of state; exercise of powers by appointees.

Section 4. Election Commission Continued; Composition; Chairman; Traveling Expenses.—The “State Election Commission,” heretofore created, is hereby continued and, on and after the effective date of this section, shall be composed of the secretary of state, and four persons appointed by the governor, by and with the advice and consent of the senate. The commission shall, from this membership, elect a chairman for a term of two years. Each member of the commission shall receive his actual and necessary traveling expense incurred in the performance of his duties.

Sec. 5. Qualification of Members of Commission.—No member of the commission appointed by the governor shall be a candidate for or hold any public office other than that of membership in the commission; nor shall such appointed member be a member of any committee of a political party. Any person who, directly or indirectly, (1) designs, owns, manufactures, distributes or sells any voting machine, or (2) owns any patent rights or contract rights thereto, or (3) has any interest in any joint venture, partnership, firm, corporation or association designing, owning, manufacturing, distributing or selling any voting machine, or owning any patent rights or contract rights thereto, shall be disqualified from serving as a member of the commission. At least one member appointed by the governor shall be selected with special reference to his expert knowledge as a student of the problems of public elections. Not more than two members appointed by the governor shall be members of the same political party. In case a member appointed by the governor becomes a candidate for or is appointed to any other public office or political committee, his office as member of the commission shall be deemed immediately vacated.
Sec. 6. Terms of Office of Commission Members; Termination of Terms of Present Members; Filling Vacancies.

The terms of office of the members of the commission shall be six years. Members in office shall continue until the fourth day of June, one thousand nine hundred sixty-six, when their terms shall terminate. The governor shall then appoint two members for terms of three years expiring on the fourth day of June, one thousand nine hundred sixty-nine, and two members for terms of six years expiring on the fourth day of June, one thousand nine hundred seventy-two. Thereafter appointments shall be made every six years. Appointments to fill vacancies shall be for the unexpired term.

Sec. 8. Commission’s Powers and Duties.—The commission shall have the power and duty to approve or disapprove applications for approval of any voting machine as provided in section seven, article four of this chapter. The commission also shall serve as a body advisory to the secretary of state, and, as such, shall have the following powers and duties:

(1) To recommend policies and practices pertaining to the registration of voters and the conduct of elections generally;

(2) To investigate the work of the office of secretary of state pertaining to the duties of that office with respect to elections, and for this purpose to have access at reasonable times to pertinent records, books, papers and documents;

(3) To consider and study the election practices of other jurisdictions, with a view to determining the techniques used in eliminating fraud in elections and in simplifying election procedure;

(4) To advise or make recommendations to the governor relative to election practices and policy in the state; and

(5) To keep minutes of the transactions of each meeting of the commission, which shall be public records and filed with the secretary of state.

Sec. 9. Election Rules; Powers and Duties of Secretary
of State; Exercise of Powers by Appointees.—The secretary of state shall be the chief registration official of the state. He shall have authority, upon consultation with the state election commission, of which he is a member, to make, amend and rescind such rules, regulations and orders as may be necessary to carry out the policy of the Legislature, as contained in this article. It shall be the duty of all registration officials to abide by such rules, regulations and orders, which shall include:

(a) Uniform rules of procedure for registrars and other registration officials in the performance of their duties, as to time and manner of performance;

(b) Uniform rules for the purging of registration records;

(c) Uniform rules for challenging registrants; and

(d) Any other rules, regulations, or directions necessary to standardize and make effective the administration of the provisions of this article.

It shall be his further duty to advise with registration officials; to furnish to the registration officials a sufficient number of indexed copies of the current registration laws of West Virginia and the administrative orders issued thereunder; to investigate the administration of registration laws, frauds, and irregularities in any registration; to report violations of registration laws to the appropriate prosecuting officials, and to prepare an annual report of registration.

The secretary of state shall also have the power to issue subpoenas, administer oaths and affirmations, summon witnesses, compel the production of books, papers, records and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of this article. In case of disobedience to a subpoena or other process, he may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents.

All powers and duties vested in the secretary of state under this article may be exercised by appointees of the secretary of state at his discretion, but the secretary of state shall be responsible for their acts.
Article 4. Voting Machines.

Section 6. Bids and Contracts for Voting Machines; False Swearing or Failure to Disclose Facts.—Contracts for the purchase or lease of voting machines shall be based on competitive bids. The county court shall solicit sealed bids by sending requests by mail to all known manufacturers and suppliers of voting machines which have been previously approved by the state election commission as hereinafter provided. The award of contracts of purchase or lease shall be based on the quality, cost, specifications and suitability of the particular voting machines.

No bid shall be accepted by the county court unless accompanied by a contract which shall provide that in the event the bid is accepted the party or parties making the sale or lease shall:

(1) Guarantee in writing to keep the machine or machines in good working order for five years without additional cost to the county court.

(2) Warrant to defend and indemnify the county court against any claim for patent infringement, and in case any machine or machines shall be held to be an infringement of a valid patent, to obtain a license for the use of such patent on the machines sold or leased to the county court or to modify the machines so that the offending infringement is removed without altering the mechanical efficiency or statutory requirements of the machines; all at the sole cost and expense of the supplier of the voting machines.

(3) Provide a bond with good corporate surety duly qualified to do business in West Virginia conditioned upon the due performance of said guaranty and said warranty, in a penal sum to be fixed by the county court.

No bid shall be accepted by the county court unless the party or parties submitting the bid shall file with the bid an affidavit:
(1) Disclosing the name and address of, and the amount of any contribution paid or to be paid to, any individual, partnership, corporation or association hired regularly and specially for the purpose, or partly for the purpose, of attempting to influence directly or indirectly the purchase or lease of the voting machine represented by the bid.

(2) Declaring that no individual, partnership, corporation or association not disclosed in said affidavit shall thereafter be regularly or specially hired and no contribution shall thereafter be paid for the purpose or partly for the purpose of attempting to influence directly or indirectly the purchase or lease of the voting machine represented by the bid.

For the purpose of this affidavit, the word “contribution” shall mean payment, distribution, loan, advance, deposit, gift of money, property, benefit or other consideration, or any agreement providing for a payment, distribution, loan, advance, deposit, or gift of money, property, benefit, or other consideration at any future time.

Any person who shall knowingly or wilfully make any false or fraudulent statement, or who shall knowingly or wilfully fail to disclose any material fact in the affidavit required by this section shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or imprisonment in the state penitentiary for not less than one year nor more than three years, or both, in the discretion of the court.

In construing this section, the term “person” shall include an individual, partnership, committee, association, and any other organization or group of persons.

Sec. 7. Approval of Voting Machines by State Election Commission; Expenses.—Any person or corporation owning or being interested in any voting machine may apply to the state election commission to the end that such machine may be examined and a report be made on its accuracy, efficiency, capacity and safety. The state election commission shall appoint two mechanical experts who are not members of the same political party to examine the machine and make full report thereon to the
commission. They shall state in the report whether or not the machine so examined complies with the requirements of this article and can be safely used by voters at elections under the conditions prescribed in this article. If the report be in the affirmative upon said question, the machine may be approved by the commission and, if approved by the commission, the machine of its make and design may be adopted for use at elections as herein provided. Any form of voting machine not so approved shall not be used at any election. Each of the two mechanical experts appointed by the commission shall be entitled to two hundred dollars for his compensation and expenses in making such examination and report, and such compensation shall be paid by the person or corporation applying for such examination, which sum shall be paid in advance of making the examination and which sum shall be the sole compensation to be received by any such expert for his work hereunder.

Sec. 8. Minimum Requirements of Voting Machines.—A voting machine of particular make and design shall not be approved by the state election commission or be purchased, leased, or used, by any county court unless it shall fulfill the following requirements:

(1) It shall secure or insure the voter absolute secrecy in the act of voting, or, at the voter's election, shall provide for open voting;

(2) It shall be so constructed that no person except in instances of open voting, as herein provided for, can see or know for whom any voter has voted or is voting, and that no voter or other person can, while the machine is unlocked for operation, see or otherwise ascertain the numerical total of votes cast for any candidate or for or against any question;

(3) It shall permit each voter to vote at any election for all persons and offices for whom and which he is lawfully entitled to vote, whether or not the name of any such person appears on a ballot label as a candidate; and it shall permit each voter to vote for as many persons for an office as he is lawfully entitled to vote for; and to vote for
or against any question upon which he is lawfully entitled
to vote;

(4) It shall preclude each voter from voting for any
person or office or upon any question for whom or which
and upon which he is not lawfully entitled to vote and
from voting for more persons for any office than he is
lawfully entitled to vote for, and from voting for any
candidate for the same office and upon any question more
than once;

(5) It shall permit each voter to deposit, write in, or
affix upon devices to be provided for that purpose, ballots
containing the names of persons for whom he desires to
vote whose names do not appear upon the machine ballot
labels;

(6) It shall permit each voter to change his vote for
any candidate and upon any question appearing upon
the ballot labels up to the time when he starts to register
his vote;

(7) It shall correctly register and accurately count all
votes cast for each candidate and for and against each
question appearing upon the ballot labels;

(8) It shall permit each voter at any election other
than primary elections, to vote a straight party ticket by
one device, and by one device to vote for all candidates
of one party for presidential electors; and to vote a mixed
ticket selected from the candidates of any and all parties
and from independent candidates;

(9) It shall be capable of adjustment by election of-
ficers at a primary election so as to permit each voter to
vote only for the candidates of the party with which he
has declared his affiliation, and so as to preclude him from
voting for any candidate seeking nomination by any other
political party, and so as to permit each voter to vote for
the candidates, if any, for nonpartisan nomination or elec-
tion and on public questions;

(10) It shall have separate voting devices for candi-
dates and questions, which shall be arranged in separate
rows or columns. It shall also be arranged so that one or
more adjacent rows or columns may be assigned to the
candidates of each political party at primary elections;
(11) It shall have a public counter or other device, the
register of which is visible on the outside of the machine
and which shall show the total number of voters who
have voted on that machine in the election; also candidate
and question counters or other devices which shall not be
visible on the outside of the machine when the machine
is unlocked for operation, and upon which are registered
numerically the total votes cast for each candidate and
question appearing on the ballot labels; also a protective
counter or other device which will record the cumulative
total number of movements of the registering mechanism;

(12) It shall be provided with locks and seals by the
use of which all movement of the registering mechanism
is prevented, both before the polls are open or before the
operation of the machine for an election is begun and
immediately after the polls are closed or after the opera-
tion of the machine for an election is completed;

(13) It shall have the capacity to contain the names of
candidates constituting the tickets of at least nine politi-
cal parties, and to accommodate the wording of at least
fifteen questions;

(14) It shall be durably constructed of material of good
quality and in a workmanlike manner and in a form
which shall make it safely transportable;

(15) It shall be so constructed with frames for the
placing of ballot labels and with transparent devices for
the protection of such labels, that the labels on which are
printed the names of candidates and their respective
parties, titles of offices, and wording of questions shall be
reasonably protected from mutilation, disfigurement or
disarrangement;

(16) It shall bear a number that will identify it or dis-
tinguish it from any other machine;

(17) It shall be so constructed that a voter may easily
learn the method of operating it and may expeditiously
cast his vote for all candidates of his choice; and

(18) It shall be accompanied by a mechanically oper-
ated instruction model which shall show the arrangement
of ballot labels, party columns or rows, and questions.
AN ACT to amend and reenact sections one, three, five and seven, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voting of persons outside the continental limits of the United States.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Voting by Absentees.

Section 1. Persons eligible to vote as absentees.

Any qualified voter of the state of West Virginia, being duly registered, (a) who by reason of the nature of his employment, business, or on account of other unavoidable causes, which cause or causes shall be stated in the application for an absentee ballot, expects to be absent from the county on the date of any primary, general or special election, (b) 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, (c) who is a student attending any college or university, or is the spouse of any such student, outside the county wherein he or she is legally registered to vote, or (d) who is: (1) A member of the armed forces of the United States; (2) a member of the merchant marine of the United States; (3) a member of a religious or welfare organization assisting servicemen; (4) a civilian employed
by the United States government outside the United States (continental); (5) a spouse or dependent of a person listed in (1), (2) or (3) above; or (6) a spouse or dependent residing with a person described in (4) above, may vote by absent voter's ballot as provided in this article, at any such election.

The provisions of this article shall apply only to voters necessarily absent from the county or from the polls on election day for the reasons specified in this section.

Sec. 3. Form of Application; Declaration; Physician's Statement as to Disability.—(a) Application for an absent voter's ballot shall be made in person or by mail, on a blank to be furnished by the clerk of any circuit court of the state. Such blank shall, upon request, be sent to the applicant by mail by any such clerk, or delivered to such applicant in person upon his appearance at the office of any such clerk. Such completed application may be returned only to the clerk of the circuit court of the county in which the applicant is a qualified elector.

Application for an absent voter's ballot shall be substantially in the following form, and shall be signed by the applicant, as hereinafter provided:

APPLICATION FOR ABSENT VOTER'S BALLOT

State of ____________________________,
County of ____________________________, to wit;

I, ____________________________, hereby declare that I am now, or will have been, a resident of the State of West Virginia for twelve months, and of the county of ______ for sixty days, next preceding the date of the ensuing election to be held on the ______ day of ______, 19____.; that I am now a resident of election precinct No. ______, in the magisterial district of ______, in said county; that I am a duly qualified voter entitled to vote in such election; that I am registered in the precinct of my residence as provided by law; that (as the case may be) I am ______________ (stating business), and because of the nature of my business or employment, or for the following reasons ________ ______________ (relating unavoidable cause of absence), I expect to be absent from the said county on the date
of such election, or I am a (college or university student, 
member of armed forces, spouse, etc., as specified in 
section one of this article) and will be unable to vote 
in person at such election, or because of physical dis-
ability, illness or injury (here state reason, whether 
physical disability, illness or injury) I will be unable 
to vote in person at such election, as evidenced below 
by the statement of a duly licensed physician; and I 
hereby make application for an official ballot (or ballots 
if more than one are to be used) to be voted by me at 
such election; and that I will return such ballot (or 
balloons) to the officer issuing them not later than four 
days prior to the day of such election. 
(If application is made for a primary ballot, the appli-
cant shall also designate the party whose candidates he 
expects to vote for:)

I hereby declare under penalty of false swearing, as 
provided in section three, article nine, chapter three of 
the Code of West Virginia, as amended, that the state-
ments and declarations contained in this application are 
true and correct to the best of my knowledge and belief.

Signed ____________________________________

Home address of applicant ------------------------------------------------
P. O. address to which ballot is to be sent __________________

The following statement must be executed if the reason 
stated is physical disability of the voter:

STATEMENT OF PHYSICIAN

I, ___________________________, a physician duly licensed to 
practice in the State of __________________________, do hereby 
certify under penalty of false swearing, as provided in 
section three, article nine, chapter three of the Code of 
West Virginia, as amended, that I have examined 
__________________________________________, the applicant whose 
signature appears above, and that in my opinion, because 
of physical disability, illness or injury ________________ (here state reason, whether physical disability, illness 
or injury), he will be unable to vote in person at such 
election.

Signed______________________________

The term “physician,” wherever used in this article, 
shall also include a chiropractor.
(b) In lieu of the application for an absent voter's ballot, provided for in subsection (a) of this section, those persons specified in subparagraph (d) of section one of this article may use a properly completed copy of federal standard form number seventy-six, issued by the federal government under authority of Public Law No. 296, or any revision or replacement of such form, whether designated in the same or a different manner. Upon receipt of a properly completed copy of such form, the circuit clerk shall process the same as he would any other application for an absent voter's ballot. Any such properly completed copy may be returned only to the clerk of the circuit court of the county in which the applicant is a qualified elector.

Sec. 5. Mailing of Ballots; Time.—Between the thirtieth day and the fourth day next prior to the election in which the absent voter's ballot is to be used, the clerk of the circuit court of the county in which an applicant is a qualified voter shall mail, postage prepaid, to each duly registered applicant who has executed and filed his application, to the address shown therein, an official ballot or ballots (if more than one are to be voted at such election), except that the clerk shall not, after the fifteenth day next prior to such election, mail any such ballot to an applicant whose address is shown to be outside the continental limits of the United States of America. All absentee ballots mailed upon the basis of applications therefor made on federal standard form number seventy-six, issued by the federal government under authority of Public Law No. 296, or any revision or replacement of such form, whether designated in the same or a different manner, shall be mailed by the clerk in envelopes embossed with the words “Official Election Balloting Material Via Air Mail,” printed in red, with the notation in the upper right-hand corner, “Free of U. S. Postage Including Air Mail.” The clerk shall, without delay, mail all such absent voter ballots as soon after the thirtieth day next prior to the election as he shall have in his office properly executed applications therefor. The applicant may obtain the absent voter ballot or ballots by applying personally at the office of the clerk.
of the circuit court not more than thirty days before such
election and thereafter may vote such ballot or ballots in
the clerk's office during regular business hours on any
day up to and including the Saturday next preceding
the date of the primary or general election or, in the
case of special elections, up to and including the third
day next preceding the day of any such special election.
In computing the thirtieth, fifteenth, fourth and third
day before the election day, the day of the election shall
be excluded. Before any ballot is mailed or delivered
the clerk shall affix his official seal and he and the other
members of the board of ballot commissioners shall place
their signatures near the lower left-hand corner on the
back thereof.

Sec. 7. Marking and Mailing Ballot by Absent Voter.
—Such absent voter shall make and subscribe to the
declaration provided for in section six of this article,
and such voter shall thereupon, in the presence of no
other person, mark such ballot or ballots, and such ballot
or ballots shall then be folded by such voter so that each
ballot will be separate and so as to conceal the marking,
and shall be enclosed in such envelope, together with
any unused ballot, and the envelope shall be securely
sealed. The envelope shall then be mailed by such voter,
postage prepaid, to the officer issuing the ballot, or, if more
convenient, it may be delivered in person, or, if the voter
be for any reason disabled, the envelope may be so mailed
or delivered by a person selected and designated by the
voter for that purpose. When any absent voter who ob-
tained an absentee ballot or ballots upon the basis of
an application therefor made on federal standard form
number seventy-six, issued by the federal government
under authority of Public Law 296, or any revision or
replacement of such form, whether designated in the
same or a different manner, desires to return his ballot
or ballots by mail, he shall mail the same in an envelope
provided by the circuit clerk embossed with the words
"Official Election Balloting Material Via Air Mail"
printed in red, with the notation in the upper right-hand
corner, "Free of U. S. Postage Including Air Mail" to the
officer issuing the ballot or ballots. Any such ballot to be
valid shall be received by the clerk of the circuit court of the county in time for him to deliver the same to the election commissioners before the closing of the polls.

CHAPTER 29

(Senate Bill No. 7—By Mr. Carson, Mr. President, and Mr. McCourt)

[Passed January 21, 1966; in effect from passage. Approved by the Governor.]

AN ACT to repeal article two-a, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the departmental retirement system of the department of employment security.

Be it enacted by the Legislature of West Virginia:

Article 2-a. Departmental Retirement System.

Section 1. Repeal of article creating the departmental retirement system of the department of employment security.

Section 1. Repeal of Article Creating the Departmental Retirement System of the Department of Employment Security.—Article two-a, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, is hereby repealed.

CHAPTER 30

(Senate Bill No. 50—By Mr. Moreland and Mr. McCourt)

[Passed February 10, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article three, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the advisory council in the department of employment
security; abolishing the terms of the present members of such council; providing for the appointment of new members for staggered terms; and relating to the removal of such members.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Advisory Council.

Section 3. Termination of terms; appointment; terms; removal.

Section 3. Termination of Terms; Appointment; Terms; Removal.—Each of the terms of the nine members of the state advisory council in the department of employment security shall terminate on the thirtieth day of June, one thousand nine hundred sixty-six. On or before the first day of July, one thousand nine hundred sixty-six, the governor shall appoint nine members of the state advisory council for terms commencing the first day of July, one thousand nine hundred sixty-six, and for the following duration: Three members for a term of two years, three members for a term of four years, and three members for a term of six years. As these appointments expire, all subsequent appointments shall be for six-year terms.

In case of a vacancy, the governor shall make an appointment for the remainder of the unexpired term.

Members shall be subject to removal at the will and pleasure of the governor.

CHAPTER 31

(Senate Bill No. 10—By Mr. Carson, Mr. President, and Mr. Moreland)

[Passed January 24, 1966; in effect from passage. Approved by the Governor.]

AN ACT to repeal section seven, article three, chapter five-a of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to the preference to be given by the director of the purchasing division in the purchasing of commodities and printing to commodities and printing produced in this state and to commodities and printing produced and offered for sale by nonprofit workshops as that term is defined.

Be it enacted by the Legislature of West Virginia:

Article 3. Purchasing Division.

Section

1. Repeal of statute relating to the preference to be given by the director of the division of purchases to state products and nonprofit workshop products.

Section 1. Repeal of Statute Relating to the Preference to Be Given by the Director of the Division of Purchases to State Products and Nonprofit Workshop Products.—That section seven, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed.

CHAPTER 32

(House Bill No. 279—By Mr. Speaker, Mr. White, and Mr. Armistead)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to purchases of commodities and printing by the director of the purchasing division.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Purchasing Division.

Section

12. Publication of solicitation for sealed bids; purchase of products of nonprofit workshops.
Section 12. Publication of Solicitation for Sealed Bids; Purchase of Products of Nonprofit Workshops.—The director shall solicit sealed bids for the purchase of commodities and printing that is estimated to exceed two thousand dollars. No spending unit shall issue a series of requisitions which would circumvent this two thousand dollar maximum. Bids shall be obtained by public notice inserted at least twice in a newspaper having a general circulation in the county where the department or agency making the requisition is located and in a daily newspaper of general circulation at least two weeks before the final date of submitting bids and by any other advertising medium the director may deem advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office: Provided, however, That nothing contained in this article shall prevent the director from purchasing commodities and printing produced and offered for sale by nonprofit workshops, without the necessity of competitive bidding.

CHAPTER 33

(Senate Bill No. 3—By Mr. Davis and Mr. Moreland)

[Passed February 10, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-b, relating to the establishment and operation of clinics for family planning and child spacing.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-b, to read as follows:
Article 2-b. Family Planning and Child Spacing.

Section 1. Section of family planning and child spacing created in state department of health; authorized functions; funds.

2. Local boards of health authorized to establish clinics; supervision; purposes; procedures not approved; approval by state board of programs.

3. State and local health and welfare agency employees to advise indigent and medically indigent of availability of services; compulsory acceptance of services prohibited; acceptance not condition to receiving other services and benefits.

4. Exemption of employees from offering services when such duty is contrary to religious beliefs.

Section 1. Section of Family Planning and Child Spacing Created in State Department of Health; Authorized Functions; Funds.—There is hereby created a section of family planning and child spacing in the maternal and child health division of the state department of health. The section, under the supervision of the state board of health, is authorized to provide printed material, guidance, advice, financial assistance, appliances, devices, drugs, approved methods, and medicines to local boards of health requesting the same for use in the operation of family planning and child spacing clinics to the extent of funds appropriated by the Legislature and any federal funds made available for such purpose.

Sec. 2. Local Boards of Health Authorized to Establish Clinics; Supervision; Purposes; Procedures Not Approved; Approval by State Board of Programs.—A local board of health, created and maintained pursuant to the provisions of article two or article two-a of this chapter, is authorized to establish and operate within its jurisdiction, one or more family planning and child spacing clinics under the supervision of a licensed physician for the purpose of disseminating information, conducting medical examinations and distributing family planning and child spacing appliances, devices, drugs, approved methods and medication without charge to indigent and medically indigent persons who are married and living with their spouses on request and with the approval of said licensed physician. Such information, appliances, devices, drugs, approved methods and medication shall be dispensed only in accordance with the recipients' expressed wishes and beliefs and in accordance with all state and federal laws for
the dispensing of legend drugs: Provided, however, That
the procedures of sterilization and abortion shall not be
considered approved methods of family planning and
child spacing within the intent of this section and are
expressly excluded from the programs herein authorized.
All local boards of health receiving state or federal funds
for family planning or child spacing programs shall first
receive approval by the state board of health of their
general plan of operation of such programs.

Sec. 3. State and Local Health and Welfare Agency Em-
ployees to Advise Indigent and Medically Indigent of
Availability of Services; Compulsory Acceptance of Serv-
ices Prohibited; Acceptance Not Condition to Receiving
Other Services and Benefits.—The state director of health
and commissioner of the department of welfare are di-
rected to instruct their employees who work with the
indigent and medically indigent to advise such indigent
persons of the availability of the family planning and
child spacing services offered by the state and local
health departments: Provided, however, That no em-
ployee of the state of West Virginia or any employee of
its agencies or of its political subdivisions, including but
not limited to local health, or welfare agencies may com-
pel any individual or family, either directly or indirectly,
to accept or practice family planning, or any particular
family planning method as a condition for receiving other
public services or governmental benefits in any form nor
shall any such employee or person represent to any indi-
vidual or family, either directly or indirectly, that the
acceptance or practice of family planning is a condition for
receiving any public services or governmental benefits.
Any violation of this section shall be grounds for dismissal
or other appropriate disciplinary action.

Sec. 4. Exemption of Employees from Offering Services
When Such Duty Is Contrary to Religious Beliefs.—Any
employee of the state of West Virginia or any of its
agencies or political subdivisions, including, but not limit-
ed to, local health or welfare agencies, may refuse to ac-
cept the duty of offering family planning services to the
extent that such duty is contrary to his personal religious
beliefs and such refusal shall not be grounds for any disciplinary action, for dismissal, for any interdepartmental transfer, or any other discrimination in his employment, or for suspension from employment, or for any loss in pay or any other benefits.

CHAPTER 34
(Senate Bill No. 26—By Mr. Carson, Mr. President, and Mr. Mullins)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-c, relating to the establishment of a home health services program by the state department of health; enabling local health boards to participate in such program; authorizing the receipt and providing for the expenditure of funds for home health services; and providing for the collection of fees for services rendered.

Be it enacted by the Legislature of West Virginia:

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

Article 2-c. Home Health Services.

Section 1. Definitions.—For the purposes of this article:

1. "Home health services" shall mean and include the following services furnished to an individual who is under the care of a physician, such services to be provided on a visiting basis in a place of residence used as the individual's home: (1) Part-time or intermittent nursing
care provided by or under the supervision of a registered
professional nurse; (2) physical, occupational or speech
therapy; (3) medical social services under the direction
of a physician; (4) part-time or intermittent services of
a home health aide.

"Department" shall mean the state department of
health.

"Local boards" shall mean local health boards estab-
lished pursuant to the provisions of article two or two-a
of this chapter.

Sec. 2. Department Authorized to Provide Services;
Charges for Services; Authority to Employ Personnel;
Purchase of Supplies and Equipment; Assistance to Non-
profit Agencies.—The department is hereby authorized
to provide home health services to those persons living
in areas of the state in which adequate home health serv-
ices are not available otherwise. For such services the
department shall, and is hereby authorized to, charge fees
to individuals to whom it renders such services or to any
governmental agency purchasing such services for indi-
viduals, except for demonstration and public health pro-
gram activities.

In order that it may effectively render home health
services, the department is authorized to employ the nec-
essary personnel including nursing and supervisory per-
sonnel and shall have the further authority to purchase
equipment and materials necessary to maintain an effect-
tive program of home health services.

The department shall, wherever possible, assist and
advise nonprofit agencies or associations in the develop-
ment of a home health services program to be carried out
by such agencies or associations and, for that purpose,
may enter into agreements with these agencies or asso-
ciations specifying the type of assistance and advice it
will render them.

Sec. 3. Local Boards’ Authority Respecting Home Health
Services.—Local boards are hereby authorized to enter
into written agreements with the department for the
purpose of rendering home health services to persons
within their respective counties and municipalities. Such
agreements shall provide for the maintenance of standards established by the department for home health services by the local boards and for such supervision by the department as is deemed necessary to implement an effective program of home health services on the part of the local boards.

Whenever any local board has entered into an agreement with the department as is herein provided, it may render such home health services as are authorized by this article and for that purpose may charge fees and expend moneys to the same extent as this article authorizes for the department. Any local board may render such service anywhere within the area which it serves.

Sec. 4. Funds Received for Home Health Services.—The department and local boards are authorized to receive moneys from any source for home health services. All such moneys as the department and local boards may receive for this service shall be used to carry out the provisions of this article.

Sec. 5. Collection of Fees for Home Health Services.—The department and local boards are authorized to maintain legal action through the prosecuting attorneys of the several counties for the collection of fees charged for home health services which have been rendered to any person.

CHAPTER 35
(Senate Bill No. 78—By Mr. Carrigan and Mr. Moreland)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article six, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definition of hotels and restaurants; and hotels and restaurants not subject to the provisions of this article.

Be it enacted by the Legislature of West Virginia:

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

**Article 6. Hotels and Restaurants.**

**Section 3. Hotel and restaurant defined; hotels and restaurants not subject to provisions of article.**

For the purpose of this article, every building where food and lodging are usually furnished to guests and payment required therefor shall be deemed a hotel, and every place where food without lodging is usually furnished to guests and payment required therefor shall be deemed a restaurant. But the provisions of this article, except those of sections twenty and twenty-two, shall not apply to any hotel wherein there are fewer than ten bed chambers, nor to any hotel known as a “summer hotel” which is not open for guests from November fifteenth to May fifteenth. The provisions of this article shall not apply to temporary food sales, not exceeding two weeks in length, by religious, educational, charitable or nonprofit organizations.

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**CHAPTER 36**

(House Bill No. 275—By Mr. Holliday and Mrs. Withrow)

[Passed February 7, 1966: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twenty-two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the detection of phenylketonuria in newborn children.

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

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

**Article 22. Detection and Control of Phenylketonuria in Newborn Children.**

**Section 3. Tests for phenylketonuria; reports; assistance to afflicted children.**
Section 3. Tests for Phenylketonuria; Reports; Assistance to Afflicted Children.—The physician attending a newborn child or any person attending a newborn child not under the care of a physician shall cause to be made a test for phenylketonuria approved by the state department of health. Any test found positive for phenylketonuria shall be promptly reported to the state department of health by the director of the laboratory performing such test.

The state department of health, in cooperation with other state departments and agencies, and with attending physicians, is authorized to provide medical, dietary and related assistance to children determined to be afflicted with phenylketonuria.

CHAPTER 37
(Senate Bill No. 22—By Mr. Carson, Mr. President, and Mr. Jackson)

[Passed February 1, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section twenty-four, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state fire marshal’s office and the tax to pay for the operation thereof.

Be it enacted by the Legislature of West Virginia:

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

Article 3. State Fire Marshal; Protection against Fire.

Section 24. Tax on insurance companies for maintenance of office of state fire marshal.

Section 24. Tax on Insurance Companies for Maintenance of Office of State Fire Marshal.—For the purpose of
maintaining the office of state fire marshal and paying
the expenses incidental thereto, every insurance company
other than life doing business in this state, except farmers’
mutual fire insurance companies, shall pay to the state fire
marshal annually on or before the first day of March, in ad-
dition to the taxes now required by law to be paid by such
companies, one half of one per cent of the net direct premi-
um receipts of such companies on insurance against the haz-
ard of fire and on that portion of all other net direct premi-
ums reasonably applicable to insurance against the hazard
of fire which are included in other coverages, and received
by it for insurance on property or risks in this state during
the calendar year next preceding as shown by their an-
nual statement under oath to the insurance department.
The money so received by the state fire marshal shall be
paid by him into the treasury and credited to the state
fund general revenue.

In the event of a controversy as to the proper determi-
nation of the premium base on which this tax is to be
computed, a hearing may be had by said fire marshal on
the application of any interested person, corporation, or
association, which hearing shall be held after reasonable
notice. Appeal from any finding or holding of said fire
marshal may be by petition to the circuit court of Ka-
shawa county within thirty days of such finding or
holding.

CHAPTER 38
(Senate Bill No. 59—By Mr. McCourt)

[Passed February 4, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article three,
chapter thirty-three of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
the disposition of fees and charges collected by the insur-
ance commissioner.
Be it enacted by the Legislature of West Virginia:

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

Article 3. Licensing, Fees and Taxation of Insurers.

Section 13. Fees and Charges.-(a) Except where it is otherwise specially provided, the commissioner shall demand and receive the following fees from all insurers: For annual fee for each license, fifty dollars; for receiving and filing annual reports, fifty dollars; for valuation of policies of life insurers organized under the laws of this state, one and one-half cents for each one thousand dollars of insurance; for valuation of policies of life insurers organized under the laws of any other state licensed to transact insurance in this state such rate for each one thousand dollars of insurance valued as is imposed by such other state upon any similar insurer organized under the laws of this state licensed to transact insurance in such other state; for filing certified copy of articles of incorporation, twenty-five dollars; for filing copy of its charter, twenty-five dollars; for filing statements preliminary to admission, fifty dollars; for filing any additional paper required by law or furnishing copies thereof, one dollar; for every certificate of valuation, copy of report or certificate of condition of company to be filed in any other state, five dollars; for each licensed agent, five dollars. The commissioner may by regulation set reasonable charges for printed forms for the annual statements required by law. He may sell at cost publications purchased by, or printed on behalf of, the commissioner.

(b) The commissioner shall pay into the state treasury for the benefit of the state fund general revenue all fees and charges collected by him under the provisions of this section.
AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article five-c, relating to minimum wage and maximum hour standards for certain employees, providing certain powers and duties of the commissioner of labor, the establishing of a wage and hour division of the department of labor, providing employee’s remedies and a limitation of action thereon; injunction and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-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 five-c, to read as follows:

Article 5-c. Minimum Wage and Maximum Hours Standards for Employees.

Section 1. Definitions.—As used in this article:
2 (a) “Commissioner” means the commissioner of labor or his duly authorized representatives.
4 (b) “Wage and Hour Director” means the wage and hour director appointed by the commissioner of labor as chief of the wage and hour division.
7 (c) “Wage” means compensation due an employee by reason of his employment.
(d) "Employ" means to hire or permit to work.
(e) "Employer" includes the state of West Virginia, its agencies, departments, and all its political subdivisions, any individual, partnership, association, public or private corporation, or any person or group of persons acting directly or indirectly in the interest of any employer in relation to an employee, and who employs during any calendar week six or more employees as herein defined in any one separate, distinct and permanent location or business establishment: Provided, That the term "employer" shall not include any individual, partnership, association, corporation, person or group of persons or similar unit if eighty per cent of the persons employed by him are subject to any federal act relating to minimum wage, maximum hours and overtime compensation.

(f) "Employee" includes any individual employed by an employer but shall not include (1) any individual employed in agriculture as the word agriculture is defined in the Fair Labor Standards Act of 1938, as amended; (2) any individual employed by the United States and any individual employed as a fire fighter by the state or any agency thereof; (3) any individual subject to any federal act relating to minimum wage, maximum hours and overtime compensation; (4) any individual engaged in the activities of an educational, charitable, religious, fraternal, or nonprofit organization where the employer-employee relationship does not in fact exist, or where the services rendered to such organizations are on a voluntary basis; (5) newsboys, shoeshine boys, golf caddies, pin boys and pin chasers in bowling lanes, ushers in theatres; (6) traveling salesmen or outside salesmen; (7) services performed by an individual in the employ of his parent, son, daughter or spouse; (8) any individual employed in a bona fide professional, executive or administrative capacity; (9) any individual employed on a part-time basis and who is a student at any recognized school or college; (10) any individual engaged in educational programs in any hospital licensed by the state of West Virginia; (11) any individual employed in a nonprofit nursing home, or a nursing home licensed by the state of West Virginia and primarily engaged in the care
of the aged or infirmed; (12) any person whose employ-
ment is for the purpose of on-the-job training; (13) any
person having a physical or mental handicap so severe
as to prevent his employment or employment training
in any training or employment facility other than a non-
profit sheltered workshop; (14) any individual employed
by a local or interurban motorbus carrier; (15) any indi-
vidual employed in a boys or girls summer camp; (16)
any person sixty-two years of age or over who receives
old age or survivors benefits from the social security
administration.

(g) "Workweek" means a regularly recurring period
of one hundred sixty-eight hours in the form of seven
consecutive twenty-four hour periods, need not coincide
with the calendar week, and may begin any day of the
calendar week and any hour of the day.

(h) "Hours Worked," in determining for the purposes
of sections two and three, the hours for which an em-
ployee is employed, there shall be excluded any time
spent in changing clothes or washing at the beginning
or end of each workday, time spent in walking, riding
or traveling to and from the actual place of performance
of the principal activity or activities which such employee
is employed to perform and activities which are prelimi-
nary to or postliminary to said principal activity or activi-
ties, subject to such exceptions as the commissioner may
by rules and regulations define.

Sec. 2. Minimum Wages.—On January one, one thou-
sand nine hundred sixty-seven, and thereafter, every em-
ployer shall pay to each of his employees wages at a rate
not less than one dollar an hour.

Sec. 3. Maximum Hours; Overtime Compensation.—(a)
On and after January one, one thousand nine hundred
sixty-seven, no employer shall employ any of his em-
ployees for a workweek longer than forty-eight hours,
unless such employee receives compensation for his em-
ployment in excess of the hours above specified at a rate
not less than one and one-half times the regular rate at
which he is employed.
(b) As used in this section the "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include:

(1) Sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency;

(2) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) Sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the commissioner set forth in appropriate regulation which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the commissioner) paid to performers, including announcers, on radio and television programs;

(4) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees;
(5) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or in excess of the maximum workweek applicable to such employee under subsection (a) or in excess of the employee’s normal working hours or regular working hours, as the case may be;

(6) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in non-overtime hours on other days; or

(7) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workweek where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workweek.

(c) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in section two and compensation at not less than one and one-half times such rate for all hours worked in excess of such maximum workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

(d) No employer shall be deemed to have violated subsection (a) by employing any employee for a work-
week in excess of the maximum workweek applicable
to such employee under such subsection if, pursuant to
an agreement or understanding arrived at between the
employer and the employee before performance of the
work, the amount paid to the employee for the number
of hours worked by him in such workweek in excess of
the maximum workweek applicable to such employee
under such subsection:

(1) In the case of an employee employed at piece
rates, is computed at piece rates not less than one and
one-half times the bona fide piece rates applicable to the
same work when performed during nonovertime hours;
or

(2) In the case of an employee performing two or
more kinds of work for which different hourly or piece
rates have been established, is computed at rates not
less than one and one-half times such bona fide rates
applicable to the same work when performed during
nonovertime hours; or

(3) Is computed at a rate not less than one and one-
half times the rate established by such agreement or
understanding as the basic rate to be used in computing
overtime compensation thereunder: Provided, That the
rate so established shall be authorized by regulation by
the commissioner as being substantially equivalent to
the average hourly earnings of the employee, exclusive
of overtime premiums, in the particular work over a
representative period of time; and if (i) the employee's
average hourly earnings for the workweek exclusive of
payments described in paragraphs (1) through (7) of
subsection (b) are not less than the minimum hourly
rate required by applicable law, and (ii) extra over-
time compensation is properly computed and paid on
other forms of additional pay required to be included
in computing the regular rate.

(e) Extra compensation paid as described in para-
graphs (5), (6) and (7) of subsection (b) shall be credit-
able toward overtime compensation payable pursuant
to this section.

Sec. 4. Credits.—In determining whether an employer
is paying an employee a wage rate of not less than one dollar an hour or at a rate of one and one-half times his regular rate for work in excess of forty-eight hours in one workweek, there shall be provided in accordance with regulations which shall be promulgated by the commissioner a credit of forty cents an hour for an employee customarily receiving gratuities, and a reasonable credit for board and lodging furnished to the employee. The commissioner shall promulgate regulations relating to maximum allowances to employees for room and board furnished to employees.

Sec. 5. Keeping of Records.—Every employer subject to the provisions of this article shall make or cause to be made, and shall keep and preserve at his place of business for a period of two years, a written record or records of the name and address of each of his employees as herein defined, his rate of pay, hours of employment, payroll deductions, and amount paid him for each pay period.

Sec. 6. Duties and Powers of Commissioner of Labor. — (a) It shall be the duty of the commissioner to enforce and administer the provisions of this article, and to promulgate such rules and regulations, in accordance with chapter twenty-nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, as shall be needful to give effect to the provisions of this article.

(b) The commissioner is authorized at reasonable times to enter the place of business of an employer subject to the provisions of this article, for purposes of: (1) Inspecting and examining, and copying, photographing or otherwise reproducing all payroll records of the employer directly relating to wages and hours of employment of persons employed by him; (2) questioning or otherwise examining persons employed by the employer on the subject of wages and hours of their employment, and gratuities received or earned in such employment.

(c) The commissioner is authorized and empowered to make investigations to determine whether there is reasonable cause to believe that any person is an employer as defined in section one of this article, or whether there
is reasonable cause to believe that any provision of this
article is being or has been violated.
(d) The commissioner is authorized and empowered
to file criminal complaints against persons whom the com-
missioner has reasonable cause to believe have com-
mitted any offense created or defined by the provisions
of this article.
(e) The commissioner is authorized and empowered
to institute civil actions seeking appropriate injunctive
relief to compel an employer subject to this article to
comply with the provisions of this article, but nothing
herein shall authorize or require the commissioner to
seek or obtain recovery of unpaid wages for the benefit
of any employee or employees.

Sec. 7. Offenses and Penalties.—(a) Any employer
who wilfully discharges or in any manner wilfully dis-
criminates against any employee because such employee
has made complaint to his employer, or to the commis-
sioner, that he has not been paid wages in accordance
with the wage and hour provisions of this article, or
because such employee has instituted or is about to insti-
tute any civil action, or file any petition or criminal com-
plaint against the employer by reason of the provisions
of this article, or because such employee has testified
or is about to testify in any administrative proceeding,
civil action, or criminal action under this article, shall
be guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not less than one hundred dollars nor more
than five hundred dollars.
(b) Any employer who wilfully violates any other
provision of this article shall be guilty of a misdemeanor,
and, upon conviction thereof, shall be fined not more
than one hundred dollars.

Sec. 8. Civil Remedy of Employee, Limitation of
Actions.—Any employer who pays an employee less
than the applicable wage rate to which such employee
is entitled under or by virtue of this article shall be
liable to such employee for the unpaid wages; an agree-
ment by an employee to work for less than the appli-
cable wage rate is hereby declared by the Legislature
of West Virginia to be against public policy and unenforceable.

In any such action the amount recoverable shall be limited to such unpaid wages as should have been paid by the employer within two years next preceding the commencement of such action. Nothing in this article shall be construed to limit the right of an employee to recover upon a contract of employment.

Sec. 9. Wage and Hour Division; Wage and Hour Director; Duties.—The commissioner of labor shall establish within the department of labor a division to be known as the wage and hour division, which shall be a separate administrative division with respect to personnel and duties. The division shall be in charge of a wage and hour director. The wage and hour director, employees, and representatives within the wage and hour division shall, under the direction of the commissioner of labor, carry out such duties and functions as are necessary to effectuate the provisions of this article. The wage and hour director, representatives and employees within the wage and hour division shall be selected by the commissioner of labor in the same manner as other employees of the department of labor.

Sec. 10. Relation to Other Laws.—Any standards relating to minimum wages, maximum hours, overtime compensation or other working conditions in effect under any other law of this state on the effective date of this article, which are more favorable to employees than those applicable to such employees under this article shall not be deemed to be amended, rescinded or otherwise affected by this article but shall continue in full force and effect and may be enforced as provided by law.

Sec. 11. Severability.—If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.
AN ACT to amend and reenact sections four, five and six, article one-a, and section two, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the director of mental health; the division of administration and the powers and duties of the supervisor thereof; the division of professional services; the powers and duties of the supervisor thereof; and hospital superintendents and other employees.

Be it enacted by the Legislature of West Virginia:

That sections four, five and six, article one-a, and section two, article two, 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:

Article 1-a. Department of Mental Health.

Section 4. Powers and Duties of Director.—The director shall be the executive and administrative head of the department and as such shall have the following powers and duties:

1. To supervise and coordinate the administration and operation of the state hospitals named in article two of this chapter and any other state hospitals, centers or institutions hereafter created for the care and treatment of the mentally ill or mentally retarded or both.

2. To make rules, regulations and policies relating to and determine the administrative pattern for the adminis-
12 tration and operation of said hospitals and the divisions
13 of the department.
14 (3) To appoint the supervisors of the divisions of the
15 department, the superintendents of the state hospitals,
16 and such other assistants and employees as may be neces-
17 sary for the efficient operation of the department and the
18 state hospitals.
19 (4) To delegate to any of his appointees, assistants or
20 employees all powers and duties vested in the director in-
21 cluding the power to execute contracts and agreements
22 in the name of the department as provided in this article,
23 but the director shall be responsible for the acts of such
24 appointees, assistants and employees.
25 (5) To transfer a patient from any state hospital to any
26 other state hospital or clinic under his control and, by
27 agreement with the state commissioner of public institu-
28 tions, transfer a patient from a state hospital to an institu-
29 tion, other than correctional, under the supervision of the
30 state commissioner of public institutions.
31 (6) To make periodic reports to the governor and to
32 the Legislature on the condition of the state hospitals or
33 on other matters within his authority, which shall include
34 recommendations for improvement of the state hospitals
35 and any other matters affecting the mental health of the
36 people of the state.
37 The director of mental health shall have all of the au-
38 thority vested in the divisions of the department as here-
39 inafter provided.
40 The director is hereby authorized and empowered to
41 accept and use for the benefit of a state hospital or hos-
42 pitals, or for any other mental health purpose specified in
43 this chapter, any gift or devise of any property or thing
44 which lawfully may be given. If such a gift or devise is
45 for a specific purpose or for a particular state hospital or
46 hospitals, it shall be used as specified. Any gift or devise
47 of any property or thing which lawfully may be given
48 and whatever profit may arise from its use or investment
49 shall be deposited in a special revenue fund with the state
50 treasurer, and shall be used only as specified by the
51 donor or donors.
Whenever it shall become necessary, the department of mental health may condemn any interest, right or privilege, land or improvement which in its opinion may be necessary, in the manner provided by law for the acquisition by this state of property for public purposes.

Sec. 5. Division of Administration; Powers and Duties of Supervisor.—There shall be a division of administration in the department of mental health. The supervisor of this division shall be an experienced administrator with broad knowledge of accounting, purchasing and personnel practices and shall have the following powers and duties:

1. To keep the records of the department, including records transferred from the board of control.
2. To receive and disburse funds for the department as the agent of the director of the department.
3. To assemble and analyze departmental budget estimates, review requests for transfer of funds, and maintain departmental appropriation and fiscal records.
4. To make rules and regulations governing the administration and business management of the state hospitals, formulate standard fiscal procedures, and make recommendations for improvement; to make regulations concerning any superintendent's trustee funds heretofore established by authority of section three-a, article one, chapter twenty-five of the official code of West Virginia, one thousand nine hundred thirty-one, as amended.
5. To have the responsibility for the maintenance of the land, buildings and equipment of state hospitals.
6. To review requisitions for supplies and equipment, and cooperate with the division of purchases in development and drafting of specifications.
7. To handle the personnel records of the department and to process payrolls.
8. To enter into contracts for the department consistent with his assigned duties.
9. To develop a civil service system, based on merit and including job classification and standardization, for the professional employees of the department and of the institutions and for any other employees thereof who are
not made subject to such a system by other provisions of law.

(10) To perform any other duties assigned to the division by the director of the department.

Sec. 6. Division of Professional Services.—There shall be a division of professional services in the department of mental health. The supervisor of this division shall assist the director in the operation of the programs or services of the department and shall be a qualified psychiatrist.

The supervisor of this division shall have the following powers and duties:

(1) To develop professional standards, provide supervision of state hospitals, analyze hospital programs and inspect individual hospitals.

(2) To assist in recruiting professional staff.

(3) To take primary responsibility for the education and training of professional and subprofessional personnel.

(4) To carry on or stimulate research activities related to medical and psychiatric facilities of the department, and render specialized assistance to hospital superintendents.

(5) To establish liaison with appropriate state agencies and with private groups interested in mental health, such as the state department of health, the board of probation and parole, the department of education, the board of governors of West Virginia University, and the West Virginia Association for Mental Health, Incorporated.

(6) To license, supervise and inspect any hospital, center or institution, or part thereof, maintained and operated by any political subdivision or by any person, persons, association or corporation to provide in-patient care and treatment for the mentally ill, or mentally retarded, or both.

(7) To perform any other duties assigned to the division by the director of the department.

Article 2. State Hospitals and Colin Anderson Center.

Section 2. Superintendents.—The superintendent of a state hospital shall be appointed for an indefinite period.
The director of mental health may designate certain officers or employees to receive living quarters, household furniture, board, fuel, and utilities for himself and his family, as may be determined by the character of their respective duties.

CHAPTER 41

(Com. Sub. for Senate Bill No. 47—By Mr. Smith and Mr. McKown)

[Passed February 2, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend article one-a, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twelve, relating to that certain parcel of land known as the Lesage state forest tree nursery; providing that said property shall be held by the state of West Virginia for the sole use and benefit of the department of mental health for the establishment of a regional center for the care and treatment of the mentally retarded; and authorizing and empowering said department to lease said property to a political subdivision or any nonprofit group, agency or corporation for such purpose.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter twenty-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 twelve, to read as follows:

Article 1-a. Department of Mental Health.

Section 12. Lesage tree nursery transferred from department of natural resources to department of mental health; use as center for the mentally retarded.

Section 12. Lesage Tree Nursery Transferred from Department of Natural Resources to Department of Mental Health; Use as Center for the Mentally Retarded.—On and after the effective date of this section, that certain parcel of land known as the Lesage state forest tree nursery
located in Cabell county and owned by the state of West Virginia for the use and benefit of the department of natural resources shall be held for the sole use and benefit of the department of mental health for the establishment of a regional center for the care and treatment of the mentally retarded, and shall be under the exclusive control and jurisdiction of said department of mental health, and the department of natural resources shall thereupon have no further rights or interests in, or privileges, responsibilities or obligations with respect to, said tract of land.

In establishing and developing said center, the director of the department of mental health is hereby authorized and empowered to lease said premises on a long-term basis for and on behalf of the state of West Virginia to a political subdivision of this state or any nonprofit group, agency or corporation qualified to operate a center for the care and treatment of the mentally retarded.

Before the director shall enter into such a lease, said political subdivision, local group, agency or corporation shall first present to the director a comprehensive plan for the use, development and establishment of said center for his approval.

CHAPTER 42

(Senate Bill No. 81—Originating in the Senate Committee on the Judiciary)

[Passed February 10, 1966: in effect from passage. Approved by the Governor.]

AN ACT to amend article three, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five, and to amend and reenact sections two and three, article five of said chapter, relating to the furnishing of transportation for persons to be hospitalized because of mental illness and relating to the custody of mentally ill persons in emergency situations and the hospitalization of such persons.
Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-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 five, and that sections two and three, article five of said chapter, be amended and reenacted to read as follows:

Article
3. Mental Hygiene Commissions.
5. Involuntary Hospitalization.

Article 3. Mental Hygiene Commissions.
Section
5. Transportation for mentally ill persons.

Section 5. Transportation for Mentally Ill Persons.—
2 Whenever an individual is to be hospitalized under the provisions of article four or article five of this chapter, the clerk of the county court shall, upon the written request under oath of a person having a proper interest in the individual’s hospitalization, permit such person to arrange for the individual’s transportation to the hospital by such means as may be suitable for his mental condition. Should no such transportation be available, the clerk may arrange for such, and if the mentally ill person is without financial means to pay for such transportation, the cost thereof, not to exceed the amount prescribed by the county court of the county, may be paid out of the county treasury.

Article 5. Involuntary Hospitalization.
Section
2. Hospitalization on medical certification; emergency procedure; notice of admission to certain persons.
3. Custody for medical examination; emergency procedure; hospitalization or release; notice of admission to certain persons.

Section 2. Hospitalization on Medical Certification; Emergency Procedure; Notice of Admission to Certain Persons.—Any individual may be admitted to a state hospital upon:
5 (a) Written application to the state hospital by a health officer or police officer stating his belief that the individual, because of symptoms of mental illness, may cause injury to himself or others if not immediately restrained, and the grounds for such belief, and
(b) A certification by at least one physician that he has examined the individual and is of the opinion that the individual is mentally ill, and because of his illness, may injure himself or others if not immediately restrained.

Any individual with respect to whom such certification has been issued may not be admitted on the basis thereof at any time after the expiration of three days from the date of such examination. The superintendent of the state hospital admitting the individual shall forthwith make a report thereof to the director of mental health.

When an individual is admitted to a state hospital pursuant to the provisions of this section, the superintendent thereof shall immediately give notice of the individual's admission to such hospital to the following persons: His or her spouse and his or her parents or parent or guardian, or if there be no such spouse, parents, parent or guardian, to two of the individual's next of kin. Such notice shall be in writing and shall be transmitted to such person or persons at his, her or their last known address by registered or certified mail, return receipt requested.

Sec. 3. Custody for Medical Examination; Emergency Procedure; Hospitalization or Release; Notice of Admission to Certain Persons.—When any person, health officer or police officer has reason to believe that an individual is mentally ill and because of his illness may injure himself or others if allowed to remain at liberty while awaiting an examination and certification by a physician, such person, health officer or police officer may make application under oath to the clerk of the county court, giving such information and stating such facts therein as may be required, using forms provided by the department of mental health, and the clerk shall thereupon issue a warrant ordering the individual suspected and named in such application to be taken into custody and detained, but not incarcerated in a jail or penal institution, for the purpose of an immediate examination by at least one physician. If that physician certifies that he has examined the individual and is of the opinion that the individual is mentally ill and because of his illness may injure himself or others if not immediately hospitalized, the physician, health officer or police officer shall apply for admission and immediately
transport the individual to a state hospital for hospitaliza-
tion therein, or to a cooperating private psychiatric facil-
ity or a psychiatric unit of a general hospital willing to
accept such individual for hospitalization therein. The ap-
plication for admission shall state the circumstances under
which the individual was taken into custody. If the physi-
cian certifies that he has examined the individual and is of
the opinion that the individual is not mentally ill and is
not apt to injure himself or others, such individual shall
be immediately released from custody and detention. Any
individual with respect to whom such certification has
been issued may not be admitted on the basis thereof at
any time after the expiration of three days from the date
of such examination. The superintendent of the state
hospital or the head of the private facility or hospital
admitting the individual shall forthwith make a report
thereof to the director of mental health.

When an individual is admitted to a state hospital or to
a private facility or hospital pursuant to the provisions
of this section, the superintendent of the state hospital or
the head of the private facility or hospital, as the case
may be, shall immediately give notice of the individual's
admission to such state hospital or private facility or hos-
pital to the following persons: His or her spouse and his
or her parents or parent or guardian, or if there be no
such spouse, parents, parent or guardian, to two of the
individual's next of kin. Such notice shall be in writing
and shall be transmitted to such person or persons at his,
her or their last known address by registered or certified
mail, return receipt requested.

CHAPTER 43

(Senate Bill No. 56—By Mr. Carson, Mr. President,
and Mr. Sharpe)

[Passed February 5, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two-a, article eight,
chapter twenty-seven of the code of West Virginia, one
thousand nine hundred thirty-one, as amended; and to
further amend said article eight, chapter twenty-seven,
by adding thereto a new section, designated section two-b,
all relating to local mental health programs; approval;
credits to amount due to state under preceding section;
establishment of separate account for receiving and ex­
pending gifts, bequests, donations, fees and miscellaneous
income.

Be it enacted by the Legislature of West Virginia:
That section two-a, article eight, chapter twenty-seven of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted, and that said article
eight, chapter twenty-seven, be further amended by adding
thereto a new section, designated section two-b, to read as
follows:

Article 8. Maintenance of Mentally Ill or Mentally Retarded
Patients.

Section
2-a. Local mental health programs; approval; credits to amount due
to state under preceding section.
2-b. Same—separate account for receiving and expending gifts, be­
quests, donations, fees and miscellaneous income.

Section 2-a. Local Mental Health Programs; Approval;
Credits to Amount Due to State under Preceding Section.
—Any county court which elects to establish a local men­
tal health program and has a completed comprehensive
program ready for implementation, and which program
is approved in advance by the state director of mental
health, shall be allowed to deduct from its annual debt
for the maintenance of resident patients in state mental
institutions, as set forth in section two, an amount equal
to the sum annually budgeted by said county court for
the establishment and maintenance of said approved local
mental health program.

Any county court which desires to establish a local
mental health program may make application for ap­
proval of such program to the director of mental health
on forms to be provided by the director and in accord­
ance with procedures and standards which have been
established by the director.
On or before the fifteenth day of January of each year the director of the department of mental health shall certify to the auditor a statement of the amount budgeted by each county court for the establishment, operation and maintenance of a local mental health program: Provided, That for the fiscal year one thousand nine hundred sixty-five—sixty-six the director may add additional counties to the approved list on or before the fifth day of March, one thousand nine hundred sixty-six. The auditor shall deduct such certified sums from the amount determined to be due the state of West Virginia, as provided in section two: Provided, however, That on or before the fifth day of July of each year, each county court which has established an approved local mental health program shall certify to the director a detailed statement of its expenditures made for such local programs on a form to be provided by the director and the director shall have authority to delete or refuse to approve any expenditures made by any county court which were not made in accordance with the approved comprehensive plan for that county: Provided further, That any sums budgeted by a county court and credited by the auditor as hereinabove provided which are not actually expended by the county court for the establishment of a local mental health program by the end of the fiscal year for which it was budgeted shall be charged as a debt against the county due the state for the maintenance of its patients. The director, after determining the amount of such debt, if any, shall immediately certify the same to the auditor, who shall add said sum to the amount determined to be due the state, as provided in section two, for the current year.

Sec. 2-b. Same—Separate Account for Receiving and Expending Gifts, Bequests, Donations, Fees and Miscellaneous Income.—A county court establishing a local mental health program as provided for in this article shall have the power and authority to establish a separate account and to deposit in said separate account all gifts, bequests and donations from any person, corporation, firm or association and any fees or other income derived from the operation of such local mental health program and may expend such funds accruing in said separate
account for the operation and maintenance of such local program.

Any moneys remaining in said separate account at the end of the fiscal year shall not revert to the general fund of the county nor otherwise expire, but shall be carried over from year to year until expended for the operation and maintenance of said local mental health program.

CHAPTER 44

(Senate Bill No. 60—Originating in the Senate Committee on the Judiciary)

[Passed February 7, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the definitions of words and phrases used in said chapter seventeen-a, concerning motor vehicle administration, registration, certificates of title and antitheft provisions, and eliminating the definition of the word "resident."

Be it enacted by the Legislature of West Virginia:

That section one, 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 1. Definitions. — The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this article:

(a) Vehicle.—Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
(b) **Motor Vehicle.**—Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) **Motorcycle.**—Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.

(d) **School Bus.**—Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(e) **Bus.**—Every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(f) **Truck Tractor.**—Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(g) **Farm Tractor.**—Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(h) **Road Tractor.**—Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(i) **Truck.**—Every motor vehicle designed, used, or maintained primarily for the transportation of property.

(j) **Trailer.**—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(k) **Semitrailer.**—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
(l) Pole Trailer.—Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(m) Specially Constructed Vehicles.—Every vehicle of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(n) Reconstructed Vehicle.—Every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(o) Essential Parts.—All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(p) Foreign Vehicle.—Every vehicle of a type required to be registered hereunder brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(q) Implement of Husbandry.—Every vehicle which is designed for agricultural purposes and used by the owner thereof primarily in the conduct of his agricultural operations.

(r) Special Mobile Equipment.—Every vehicle not designed or used for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus, concrete mixers, and farm tractors, when farm tractors cannot be classified as an implement of husbandry as defined in subparagraph (q) of this section. The foregoing enumeration shall be deemed partial and shall not
operate to exclude other such vehicles which are within the general terms of this subparagraph.

89 (s) **Pneumatic Tire.**—Every tire in which compressed air is designed to support the load.

91 (t) **Solid Tire.**—Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

93 (u) **Metal Tire.**—Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

96 (v) **Commissioner.**—The commissioner of motor vehicles of this state.

98 (w) **Department.**—The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

100 (x) **Person.**—Every natural person, firm, copartnership, association, or corporation.

106 (y) **Owner.**—A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

116 (z) **Nonresident.**—Every person who is not a resident of this state.

118 (aa) **Dealer.**—Every person primarily engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered hereunder and who has an established place of business for such purpose in this state which meets the requirements set out in sections one and two, article seven of this chapter, except an insurance company, a finance company or other type of lending or financing agency, including banking institutions, or any other person coming into possession of a vehicle as an incident to such person's regular business who shall sell such vehicle, or who shall sell such vehicle under any contractual rights such persons may have with
respect thereto, shall not be a dealer hereunder: Provided,
That a person who engages exclusively in the wrecking
or dismantling of vehicles for junk or for resale of the
parts of such vehicles and who comes into possession of
a vehicle for the purpose of wrecking or dismantling same
as hereinabove stated shall not be a dealer hereunder.

(bb) Transporter.—Every person engaged in the busi-
ess of delivering vehicles of a type required to be reg-
istered hereunder from a manufacturing, assembling, or
distributing plant to dealers or sales agents of a manu-
facturer.

(cc) Manufacturer.—Every person engaged in the busi-
ess of constructing or assembling vehicles of a type re-
quired to be registered hereunder at an established place
of business in this state.

(dd) Established Place of Business.—The place actually
occupied either continuously or at regular periods by a
dealer or manufacturer where his books and records are
kept and a large share of his business is transacted.

(ee) Street or Highway.—The entire width between
boundary lines of every way publicly maintained when
any part thereof is open to the use of the public for pur-
poses of vehicular travel.

CHAPTER 45

(House Bill No. 218—By Mr. Marstiller and Mr. Buck)

[Passed February 1, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-seven, article
fifteen, chapter seventeen-c of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, relat-
ing to general restrictions as to tire equipment; special
permits for the operation of traction engines or tractors
having movable tracks and certain farm tractors and ma-
achinery; the use on the highways of this state of tires
fitted with blocks, studs, flanges, cleats, or spikes or any
other protuberances of any material other than rubber;
and rules and regulations and approval of the state road
commissioner with respect to such tires.

Be it enacted by the Legislature of West Virginia:

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

Article 15. Equipment.

Section

37. Restrictions as to tire equipment; rules and regulations as to cer-
tain tires.

Section 37. Restrictions as to Tire Equipment; Rules
and Regulations as to Certain Tires.—(a) Every solid rub-
ber tire on a vehicle shall have rubber on its entire
traction surface at least one inch thick above the edge of
the flange of the entire periphery.

(b) No person shall operate or move on any highway
any motor vehicle, trailer, or semitrailer having any
metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall
have on its periphery any block, stud, flange, cleat, or
spike or any other protuberance of any material other
than rubber which projects beyond the tread of the
traction surface of the tire, except that it shall be per-
missible to use farm machinery with tires having pro-
tuberances which will not injure the highway, and except
also that it shall be permissible to use tire chains of rea-
sonable proportions upon any vehicle when required for
safety because of snow, ice, or other conditions tending
to cause a vehicle to skid.

(d) Notwithstanding the provisions of subsections
(b) and (c) of this section, a person may use motor
vehicle tires on the highways of this state which are
fitted with blocks, studs, flanges, cleats, or spikes or any
other protuberances of any material other than rubber
if and when (1) the state road commissioner has pre-
scribed rules and regulations authorizing such use, (2)
such tires are used in strict conformity with any such
rules and regulations, and (3) such tires are of a type
approved by the state road commissioner. Any rules and
regulations prescribed by the state road commissioner,
which he is hereby authorized to promulgate, shall relate
to the design, construction and use of such tires and the
procedure which shall be followed when such tires are
submitted for approval.
(e) The state road commission and local authorities
in their respective jurisdictions may in their discretion
issue special permits authorizing the operation upon the
highway of traction engines or tractors having movable
tracks with transverse corrugations upon the periphery
of such movable tracks or farm tractors or other farm
machinery, the operation of which upon a highway would
otherwise be prohibited under this chapter.

CHAPTER 46
(Senate Bill No. 55—By Mr. Moreland)

(Passed January 31, 1966; in effect from passage. Approved by the Governor.)

AN ACT to amend article four, chapter eight of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by adding thereto a new section, designated sec­
tion twenty-eight, relating to municipal public works and
authorizing municipalities to acquire real property by lease
for off-street parking facilities.

Be it enacted by the Legislature of West Virginia:
That article four, chapter eight of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be amend­
ed by adding thereto a new section, designated section twenty­eight, to read as follows:

Article 4. Powers, Duties and Allied Relations of Municipal
Corporations, Councils or Officers.

Section 28. Off-street parking facility declared municipal public work; power
and authority to lease, establish and operate.

Section. 28. Off-street Parking Facility Declared Mu-
2 nicipal Public Work; Power and Authority to Lease,
3 Establish and Operate.—Any municipality in this state,
however created, whether operating under a municipal home rule charter or not, and notwithstanding the provisions of section eleven, article one, chapter eight-a of this code or any other provisions of law to the contrary, shall have the power and authority to enter into a lease with the owner or owners of any real property situate within the corporate limits of such municipality by which such real property is demised, leased and let to such municipality for an off-street parking facility (including parking lots, buildings, ramps, parking meters and other appurtenances deemed necessary, appropriate or incidental to the regulation, control and parking of motor vehicles), which off-street parking facility is hereby declared to be a municipal public work, and any such municipality shall have full power and authority to establish and/or maintain and operate such parking facility. Every such lease shall be authorized by an ordinance adopted by the municipality. Any municipality shall have this power and authority whether such real property is at the time of the execution of such lease already equipped, maintained and operated, in whole or in part, as a parking facility or whether such real property is at such time unimproved and is to be, under the terms of the lease, improved by the installation of parking meters, lighting equipment, pavement or other equipment necessary, appropriate or incidental to the use of such property for such purpose.

Any such ordinance may provide that the police force of such municipality shall police the parking facility; and that overtime parking at the facility or other violations of the ordinance shall be a misdemeanor punishable as provided in said ordinance. Any such ordinance shall also provide for the collection of reasonable charges for the use of such parking facility by the public generally, and any such ordinance may be amended from time to time. The lease entered into by and between any such municipality and the owner or owners of any such real property may contain such terms and conditions as may be agreed upon between the parties, not inconsistent with any of the provisions of this section or other provisions of law. The ordinance authorizing any such lease may also specify
terms and conditions which must be contained in such lease.

Under no circumstances whatever shall any obligation incurred under the provisions of this section or any such lease be deemed to be or create an indebtedness of the municipality, the governing body or any member thereof, any officer thereof, or other municipal officer, and all of the expenses of whatever kind, nature or character incident to the establishment, and/or maintenance and operation of such parking facility, including but not limited to such rental payments as are provided for in the lease and the cost of policing the facility, shall be paid solely from revenues derived from such parking facility, and from revenues derived from other parking facilities or meters not pledged to pay for such other parking facilities or meters. No member of the governing body of any such municipality, or any officer thereof, or other municipal official, shall under any circumstances be personally liable under any such lease or upon any obligation of any kind, nature or character arising under the provisions of this section.

The power and authority herein granted shall be in addition to and not in derogation of any power and authority vested in any municipality under any constitutional, statutory or charter provisions which it may now have, or may hereafter acquire or adopt. This section shall, without reference to any other provisions of this code or any other statute, be deemed full authority for the acquisition of any such real property by lease for a parking facility, for the establishment and/or maintenance and operation of any such parking facility and for the enactment of an ordinance as hereinbefore specified. The section shall be construed as an additional alternative method for providing off-street parking facilities, and shall not in any way limit the provisions of article four-a of this chapter authorizing the establishment, operation and financing of such facilities by the issuance of revenue bonds.

This section, being necessary for the public safety and welfare, shall be liberally construed to effectuate its pur-
CHAPTER 47

(House Bill No. 241—By Mr. McCoy and Mr. Ours)

[Passed January 31, 1966; in effect from passage. Approved by the Governor.]

AN ACT to amend article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section seventeen-a, relating to disposition of proceeds of national forests in counties embracing Spruce Knob-Seneca Rocks National Recreation Area.

Be it enacted by the Legislature of West Virginia:

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

Article 3. Forests and Wildlife Areas.

Section 17-a. Same—counties embracing Spruce Knob-Seneca Rocks national recreation area.

Section 17-a. Same—Counties Embracing Spruce Knob-Seneca Rocks National Recreation Area.—Notwithstanding the provisions of section seventeen of this article, national forest receipts allocated by the auditor as provided in section seventeen of this article to any county in which is located any part of the Spruce Knob-Seneca Rocks National Recreation Area as established by Public Law 89-207, 89th Congress, shall be paid by the auditor to such county as follows: Sixty-three per cent to the board of education of the county to be expended by the board for the benefit of the public schools of the county, and thirty-seven per cent to the county court of the county to be expended by the court for general county purposes.
AN ACT to amend and reenact section one, article two-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation and membership of the medical licensing board.

Be it enacted by the Legislature of West Virginia:

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

Article 2-a. Medical Licensing Board.

Section 1. Creation and membership.—There is hereby created a medical licensing board to be known as "The Medical Licensing Board of West Virginia."

The medical licensing board shall consist of eleven members. One of such members shall be the state director of health ex officio whose term as such member shall continue for the period that he holds office as state director of health. The other ten members shall be appointed by the governor with the advice and consent of the senate. The term of all members, except the state director of health, shall be five years, except that the persons originally appointed shall be designated to serve, two for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years: Provided, That the members of said board holding appointments on the effective date of this section shall continue to serve until the expiration of their term unless sooner removed. Upon the expiration of such initial appointments, the term of each new appointee shall be five years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term...
for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Before appointing any member, the governor shall request the state professional society of the profession practiced by any proposed appointee to furnish to the governor a full and complete report concerning the qualifications and suitability of the proposed appointee.

Of the members to be appointed by the governor, eight shall be physicians or surgeons holding the degree of doctor of medicine and two shall be podiatrists. All persons appointed to membership on the board shall be citizens of this state and shall have been citizens and residents of the state for at least five years prior to the date of their appointment. Each such person shall have been duly licensed to practice his profession in this state on the date of his appointment and shall have been so licensed and have been actively practicing his profession for at least five years immediately preceding the date of such appointment.

The podiatrists who are members of the medical licensing board, shall participate in its proceedings and vote as members of the board only on matters pertaining to the licensure, examination, or suspension, revocation, or reinstatement of the licenses of podiatrists.

No more than four doctors of medicine and one podiatrist appointed by the governor as members of the board shall belong to the same political party. No person shall be eligible for membership on the board who is a member of any political party executive committee, or, with the exception of the state director of health, who holds any public office or public employment under the federal government or under the government of this state, or any of its political subdivisions, or who is an appointee or employee of the state board of health. All members shall be eligible for reappointment.

In making appointments to the board, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the state.

No member may be removed from office except for official misconduct, incompetence, neglect of duty or gross im-
Provided, however, That the expiration or revocation of the professional license of a member of the board shall be cause for his removal: Provided further, That the state director of health shall cease to be a member of the medical licensing board upon the expiration or termination of his appointment as state director of health.

CHAPTER 49
(Senate Bill No. 65—Originating in the Senate Committee on the Judiciary)

(Passed February 9, 1966; in effect from passage. Approved by the Governor.)

AN ACT to repeal section twenty-three, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section two-a, article five-a of said chapter; to amend and reenact sections one, two, six-a, sixteen and thirty, article five of said chapter; to amend and reenact sections one, two, three and five, article five-a of said chapter; and to amend and reenact section sixteen, article eleven of said chapter, relating to public assistance, medical services to the medically indigent, and the state of West Virginia public assistance medical services fund, and repealing any requirement that an aged person, as a condition of receiving public assistance, shall assign to the department of welfare any life insurance policy.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two-a, article five-a of said chapter be repealed; that sections one, two, six-a, sixteen and thirty, article five of said chapter be amended and reenacted; that sections one, two, three and five, article five-a of said chapter be amended and reenacted; and that section sixteen, article eleven of said chapter be amended and reenacted, all to read as follows:
Article

5. Public Assistance and Medical Services to the Medically Indigent.
5-a. The State of West Virginia Public Assistance Medical Services Fund.

Article 5. Public Assistance and Medical Services to the Medically Indigent.

Section

1. Purpose.
2. Definitions.
6-a. Commissioner's rule-making powers.
16. Hearing by board of review.
30. Grants conditional.

Section 1. Purpose.—The purpose of this article is to provide public assistance for the indigent aged, the indigent blind, dependent children, the indigent relative with whom any dependent child is living, the indigent permanently and totally disabled, and medical services to the medically indigent, that will conform to the requirements for federal grants-in-aid under the federal "Social Security Act," as amended.

Public assistance and medical services to the medically indigent shall be granted only:

(1) To the extent that funds are available for the purpose.
(2) To those actually in need.
(3) To the extent necessary to safeguard a decent and healthful subsistence.

Sec. 2. Definitions.—Unless the context clearly requires a different meaning, when used in this chapter:

"Public assistance" shall mean money payments to, or in behalf of, aged persons, blind persons, dependent children, the relative with whom any dependent child is living, or permanently and totally disabled persons. Public assistance may also include medical care or other type of remedial care recognized by law: Provided, That public assistance shall not include medical services for the medically indigent.

"Resources" shall mean all property, real and personal, tangible and intangible, and all income, whether in the form of money or otherwise.
“Applicant” shall mean the person for whose use and benefit application is made.

“Recipient” shall mean the person for whose use and benefit a grant of public assistance is made.

“Medically indigent person” shall mean any person with net income or liquid assets of not more than the amount set from time to time by rules and regulations of the director, based upon services available and the number of persons who can be served within the limits of available funds.

Sec. 6-a. Commissioner’s Rule-making Powers.—The rule-making powers of the commissioner of welfare shall include authority to establish rules and regulations modifying eligibility requirements for public assistance and medical services to the medically indigent, and, in addition, shall include authority to provide the necessary procedures for the preparation of plans and for classifying and reporting expenditures made with respect to recipients of public assistance and medical services to the medically indigent to the extent necessary and in such manner as to permit the state and its citizens to obtain the maximum benefits provided under the Federal Social Security Act and any laws amendatory of or supplementary there-to that may hereafter be enacted.

Sec. 16. Hearing by Board of Review.—An applicant for or a recipient of public assistance or medical services to the medically indigent under this chapter shall be afforded an opportunity for a hearing before the board of review of the state department when:

(1) His application is denied or he is denied the opportunity to apply.

(2) His application is not acted upon with reasonable promptness.

(3) His grant of assistance is not forthcoming with reasonable promptness after he has been determined to be eligible therefor.

(4) He deems the grant inadequate.

(5) The grant is revoked.
(6) The grant is reduced.

The state department shall inform applicants and recipients in writing of their right to a hearing, and such a hearing shall be afforded upon request in writing setting forth the reasons for which it is desired.

Sec. 30. Grants Conditional.—A grant of public assistance or medical services to the medically indigent shall be subject to:

(1) Reconsideration, revocation, or change.
(2) Appropriation by the Legislature of public funds.
(3) Amendment or repeal.
(4) Continuation of federal grants-in-aid.

Article 5-a. The State of West Virginia Public Assistance Medical Services Fund.

Section
1. Medical services fund.
2. Payments into medical services fund.
3. Payments from medical services fund.
5. Definitions.

Section 1. Medical Services Fund.—In order that the state of West Virginia may receive full advantage of the provisions of the Federal Social Security Act, as amended, whereby federal grants-in-aid may be used on behalf of recipients of public assistance and medically indigent persons for medical care or any other type of remedial care recognized by law, the state department of welfare may establish a special fund to be known as “The State of West Virginia Public Assistance Medical Services Fund,” hereinafter referred to as “the fund.” The fund shall be only for the purpose of providing necessary medical services for recipients of assistance and other medically indigent persons, and any balance in the fund at the end of any fiscal year shall remain in the fund and shall not expire or revert. Payments shall be made out of the fund upon requisition of the director by means of a warrant signed by the auditor and treasurer.

Sec. 2. Payments into Medical Services Fund.—The fund shall consist of payments made into the fund with respect
to recipients of assistance and recipients of medical services to the medically indigent out of state money appropriated for the purposes of providing medical services to recipients of public assistance and to the medically indigent, and such federal grants-in-aid as are available for these purposes under the Federal Social Security Act, as amended.

Sec. 3. Payments from Medical Services Fund.—Recipients of assistance and medically indigent persons shall be entitled to have costs of necessary medical services paid out of the fund, in such amounts, and to the extent and in the manner determined from time to time to be feasible by the director pursuant to rules, regulations and standards established by him. Such rules, regulations and standards shall be established on the basis of money available for the purpose, the number of recipients, the experience with respect to the incidence of illness, disease, accidents, and other causes among such recipients causing them to require medical services and the costs thereof, the amounts which recipients require otherwise in order to maintain a subsistence compatible with decency and health, and any other factors considered relevant and proper by the director.

Sec. 5. Definitions.—As used in this article and in article five of this chapter:

(1) “Medical services” means medical, surgical, dental and nursing services, and other remedial services recognized by law, in the home, office, hospital, clinic and any other suitable place, provided or prescribed by persons permitted or authorized by law to give such services; such services to include drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care and such other medical services and supplies as may be prescribed by such persons.

(2) “Costs of necessary medical services” means such fees and charges as are approved and scheduled by the director upon consultation with the advisory council.
Section 16. Public Assistance Lists and Records; Misuse.

2 —The department of public assistance shall make available for public inspection by the tenth of each month a separate alphabetical list of the names and addresses of all persons receiving any form of relief assistance except services to the medically indigent during the preceding month together with the amounts of such relief assistance. This information shall be delivered to the clerk of each county court in the state who shall immediately file the same in his office with respect to persons receiving such assistance as residents of that county. Such information shall be retained in the files of said clerks of the county courts for a period of two years from the date of receipt thereof. All information other than names, addresses and amounts of such relief assistance shall be considered as confidential.

It shall be unlawful, for commercial or political purposes of any nature, for any person or persons, body, association, firm, corporation or other agency to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any lists of names of, or any information concerning, persons applying for or receiving relief assistance, directly or indirectly derived from the records, papers, files, or communications of the department of public assistance or acquired in the course of performance of official duties. The violation of this provision is a misdemeanor, punishable upon conviction, by a fine of not more than one thousand dollars or imprisonment of not more than six months, or both.

For the protection of applicants and recipients of relief assistance, the department of public assistance shall be required to establish reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files and communications of the department.
AN ACT authorizing and empowering the public land corporation to sell certain public land to the urban renewal authority of Wheeling.

Be it enacted by the Legislature of West Virginia:

Section 1. Public land corporation authorized to sell certain public land to the urban renewal authority of Wheeling.

Section 1. Public Land Corporation Authorized toSell Certain Public Land to the Urban Renewal Authority of Wheeling.—The public land corporation is hereby authorized and empowered to sell to the urban renewal authority of Wheeling that part of the former state capitol lands located in Wheeling, West Virginia, that is occupied by the addition to “Independence Hall” which addition was made circa one thousand nine hundred fourteen and which is a part of what is known as the old customs house property.

CHAPTER 51
(Com. Sub. for Senate Bill No. 6—By Mr. Carson, Mr. President, and Mr. McCourt)

[Passed February 10, 1966; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, abolishing the board of
finance and transferring its duties to the board of public works.

Be it enacted by the Legislature of West Virginia:

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

**Article 1. State Depositories.**

Section 6. Board of Finance Abolished; Board of Public Works to Determine Proportion of State Funds Treated as Active; Basis upon Which Inactive Funds Distributed; Depositors’ Agreements; Reports Showing Balances in Depositories.

The board of finance is hereby abolished. On and after the effective date of this section, the board of public works shall have the authority to determine the proportion of all state funds that shall be treated as active funds and shall have the authority to determine the basis upon which the inactive funds due any county shall be distributed among its inactive depositories and to establish any other rules and regulations that it may deem necessary or expedient to protect the interests of the state, its depositories and taxpayers.

The board shall also have the authority to enter into any depositors’ agreements for the purpose of reorganizing or rehabilitating any state or national bank in which state funds are deposited, and for the purpose of transferring the assets, in whole or in part, of any such state or national bank to any other banking institution existing or to be formed, when, in the judgment of the board, the interests of the state will be promoted thereby, and upon condition that no right of the state to preferred payment be waived, and that the sureties on the depository bond, or so many thereof as in the opinion of the board are sufficient therefor, in writing consent to such participa-
AN ACT to amend article one-a, chapter fifteen 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 adjutant general; authorizing employees of the adjutant general’s department to participate in group insurance programs; and authorizing payroll deductions for the payment of premiums for such group insurance.

Be it enacted by the Legislature of West Virginia:

That article one-a, chapter fifteen 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. Employee participation in group insurance programs; payroll deductions; custodian of funds.

Section 1-a. Employee Participation in Group Insurance Programs; Payroll Deductions; Custodian of Funds.—The adjutant general is hereby authorized and empowered to negotiate for, secure and adopt for all employees of the adjutant general’s department, whether civilian or mili-
tary and whether paid with state or federal funds, a policy or policies of group insurance written by a carrier or carriers chartered under the laws of this state or the laws of any other state and duly licensed to do business in this state and covering life; health; hospital care; surgical or medical diagnosis, care and treatment; drugs and medicines; remedial care; other medical supplies and services; or any other combination of these; and any other policy or policies under group insurance which in the discretion of the adjutant general bear a reasonable relationship to the foregoing coverages. All premiums and other costs of preparation for any such group insurance shall be paid solely by such employees. Whenever such employees shall indicate in writing that they have subscribed to any of the aforesaid insurance plans on a group basis, the adjutant general is hereby authorized and empowered to approve periodic premium deductions from the salary payments due such employees as specified in a written assignment furnished the adjutant general by each such employee subscribing to a group insurance plan, which deductions shall be made by the auditor of the state of West Virginia. Upon proper requisition of the adjutant general, the auditor shall periodically issue a warrant, payable as specified in the requisition, for the total deductions from the salaries of employees participating in any such group insurance plan. To promote efficiency and economy in making deductions and issuing warrants as provided herein, the auditor is authorized to promulgate rules and regulations specifying the form and the time and manner of presentation of requisitions issued pursuant to this section. When a participating employee shall retire from his employment, he may, if he so elects, and the insurance carrier or carriers agree, remain a member of the group plan by continuing to pay the premium for the coverage involved.

The state treasurer shall be custodian of the funds under the aforesaid group insurance plans, and disbursements from the funds to pay all premiums shall be made only upon warrants signed by the state auditor and the state treasurer.
AN ACT to amend and reenact sections two and three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of inspector, other commissioned officers, noncommissioned officers, troopers and civilian employees by the superintendent of the department of public safety; to companies and platoons of the department of public safety and how constituted; to training of members and other peace officers of the department of public safety; and to salaries and bonds of members of the department of public safety.

Be it enacted by the Legislature of West Virginia:

That sections two and 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:

Article 2. Department of Public Safety.

Section 2. Appointment of Inspector, Other Commissioned Officers, Noncommissioned Officers, Troopers and Civilian Employees.—The superintendent shall appoint, from the enlisted membership of the department, an inspector with the rank of lieutenant colonel who shall be next in authority to the superintendent, and for the purpose of operating and maintaining the executive offices, training school, scientific laboratory, keeping records relating to crimes and criminals, coordinating traffic safety activities and maintaining a system of supplies and accounting and carrying on other necessary services,
he shall appoint not more than one major, one captain,
four lieutenants, two master sergeants, four sergeants,
three corporals and six troopers. In addition the super-
intendent may appoint, from the enlisted membership
of the department, not more than four other lieutenants
for duties consisting of technical or scientific examina-
tion of evidence in criminal cases, but no member
shall be appointed to fill these vacancies in the grade of
lieutenant unless (1) he shall have completed four years'
study at an accredited college or university and hold a
bachelor's degree from such college or university and
(2) such member shall have actually conducted numerous
examinations of physical evidence in criminal cases and
have been qualified in a court of record of this state
to testify as an expert witness with respect thereto.
The superintendent shall appoint such civilian em-
ployees as may be necessary whose salaries shall be fixed
by the board of public works.
The inspector, major, captains, lieutenants, master ser-
geants, sergeants, corporals and troopers shall be enrolled
and enlisted as members of the department of public
safety and shall be entitled to wear the insignia of rank
as provided by law or authorized by department regula-
tions.

Sec. 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 sec-
tion two of this article, consist of four companies or
platoons. They shall be designated as companies "A,
"B," "C," and "D." Each company or platoon shall be
composed of one captain, one lieutenant, one first ser-
geant, seven sergeants, not more than seventeen 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 eight thousand eight hundred twenty dollars; the major shall receive an annual salary of seven thousand nine hundred twenty dollars; captains shall each receive an annual salary of seven thousand twenty dollars; lieutenants shall each receive an annual salary of six thousand six hundred dollars; the master sergeants and first sergeants shall each receive an annual salary of six thousand one hundred twenty dollars; sergeants shall each receive an annual salary of five thousand nine hundred sixteen dollars; corporals shall each receive an annual salary of five thousand six hundred sixteen dollars; and each newly enlisted trooper shall receive a salary of three hundred sixty-three dollars per month during the period of his basic training, and upon the satisfactory completion of such training and assignment to active duty each trooper shall receive during the remainder of his first year's service a salary of four hundred thirteen dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of five thousand seventy-six dollars; during the third year of his service each trooper shall receive an annual salary of five thousand one hundred ninety-six dollars; and during the fourth and fifth years of his service and for each year thereafter, each trooper shall receive an annual salary of five thousand three hundred sixteen dollars. Each member of the department entitled thereto by the provisions hereof shall receive an increase in salary over that hereinbefore set forth in this section, for grade and rank, based on length of service, including that heretofore and hereafter served, with
the department, as follows: For each five-year period of service with the department from the date of first enlistment, each member of the department shall receive a salary increase of one hundred twenty dollars per year to be effective during his next five years of service, which increases shall be successive and cumulative until a total of five such increases shall be received.

In applying the foregoing salary schedule where salary increases are provided for length of service, members of the department in service at the time this article becomes effective shall be given credit for prior service and shall be paid such salaries as the same length of service will entitle them to receive under the provisions hereof.

Each member of the department of public safety, except the superintendent and civilian employees, shall, before entering upon the discharge of his duties, execute a bond with security in the sum of three thousand five hundred dollars payable to the state of West Virginia, conditioned for the faithful performance of his duties as such, and such bond shall be approved as to form by the attorney general, and as to sufficiency by the board of public works, and the same shall be filed with the secretary of state and preserved in his office.

CHAPTER 54

(House Bill No. 219—By Mr. Speaker, Mr. White, and Mr. Bedell)

[Passed January 24, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-seven, for the sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder;
specifying the powers of and limitations upon the governor in the issuance and sale of such bonds; prescribing the duties of the auditor and treasurer with respect to such bonds; providing for transfer and registration fees with respect to registered bonds and the disposition of such fees; providing for places of payment of principal and interest on such bonds; exempting such bonds from taxation by the state, or by any county, district or municipality thereof; setting forth the form of coupon and registered bonds and coupons; stating what moneys shall be paid into the state road sinking fund; providing for the disposition and investment of the state road sinking fund; providing a covenant between the state and the bondholders; providing that the proceeds from the sale of the bonds shall be paid into a separate and distinct account in the state road fund; providing a transfer fee; registration fee; where payable; interest rate; tax; certain fees; the plates, etc., from which the bonds are produced or made shall be the property of the state; providing for interim certificates in lieu of permanent bonds; and declaring that all necessary expenses incurred in the execution of the act shall be paid out of the state road fund on warrants of the auditor drawn on the state treasurer.

Be it enacted by the Legislature of West Virginia:

Section 1. Road Bonds; Amount; When May Issue.

Section 2. Issuance and Sale of Road Bonds.

Bonds of the state of West Virginia of the par value not to exceed twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred sixty-seven, are hereby authorized to be issued and sold for the purpose of raising moneys.
The sole purpose of raising funds for the building and construction of free state roads and highways as provided for by the constitution and the laws enacted thereunder. Such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such time and bearing such date or dates as the governor may determine, based upon an examination of the state road commission's yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially in equal amounts beginning one year and ending twenty-five years from the date thereof.

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 cancelled 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 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, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of the state, or at the bank designated by the governor, upon presentation and surrender of interest coupons, then due, in the case of coupon bonds. For the payment of interest on registered bonds, the treasurer of the state of West Virginia shall requisition a warrant from the auditor of the state to be drawn on the state treasurer, and shall mail such warrant to the registered owner at the address as shown by the record of registration. Both the principal and interest of the bonds shall be payable in lawful money of the
United States of America and the bonds shall be exempt from taxation by the state of West Virginia, or by any county, district, or municipality thereof, which facts shall appear on the face of the bonds as part of the contract with the holder thereof.

Sec. 3. Form of Bond.—The bonds shall be signed on behalf of the state of West Virginia, by the treasurer thereof, under the great seal of the state, and countersigned by the auditor of the state, and shall be in the following form or to the following effect, as nearly as may be, namely:

COUPON ROAD BOND
(Or registered road bond, as the case may be)

OF THE
STATE OF WEST VIRGINIA

$........................................... No.............................

The state of West Virginia, under and by virtue of authority of an amendment to the constitution, which was proposed by House Joint Resolution No. 10, adopted the seventh day of March, one thousand nine hundred sixty-three, and was ratified by a vote of the people at the general election on the third day of November, one thousand nine hundred sixty-four, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to and hereby promises to pay to the bearer hereof (in case of a coupon bond) or to ........................................ or assigns (the owner of record, in case of registered bonds) on the ...... day of ...............,

19......, in lawful money of the United States of America at the office of the treasurer of the state of West Virginia at the capitol of said state, or at the option of the holder at ........................................ bank in the city of New York, the sum of ........................................ dollars, with interest thereon at .......... percentum per annum from the date, payable semiannually in like lawful money of the United States of America at the treasurer's office or bank aforesaid, on the first day of ......................... and the first day of ......................... of each year, (and in the case of coupon bonds) according to the tenor of the annexed coupons bearing the facsimile signature of the treasurer of the state of West Virginia, upon surrender of
such coupons. This bond (in case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the treasurer of the state of West Virginia.

To secure the payment of the principal and interest of this bond, the state of West Virginia covenants and agrees with the holder as follows: (1) That this bond shall constitute a direct and general obligation of the state of West Virginia; (2) that the full faith and credit of the state is pledged to secure the payment of the principal and interest of this bond; (3) that an annual state tax shall be collected in an amount sufficient to pay as it may accrue the interest on this bond and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and principal of this bond becoming due and payable in such year are insufficient therefor.

This bond is hereby made exempt from any taxation by the state of West Virginia, or by any county, district, or municipal corporation thereof.

In testimony whereof, witness the signature of the treasurer of the state of West Virginia, and the counter-signature of the auditor of the state, hereto affixed according to law, dated the __________ day of __________, one thousand nine hundred __________, and the seal of the state of West Virginia.

(SEAL)

Treasurer of the State of West Virginia

Countersigned:

Auditor of the State of West Virginia

Sec. 4. Form of Coupon.—The form of coupon shall be substantially as follows, to-wit:

STATE OF WEST VIRGINIA

Bond No.   Coupon No.  

On the first day of __________, 19________, the state of West Virginia will pay to the bearer, in lawful money of the United States of America, at the office of
the treasurer of the state, or at the option of the holder
at ................................................ bank in the city of New York,
the sum of .................................... dollars, the same being
semiannual interest on Road Bond No. ........................................

Treasurer of the State of West Virginia

The signature of the treasurer to such coupon shall be
by his facsimile signature and the coupons shall be num-
bered in the order of their maturity, from number one
consecutively. The bonds and coupons may be signed
by the present treasurer and auditor, or by any of their
respective successors in office, and the bonds signed by
the persons now in the office may be sold by the gover-
nor or his successor in office without being signed by the
successor in office of the present treasurer or auditor.

Sec. 5. Listing by Auditor.—All coupons and registered
bonds issued under this act shall be separately listed by
the auditor of the state in books provided for the purpose,
in each case giving the date, number, character and
amount of obligations issued, and in case of registered
bonds, the name and postoffice address of the person,
firm or corporation registered as the owner thereof.

Sec. 6. State Road Sinking Fund Sources Used to Pay
Bonds and Interest; Investment of Remainder.—Into the
state road sinking fund there shall be paid all money from
any and all appropriations made by the state from the
state road fund for the purpose of paying the interest on
such bonds or paying off and retiring the bonds, from
transfer and registration fees as herein provided, and
from any other source whatsoever which is made liable
by law for the payment of the principal of such bonds
or the interest thereon.
All such funds shall be kept by the treasurer in a sep-
arate account, under the designation aforesaid, and all
money belonging to the fund shall be deposited in the
state treasury to the credit thereof.
Such fund shall be applied by the treasurer of the state
first to the payment of the semiannual interest on such
bonds as it shall become due as herein provided. The
remainder of the fund shall be turned over by the state
treasurer to the state sinking fund commission, whose
duty it shall be to invest the same in obligations of the
government of the United States, bonds of the state of
West Virginia, or any political subdivision thereof: Pro-
vided, That bonds or other obligations so purchased by
the state sinking fund commission shall mature so as to
provide sufficient money to pay off all bonds herein pro-
vided to be issued as they become due; and the money
so paid into the state road sinking fund under the pro-
visions of this act shall be expended for the purpose of
paying the interest and principal of the bonds hereby
provided for as they severally become due and payable
and for no other purpose except that the fund may be
invested until needed, as herein provided.

Sec. 7. Covenants of State.—The state of West Vir-
ginia covenants and agrees with the holders of the bonds
issued pursuant hereto as follows: (1) That such bonds
shall constitute direct and general obligations of the state
of West Virginia; (2) that the full faith and credit of the
state is hereby pledged to secure the payment of the prin-
cipal and interest of such bonds; (3) that an annual state
tax shall be collected in an amount sufficient to pay as
it may accrue the interest on such bonds and the prin-
cipal thereof; and (4) that such tax shall be levied in any
year only to the extent that the moneys in the state road
fund irrevocably set aside and appropriated for and ap-
plied to the payment of the interest on and principal of
said bonds becoming due and payable in such year are
insufficient therefor.

Sec. 8. Sale by Governor; Minimum Price.—The gov-
ernor shall sell the bonds herein authorized at such time
or times as he may determine necessary to provide funds
for the building and construction of free state roads and
highways, as herein provided, upon the recommendation
of the state road commissioner, and after reviewing the
program of the state road commission and subject to
the limitations contained in section one hereof. All sales
shall be at not less than par and accrued interest. All
interest coupons becoming payable prior to the sale date
shall be cancelled by the treasurer and rendered ineflec-
tive, before the delivery of the bonds so sold.
Sec. 9. Proceeds Paid into Separate Account in State Road Fund; Expenditures.—The proceeds of all sales of bonds herein authorized shall be paid into a separate and distinct account in the state road fund, and shall be used and appropriated solely for the building and construction of free state roads and highways provided for by the state constitution and the laws enacted thereunder. Except for such sums necessary for current operating balances, such account shall be invested and re-invested in short-term obligations of the United States treasury: Provided, That no such investment or re-investment shall adversely affect the current operating balances of such account.

Sec. 10. Plates, etc., Property of State.—The plates, casts, dies or other forms from which the bonds authorized by this act are produced or made shall be the property of the state of West Virginia.

Sec. 11. Auditor to Be Custodian of Unsold Bonds.—The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

Sec. 12. Interim Certificates.—The governor may authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of permanent bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the permanent bonds.

Sec. 13. Payment of Expenses.—All necessary expenses incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 55
(Senate Bill No. 40—By Mr. McCourt)

(Passed February 4, 1966; in effect July 1, 1966. Approved by the Governor.)

AN ACT to repeal section six-a, article sixteen, chapter eleven
of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section six of said article, all relating to the barrel tax on nonintoxicating beer.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Barrel tax.

Section 6. Barrel Tax.—There is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred sixty-six, in addition to the license taxes hereinabove provided for, a tax of five dollars and fifty cents on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed upon all nonintoxicating beer manufactured outside of this state and brought into this state for sale within this state; but no nonintoxicating beer manufactured, sold or distributed in this state shall be subject to more than one barrel tax. The brewer manufacturing or producing nonintoxicating beer within this state for sale within this state shall pay the barrel tax on such nonintoxicating beer, and the distributor who is the original consignee of nonintoxicating beer manufactured or produced outside of this state, or who brings such nonintoxicating beer into this state, shall pay the barrel tax on such nonintoxicating beer manufactured or produced outside of this state.

On or before the tenth day of each calendar month during the license period, every brewer or distributor shall make a report in writing, under oath, to the tax commissioner, in such form as may be required by the tax commissioner, showing the number of barrels of nonintoxicating beer manufactured or distributed by such person for the preceding calendar month, or part thereof, during
29 which such person was engaged in business, and at the
30 same time shall pay the tax thereon levied by this article.
31 Within thirty days after the end of any license tax year
32 each brewer or distributor shall make a report in writing,
33 under oath, to the tax commissioner, in such form as may
34 be required by the tax commissioner, showing the num-
35 ber of barrels of nonintoxicating beer manufactured or
36 distributed for the preceding tax year or part thereof by
37 such person.

CHAPTER 56
(Senate Bill No. 43—By Mr. McCourt)

[Passed February 2, 1966; in effect July 1, 1966. Approved by the Governor.]

AN ACT to repeal section two-a, article seventeen, chapter
eleven of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, and to amend and reenact
sections two and two-b of said article, all relating to the
excise tax on sale of cigarettes.

Be it enacted by the Legislature of West Virginia:
That section two-a, article seventeen, chapter eleven of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be repealed, and that sections two and two-b of
said article be amended and reenacted to read as follows:

Article 17. Excise Tax on Sale of Cigarettes.

Section
2. Purpose of tax; ratio.
2-b. Additional cigarette tax for support of schools.

Section 2. Purpose of Tax; Ratio.—For the purpose of
2 providing revenues for the general revenue fund of the
3 state an excise tax is hereby levied and imposed on sales
4 of cigarettes on and after midnight of the last day of
5 June, one thousand nine hundred sixty-six, at the rate
6 of one cent on each ten cigarettes or fractional part there-
7 of. Only one sale of the same article shall be used in com-
8 puting the amount of tax due hereunder.
Sec. 2-b. Additional Cigarette Tax for Support of Schools.—For the purpose of providing additional revenue for the support of free schools, there is hereby levied and imposed, on and after midnight of the last day of June, one thousand nine hundred sixty-six, in addition to the tax imposed by section two of this article, an additional excise tax of two cents on each ten cigarettes, or fractional part thereof, sold within this state. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition and collection of the regular excise tax on the sale of cigarettes shall be applicable to the levy, imposition and collection of such additional tax. Notwithstanding other provisions of this article to the contrary, all moneys received from the additional tax imposed by this section, less deductions allowed by this article for refunds and for costs of administration and operation, shall be paid by the tax commissioner into the general school fund, to be used solely for the support of free schools.

CHAPTER 57

(Senate Bill No. 46—By Mr. Martin)

(Passed January 18, 1966; in effect from passage. Approved by the Governor.)

AN ACT authorizing and empowering the county court of Berkeley county to use any unexpended sums and surpluses for the purpose of creating a special fund to be used for planning and zoning purposes in Berkeley county.

Be it enacted by the Legislature of West Virginia:

Berkeley County Planning and Zoning Fund.

Section 1. Berkeley county unexpended sums and surpluses; use and disposition for planning and zoning.

Section 1. Berkeley County Unexpended Sums and Surpluses; Use and Disposition for Planning and Zoning.—In addition to any and all authority and power heretofore
grant to the county court of Berkeley county with respect to the expenditure of unexpended sums and surpluses, such county court is hereby authorized and empowered to use any unexpended sums and surpluses, presently or hereafter existing, in the general fund or in any special fund of said county, for the purpose of creating a special fund to be used to match any federal assistance grant or grants of funds for planning and zoning purposes or otherwise for planning and zoning in Berkeley county.

CHAPTER 58

(House Bill No. 297—By Mr. D'Aurora and Mr. Ragan)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to establish a park and recreation board for the county of Brooke, and to authorize the expenditure of moneys received by such board from county funds and from private grants and donations.

Be it enacted by the Legislature of West Virginia:

Brooke County Park and Recreation Board.

Section 1. Brooke County Court Authorized to Create a Park and Recreation Board.—The county court of Brooke county is hereby authorized and empowered to, by order entered of record, create and establish a park and recreation board, to be known as the "Brooke County Park and Recreation Board."

Sec. 2. Board a Body Corporate; Perpetual Existence; Right to Receive and Expend Moneys.—The board as
created by the county court of Brooke county shall be a public corporate board, with perpetual existence and a corporate seal. It shall have the power to receive moneys from said county court out of general or special county funds, and to expend the same for the purposes hereinafter enumerated. It shall additionally have the power to receive and expend for said purposes any gift, grant, donation, bequest or devise from sources other than the public funds of Brooke county.

Sec. 3. Members; Appointment; Term; Residency; Vacancy.—The board shall consist of five members who shall be appointed by the county court of Brooke county. The term of office of each member of the board shall be for four years and until their successors have been appointed and qualified, and said county court shall by order fix the date on which the term of office of board membership shall commence. No one shall be appointed a member of said board who is not a bona fide resident of Brooke county. Any member of the board who shall cease to be a bona fide resident of said county shall thereby be disqualified and his office shall become vacant. When a vacancy occurs on said board by reason of the change of residence, resignation, or death of a member thereof, said county court shall appoint a successor who shall fill out the unexpired term of such member.

Sec. 4. Oath of Members; Election of Officers; Quorum; Place of Business.—After appointment the members of the board shall qualify by taking and filing with the clerk of the county court of Brooke county the oath prescribed by law for public officials. One of the members of the board shall be elected as president, another as vice president, and another as secretary. A majority of the board shall constitute a quorum for the transaction of business. The board shall maintain an office at any place in said county which it may designate.

Sec. 5. Contracts; Legal Actions; General Powers; Rules and Regulations.—The board shall have the right to enter into contracts; to bring any and all necessary legal actions; to exercise all the necessary powers and authority to manage and control park and recreation
The management and control of the tri-state airport authority, its property, operations, business and affairs shall be lodged in a board of nine or more persons who shall be known as members of the authority and who shall be appointed for terms of three years each by such counties, municipalities or other governmental units situate in, and public and private corporations operating in, West Virginia, Ohio and Kentucky as contribute to the funds of the authority, in such proportion between such states and such counties, municipalities, units and public and private corporations, and in such manner, as may from time to time be provided.
in the by-laws adopted by the authority: Provided, That the first board shall be appointed as follows:

1. The county court of Cabell county shall appoint two members for terms of two and three years, respectively;
2. The city of Huntington shall appoint two members for terms of two and three years, respectively;
3. The county court of Wayne county shall appoint two members for terms of one and two years, respectively;
4. The city of Kenova shall appoint one member for the term of three years;
5. The town of Ceredo shall appoint one member for the term of one year;
6. Huntington industrial corporation, a nonprofit civic corporation, which has contributed funds to the project, shall appoint one member for the term of one year.

CHAPTER 60

(Senate Bill No. 61—By Mr. Carson, Mr. President, and Mr. Jasper)

[Passed February 4, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of the county of Fayette to create an airport authority and providing for the membership and 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 the giving of 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 the authority to lease the airport; for the county court of the county of Fayette to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of Fayette.
Be it enacted by the Legislature of West Virginia:

Fayette County Airport Authority.

Section
1. Fayette county airport authority authorized.
2. Purposes.
3. Members of the authority.
4. Removal of members.
5. Substitution of members.
6. Qualification of members of the authority.
7. Compensation of members of the authority.
8. Authority to be a public corporation.
10. Indebtedness of the authority.
11. Agreements in connection with obtaining funds.
12. Authority to have right of eminent domain.
13. Property, bonds and obligations of authority exempt from taxation.
14. Authority may lease airport and facilities to the county court of the county of Fayette or other lessee.
15. Disposition of surplus of authority.
16. Contributions to authority by the county court of the county of Fayette and others; funds and accounts of the authority.
17. Employees to be covered by workmen's compensation.
18. Dissolution of authority.
19. Liberal construction of act.

Section 1. Fayette County Airport Authority Authorized.—The county court of the county of Fayette is hereby authorized to create and establish a public agency to be known as the “Fayette County Airport Authority” for the purposes and in the manner hereinafter set forth.

Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Fayette county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Fayette county and the public generally.

Sec. 3. Members of the Authority.—The management and control of the Fayette county airport authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as “Mem-
bers of the Authority," each of whom shall be appointed
for a term of five years, except that as to the first four
appointed to the first board appointed, the term of one
member shall expire on the first day of July next ensuing
and the term of the next member shall expire on the first
day of July two years thereafter, the term of another
member shall expire on the first day of July three years
thereafter and the term of the remaining member shall
expire on the first day of July four years thereafter:
Provided, That the county commissioner appointed to
serve as a member of the authority, as hereinafter pro-
vided, shall not serve for a term as member of the au-
thority which is longer than his term of office as a member
of the county court of the county of Fayette.

All members shall be appointed by the county court of
the county of Fayette: Provided, however, That one mem-
er of the authority shall be a member of the county court
of the county of Fayette: Provided further, That of the
remaining four members of the authority no more than
two shall be members of the same political party, nor shall
they hold any political office of any nature.

Sec. 4. Removal of Members.—The members of the
authority shall serve at the will and pleasure of the
county court of the county of Fayette: Provided, That if
the county court of the county of Fayette desires to re-
move a member of the authority it shall notify said mem-
er in writing, stating the reasons for the county court
of the county of Fayette desiring said removal. Within
ten days of the receipt by the member of the authority of
the written notice of removal, said member, if he so de-
sires, may have a hearing before the county court of the
county of Fayette, and any such hearing shall be held
within ten days of the member's written request for said
hearing.

Sec. 5. Substitution of Members.—If any member of
the authority die, or resign, or be removed, or for any
other reason cease to be a member of the authority, the
county court of the county of Fayette shall appoint an-
other person to fill the unexpired portion of the term of
such member.
Sec. 6. 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 Fayette county.

Sec. 7. 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. 8. Authority to Be a Public Corporation.—The au-
2 thority when created, and the members thereof, shall
3 constitute and be a public corporation under the name of
4 “Fayette County Airport Authority,” and as such shall
5 have 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. 9. Powers.—The Fayette county airport authority
2 is 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 and
7 to employ and fix the compensation for personnel neces-
8 sary 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 of
13 acquiring, equipping, constructing, maintaining, improv-
14 ing, extending, financing and operating a public airport
15 in Fayette county, West Virginia;
16 (4) To delegate any authority given to it by law to any
17 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, in-
20 cluding but not limited to the federal government and any
21 agency thereof, and the state of West Virginia, and to
accept and use bequests, devices, gifts and donations from any person, firm or corporation;
(6) To acquire lands and hold title thereto in its own name;
(7) To purchase, own, hold, sell and dispose of personal property and to sell, lease or otherwise dispose of any real estate which it may own;
(8) To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give such security therefor as shall be requisite, including but not limited to the giving of a mortgage, deed of trust or security agreement on or with respect to its airport properties and facilities in connection with the issuance of mortgage bonds;
(9) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, it being hereby expressly provided that the Fayette county airport authority is a “municipal authority” within the definition of that term as used in said article four-a, chapter eight of the code; and
(10) To expend its funds in the execution of the powers and authority herein given.

Sec. 10. Indebtedness of the Authority.—The authority may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with carrying out its purposes as hereinbefore mentioned. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies shall apply to indebtedness of the authority. No indebtedness of any nature of the authority shall constitute an indebtedness of the county court of the county of Fayette, nor of said county, or a charge against any property of said county. No obligation incurred by the authority shall give any right against any member of the county court of the county of Fayette or any member of the board of the authority. The rights of
creditors of the authority shall be solely against the au-

thority as a corporate body and shall be satisfied only out
of property held by it in its corporate capacity.

Sec. 11. Agreements in Connection with Obtaining
Funds.—The authority may, in connection with obtaining
funds for its purposes, enter into any agreement with any
person, firm or corporation, including but not limited to
the federal government, or any agency or subdivision
thereof, containing such provisions, covenants, terms and
conditions as the authority may deem advisable.

Sec. 12. Authority to Have Right of Eminent Domain.—
Whenever it shall be deemed necessary by the authority
in connection with the exercise of its powers herein con-
fined, to take or acquire any lands, structures or build-
ings or other rights, either in fee or as easements, for the
purposes herein set forth, the authority may purchase
the same directly or through its agents from the owner
or owners thereof, or failing to agree with the owner or
owners thereof, the authority may exercise the power
of eminent domain in the manner provided for condem-
nation proceedings in chapter fifty-four of the code of
West Virginia, one thousand nine hundred thirty-one, as
heretofore and hereafter amended, and such purposes are
hereby declared to be public uses for which private
property may be taken or damaged.

Sec. 13. Property, Bonds and Obligations of Authority
Exempt from Taxation.—The authority shall be exempt
from the payment of any taxes or fees to the state or any
subdivisions thereof or to any officer or employee of the
state or of any subdivisions thereof. The property of the
authority shall be exempt from all local and municipal
taxes. Bonds, notes, debentures and other evidence of
indebtedness of the authority are declared to be issued
for a public purpose and to be public instrumentalities,
and, together with interest thereon, shall be exempt from
taxes.

Sec. 14. Authority May Lease Airport and Facilities to
the County Court of the County of Fayette or Other
Lessee.—The authority may lease its airport and all the
appurtenances and facilities therewith to the county court of the county of Fayette or to any other available lessee at such rental and upon such terms and conditions as to the authority shall seem proper. If the authority determines to lease the airport and its appurtenances and facilities, as a whole, it shall first offer the same to the county court of the county of Fayette upon an annual lease, and it shall not lease the airport and its appurtenances and facilities as a whole to any other lessee until the county court of the county of Fayette has notified the authority that it does not desire to lease said properties, which notice shall be given within thirty days after notice by the authority of a desire on its part to lease the airport as a whole. The county court of the county of Fayette is hereby authorized to enter into a lease with the authority for said airport and appurtenances and facilities at such rental and upon such terms and conditions as it shall deem proper, and the county court of the county of Fayette is hereby authorized to levy taxes as provided by law for the purpose of paying the rent for said airport, appurtenances and facilities. The authority, however, may lease one or more portions of said airport, not including runways and taxiways, without first offering the same to the county court of the county of Fayette. Such lease shall be for some purpose associated with airport activities.

Sec. 15. Disposition of Surplus of Authority.—If the authority should realize a surplus, whether from operating the airport or leasing it for operation, over and above the amount required for the maintenance, improvement and operation of the airport and for meeting all required payments on its obligations, it shall set aside such reserve for future operations, improvements and contingencies as it shall deem proper and shall then apply the residue of such surplus, if any, to the payment of any recognized and established obligations not then due; and after all such recognized and established obligations have been paid off and discharged in full, the authority shall, at the end of each fiscal year, set aside the reserve for future operations, improvements and contingencies, as
aforesaid, and then pay the residue of such surplus, if any, to the county court of the county of Fayette, to be used by said county court for general county purposes.

Sec. 16. Contributions to Authority by the County Court of the County of Fayette and Others; Funds and Accounts of the Authority.—Contributions may be made to the authority from time to time by the county court of the county of Fayette and by any persons, firms or corporations that shall desire so to do. All such funds and all other funds received by the authority shall be deposited in such bank or banks as the authority may direct and shall be withdrawn therefrom in such manner as the authority may direct. The authority shall keep strict account of all its receipts and expenditures and shall each quarter make a quarterly report to the county court of the county of Fayette containing an itemized account of its receipts and disbursements during the preceding quarter. Such report shall be made within sixty days after the termination of the quarter. Within sixty days after the end of each fiscal year, the authority shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding year, and such annual report shall be published once a week for two successive weeks in two newspapers of opposite politics published in, and of general circulation in Fayette county, West Virginia. The books, records and accounts of the authority shall be subject to audit and examination by the office of the state tax commissioner of West Virginia and by any other proper public official or body in the manner provided by law.

Sec. 17. Employees to Be Covered by Workmen’s Compensation.—All employees of the authority eligible thereunder shall be deemed to be within the workmen’s compensation act of West Virginia, and premiums shall be paid by the authority to the workmen’s compensation fund as required by law.

Sec. 18. Dissolution of Authority.—The authority may at any time pay off and discharge in full all of its indebtedness, obligations and liabilities, reconvey the air-
port properties, appurtenances and facilities to the county
court of the county of Fayette and be dissolved. Before
making such reconveyance of its properties, the authority
shall first publish notice of its intention so to do and of
its intention to be dissolved, once a week for four suc-
cessive weeks in two newspapers of opposite politics pub-
lished in, and of general circulation in Fayette county,
West Virginia. Certificates from the publishers of the
papers showing such publication shall be filed with the
county court of the county of Fayette on or before the
deed reconveying said properties is delivered. Any funds
remaining in the hands of the authority at the time of the
reconveyance of said properties shall be by the authority
paid over to the county court of the county of Fayette to
be used by it for purposes in connection with said airport.
Upon the payment of its indebtedness, obligations and
liabilities, the publishing of the notices aforesaid, the
reconveyance of its properties, and the paying over to
the county court of the county of Fayette of any funds
remaining in its hands, the authority shall cause a certifi-
cate showing its dissolution to be executed under its name
and seal and to be recorded in the office of the clerk of the
county court of Fayette county, and thereupon its dissolu-
tion shall be complete.

Sec. 19. Liberal Construction of Act.—It is the purpose
of this act to provide for the acquisition, construction,
 improvement, extension, maintenance and operation of
a public airport in a prudent and economical manner, and
this act shall be liberally construed as giving to the au-
thority full and complete power reasonably required to
give effect to the purposes hereof. The provisions of this
act are in addition to and not in derogation of any power
existing in the county court of the county of Fayette
under any constitutional or statutory provisions which it
may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections
and provisions of this act are severable, and if any section
or provision hereof shall be held unconstitutional, all the
remaining sections and provisions of this act shall never-
theless remain valid.
AN ACT to authorize the county court of Grant county to establish, acquire, operate and maintain a suitable jail at or in the vicinity of Bayard, West Virginia.

Be it enacted by the Legislature of West Virginia:

Grant County Jail.

Section

1. Grant county court authorized to establish, acquire, operate and maintain a jail at Bayard, West Virginia.
2. Powers.
3. Liberal construction of act.

Section 1. Grant County Court Authorized to Establish, Acquire, Operate and Maintain a Jail at Bayard, West Virginia.—The county court of Grant county is hereby authorized and empowered to establish, acquire, operate and maintain a jail at or in the vicinity of Bayard, West Virginia.

Sec. 2. Powers.—The Grant county court is hereby granted the same powers to establish, acquire, operate and maintain a suitable jail at or in the vicinity of Bayard, West Virginia, as is provided for jails generally under chapter seven, article three, section two of the code.

Sec. 3. Liberal Construction of Act.—By virtue of the unique topography of Grant county and the special, individual, unusual and peculiar conditions, circumstances and problems created thereby, it is the purpose of this act to provide for the acquisition, construction, improvement, extending, maintenance and operation of a jail at or in the vicinity of Bayard, West Virginia, in a prudent and economical manner, and this act shall be liberally construed as giving to the county court of Grant county full and complete power reasonably required to give effect to the purposes hereof. The provisions of this act are in addition to and not in derogation of any power
13 existing in the county court of Grant county under any
14 constitutional or statutory provisions which it may now
15 have, or may hereafter acquire.

CHAPTER 62
(Senate Bill No. 66—By Mr. Carson, Mr. President,
and Mr. Jasper)

[Passed February 4, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of the county of Greenbrier to create an airport authority and providing for the membership and 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 the giving of 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 the authority to lease the airport; for the county court of the county of Greenbrier to become the lessee of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of the county of Greenbrier and others; for the keeping of the funds and accounts of the authority; for the disposition of any surplus funds; for the covering of the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Greenbrier County Airport Authority.

Section
1. Greenbrier county airport authority authorized.
2. Purposes.
3. Members of the authority.
4. Removal of members.
5. Substitution of members.
6. Qualification of members of the authority.
7. Compensation of members of the authority.
8. Authority to be a public corporation.
10. Indebtedness of the authority.
11. Agreements in connection with obtaining funds.
12. Authority to have right of eminent domain.
13. Property, bonds and obligations of authority exempt from taxation.
14. Authority may lease airport and facilities to the county court of the county of Greenbrier or other lessee.
15. Disposition of surplus of authority.
16. Contributions to authority by the county court of the county of Greenbrier and others; funds and accounts of the authority.
17. Employees to be covered by workmen’s compensation.
18. Dissolution of authority.
19. Liberal construction of act.

Section 1. Greenbrier County Airport Authority Authorized.—The county court of the county of Greenbrier is hereby authorized to create and establish a public agency to be known as the “Greenbrier County Airport Authority” for the purposes and in the manner hereinafter set forth.

Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Greenbrier county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Greenbrier county and the public generally.

Sec. 3. Members of the Authority.—The management and control of the Greenbrier county airport authority, its property, operations, business and affairs, shall be lodged in a board of five persons who shall be known as “Members of the Authority,” each of whom shall be appointed for a term of five years, except that as to the first four appointed to the first board appointed, the term of one member shall expire on the first day of July next ensuing and the term of the next member shall expire on the first day of July two years thereafter, the term of another member shall expire on the first day of July three years thereafter and the term of the remaining member shall expire on the first day of July four years thereafter:

Provided, That the county commissioner appointed to serve as a member of the authority, as hereinafter pro-
provided, shall not serve for a term as member of the au-
hority which is longer than his term of office as a member
of the county court of the county of Greenbrier.

All members shall be appointed by the county court of
the county of Greenbrier: Provided, however, That one
member of the authority shall be a member of the county
court of the county of Greenbrier: Provided further, That
of the remaining four members of the authority no more
than two shall be members of the same political party,
nor shall they hold any political office of any nature.

Sec. 4. Removal of Members.—The members of the
authority shall serve at the will and pleasure of the
county court of the county of Greenbrier: Provided, That
if the county court of the county of Greenbrier desires to
remove a member of the authority it shall notify said
member in writing, stating the reasons for the county
court of the county of Greenbrier desiring said removal.
Within ten days of the receipt by the member of the au-
thority of the written notice of removal, said member, if
he so desires, may have a hearing before the county court
of the county of Greenbrier, and any such hearing shall
be held within ten days of the member’s written request
for said hearing.

Sec. 5. Substitution of Members.—If any member of
the authority die, or resign, or be removed, or for any
other reason cease to be a member of the authority, the
county court of the county of Greenbrier shall appoint
another person to fill the unexpired portion of the term
of such member.

Sec. 6. Qualification of Members of the Authority.—
All members of the board of the authority shall be citi-
zens of West Virginia, over thirty years of age, and resi-
dents of Greenbrier county.

Sec. 7. Compensation of Members of the Authority.—
No member of the board of the authority shall receive
any compensation, whether in form of salary, per diem
allowances or otherwise, for or in connection with his
services as such member. Each member shall, however,
be entitled to reimbursement by the authority for any
necessary expenditures in connection with the performance of his general duties as such member.

Sec. 8. Authority to Be a Public Corporation.—The authority when created, and the members thereof, shall constitute and be a public corporation under the name of "Greenbrier County Airport Authority," and as such shall have perpetual succession, may contract and be contracted with, sue and be sued, plead and be impleaded, and have and use a common seal.

Sec. 9. Powers.—The Greenbrier county airport authority is hereby given power and authority as follows:

1. To make and adopt all necessary by-laws, rules and regulations for its organization and operations not inconsistent with law;
2. To elect its own officers, to appoint committees and to employ and fix the compensation for personnel necessary for its operation;
3. To enter into contracts with any person, governmental department, firm or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing and operating a public airport in Greenbrier county, West Virginia;
4. To delegate any authority given to it by law to any of its officers, committees, agents or employees;
5. To apply for, receive and use grants-in-aid, donations and contributions from any source or sources, including but not limited to the federal government and any agency thereof, and the state of West Virginia, and to accept and use bequests, devises, gifts and donations from any person, firm or corporation;
6. To acquire lands and hold title thereto in its own name;
7. To purchase, own, hold, sell and dispose of personal property and to sell, lease or otherwise dispose of any real estate which it may own;
8. To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefor, and give
such security therefor as shall be requisite, including but not limited to the giving of a mortgage, deed of trust or security agreement on or with respect to its airport properties and facilities in connection with the issuance of mortgage bonds;

(9) To raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable provisions of article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, it being hereby expressly provided that the Greenbrier county airport authority is a “municipal authority” within the definition of that term as used in said article four-a, chapter eight of the code; and

(10) To expend its funds in the execution of the powers and authority herein given.

Sec. 10. Indebtedness of the Authority.—The authority may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with carrying out its purposes as hereinbefore mentioned. No statutory limitations with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies shall apply to indebtedness of the authority. No indebtedness of any nature of the authority shall constitute an indebtedness of the county court of the county of Greenbrier, nor of said county, or a charge against any property of said county. No obligation incurred by the authority shall give any right against any member of the county court of the county of Greenbrier or any member of the board of the authority. The rights of creditors of the authority shall be solely against the authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity.

Sec. 11. Agreements in Connection with Obtaining Funds.—The authority may, in connection with obtaining funds for its purposes, enter into any agreement with any person, firm or corporation, including but not limited to the federal government, or any agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the authority may deem advisable.
Sec. 12. Authority to Have Right of Eminent Domain.—Whenever it shall be deemed necessary by the authority in connection with the exercise of its powers herein conferred, to take or acquire any lands, structures or buildings or other rights, either in fee or as easements, for the purposes herein set forth, the authority may purchase the same directly or through its agents from the owner or owners thereof, or failing to agree with the owner or owners thereof, the authority may exercise the power of eminent domain in the manner provided for condemnation proceedings in chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as here-tofore and hereafter amended, and such purposes are hereby declared to be public uses for which private property may be taken or damaged.

Sec. 13. Property, Bonds and Obligations of Authority Exempt from Taxation.—The authority shall be exempt from the payment of any taxes or fees to the state or any subdivisions thereof or to any officer or employee of the state or of any subdivisions thereof. The property of the authority shall be exempt from all local and municipal taxes. Bonds, notes, debentures and other evidence of indebtedness of the authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest thereon, shall be exempt from taxes.

Sec. 14. Authority May Lease Airport and Facilities to the County Court of the County of Greenbrier or Other Lessee.—The authority may lease its airport and all the appurtenances and facilities therewith to the county court of the county of Greenbrier or to any other available lessee at such rental and upon such terms and conditions as to the authority shall seem proper. If the authority determines to lease the airport and its appurtenances and facilities, as a whole, it shall first offer the same to the county court of the county of Greenbrier upon an annual lease, and it shall not lease the airport and its appurtenances and facilities as a whole to any other lessee until the county court of the county of Greenbrier has notified the authority that it does not desire to lease said proper-
ties, which notice shall be given within thirty days after
notice by the authority of a desire on its part to lease the
airport as a whole. The county court of the county of
Greenbrier is hereby authorized to enter into a lease with
the authority for said airport and appurtenances and
facilities at such rental and upon such terms and condi-
tions as it shall deem proper, and the county court of the
county of Greenbrier is hereby authorized to levy taxes
as provided by law for the purpose of paying the rent for
said airport, appurtenances and facilities. The authority,
however, may lease one or more portions of said airport,
not including runways and taxiways, without first offer-
ing the same to the county court of the county of Green-
brier. Such lease shall be for some purpose associated
with airport activities.

Sec. 15. Disposition of Surplus of Authority.—If the
authority should realize a surplus, whether from operat-
ing the airport or leasing it for operation, over and above
the amount required for the maintenance, improvement
and operation of the airport and for meeting all required
payments on its obligations, it shall set aside such reserve
for future operations, improvements and contingencies as
it shall deem proper and shall then apply the residue of
such surplus, if any, to the payment of any recognized
and established obligations not then due; and after all
such recognized and established obligations have been
paid off and discharged in full, the authority shall, at the
end of each fiscal year, set aside the reserve for future
operations, improvements and contingencies, as aforesaid,
and then pay the residue of such surplus, if any, to the
county court of the county of Greenbrier, to be used by
said county court for general county purposes.

Sec. 16. Contributions to Authority by the County
Court of the County of Greenbrier and Others; Funds
and Accounts of the Authority.—Contributions may be
made to the authority from time to time by the county
court of the county of Greenbrier and by any persons,
firms or corporations that shall desire so to do. All such
funds and all other funds received by the authority shall
be deposited in such bank or banks as the authority may
direct and shall be withdrawn therefrom in such manner
as the authority may direct. The authority shall keep
strict account of all its receipts and expenditures and shall
each quarter make a quarterly report to the county court
of the county of Greenbrier containing an itemized ac-
count of its receipts and disbursements during the pre-
ceding quarter. Such report shall be made within sixty
days after the termination of the quarter. Within sixty
days after the end of each fiscal year, the authority shall
make an annual report containing an itemized statement
of its receipts and disbursements for the preceding year,
and such annual report shall be published once a week for
two successive weeks in two newspapers of opposite
politics published in, and of general circulation in Green-
brier county, West Virginia. The books, records and ac-
counts of the authority shall be subject to audit and ex-
amination by the office of the state tax commissioner of
West Virginia and by any other proper public official or
body in the manner provided by law.

Sec. 17. Employees to Be Covered by Workmen’s Com-
penation.—All employees of the authority eligible there-
under shall be deemed to be within the workmen’s com-
penation act of West Virginia, and premiums shall be
paid by the authority to the workmen’s compensation
fund as required by law.

Sec. 18. Dissolution of Authority.—The authority may
at any time pay off and discharge in full all of its indebt-
edness, obligations and liabilities, reconvey the airport
properties, appurtenances and facilities to the county
court of the county of Greenbrier and be dissolved. Be-
fore making such reconveyance of its properties, the au-
thority shall first publish notice of its intention so to do
and of its intention to be dissolved, once a week for four
successive weeks in two newspapers of opposite politics
published in, and of general circulation in Greenbrier
county, West Virginia. Certificates from the publishers of
the papers showing such publication shall be filed with
the county court of the county of Greenbrier on or before
the deed reconveying said properties is delivered. Any
funds remaining in the hands of the authority at the time
of the reconveyance of said properties shall be by the au-
authority paid over to the county court of the county of 
Greenbrier to be used by it for purposes in connection
with said airport. Upon the payment of its indebtedness,
obligations and liabilities, the publishing of the notices
aforesaid, the reconveyance of its properties, and the pay-
ing over to the county court of the county of Greenbrier
of any funds remaining in its hands, the authority shall
cause a certificate showing its dissolution to be executed
under its name and seal and to be recorded in the office
of the clerk of the county court of Greenbrier county,
and thereupon its dissolution shall be complete.

Sec. 19. Liberal Construction of Act.—It is the purpose
of this act to provide for the acquisition, construction,
improvement, extension, maintenance and operation of a
public airport in a prudent and economical manner and
this act shall be liberally construed as giving to the au-
authority full and complete power reasonably required to
give effect to the purposes hereof. The provisions of this
act are in addition to and not in derogation of any power
existing in the county court of the county of Greenbrier
under any constitutional or statutory provisions which it
may now have, or may hereafter acquire.

Sec. 20. Provisions Severable.—The several sections
and provisions of this act are severable, and if any section
or provision hereof shall be held unconstitutional, all the
remaining sections and provisions of this act shall never-
theless remain valid.

CHAPTER 63
(House Bill No. 280—By Mr. Poling)

[Passed February 5, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of Jackson county to
create a special fund for the Jackson county junior fair
and to make expenditures therefrom.
Be it enacted by the Legislature of West Virginia:

Jackson County Junior Fair Fund.

Section
1. Jackson county court authorized to create a special fund for the Jackson county junior fair.

Section 1. Jackson County Court Authorized to Create a Special Fund for the Jackson County Junior Fair.—The county court of Jackson county is hereby authorized and empowered to create a special fund for the Jackson county junior fair, and to transfer into such fund such unexpended sums and surpluses, presently or hereafter existing, in the county general fund or in any special fund of the county, as the county court shall deem proper and advisable. Said county court is further authorized and empowered to make expenditures from this special fund for any expenses they deem necessary for the operation of the Jackson county junior fair.

CHAPTER 64
(House Bill No. 278—By Mr. Shiflet)

(Passed February 4, 1966; in effect from passage. Approved by the Governor.)

AN ACT to authorize the county court of Monroe county to create a special county building and improvement fund, and to make expenditures therefrom.

Be it enacted by the Legislature of West Virginia:

Monroe County Building and Improvement Fund.

Section
1. Monroe County court authorized to create special building and improvement fund.

Section 1. Monroe County Court Authorized to Create Special Building and Improvement Fund.—The county court of Monroe county is hereby authorized and empowered to create a special building and improvement fund,
5 and to transfer into such fund such unexpended sums
6 and surpluses, presently or hereafter existing, in the
7 county general fund or in any special fund of the county,
8 as the county court shall deem proper and advisable.
9 Said county court is further authorized and empowered
10 to make expenditures from this special fund for the repair,
11 construction, renovation and maintenance of county build-
12 ings, lands and recreation facilities.

CHAPTER 65
(Senate Bill No. 79—Originating in the Senate Committee
on the Judiciary)

[Passed February 8, 1966; in effect from passage. Approved by the Governor.]

AN ACT to authorize and empower the county court of the
county of Nicholas, West Virginia, and the county court of
the county of Lincoln, West Virginia, to transfer and con­
vey certain parcels of real property to the state of West
Virginia for the use of the department of agriculture.

Be it enacted by the Legislature of West Virginia:

Transfer of Property to State.

Section

1. County court of Nicholas county authorized to transfer and convey
parcel of real property to state of West Virginia for use of de­
partment of agriculture.

2. County court of Lincoln county authorized to transfer and convey
parcel of real property to state of West Virginia for use of de­
partment of agriculture.

Section 1. County Court of Nicholas County Authorized
to Transfer and Convey Parcel of Real Property to State
of West Virginia for Use of Department of Agriculture.—
The county court of Nicholas county, West Virginia, is
hereby authorized and empowered to transfer and convey
to the state of West Virginia for the use of the depart­
ment of agriculture a certain tract or parcel of land, situ­
ate in Summersville district of Nicholas county, West
9 Virginia, bounded and described as follows: Beginning at
10 a stake approximately 375 feet in a northerly direction
11 from the junction of U. S. Route 19 and State Route 41
12 and 40 feet distant from the center line of U. S. Route 19
13 and on a radius of the 3' 40' curve with a radius of 1226.3
14 feet and with a magnetic backsight December 15, 1965;
15 thence N 89-05 E 334.18 feet to a ¾" iron pin on the edge
16 of the red-dog drive south of the Forestry Service ware-
17 house; thence N 11-58-45 W 197.58 feet to a ¾" iron pin
18 beside same red-dog drive; thence N 81-51-25 W 227.42
19 feet to a stake on the right of way line of U. S. Route 19
20 on same 3' 40' curve; thence with the arc length of the
21 3' 40' curve 240.69 feet to the beginning, containing 1.36
22 acres, more or less.

Sec. 2. County Court of Lincoln County Authorized to
2 Transfer and Convey Parcel of Real Property to State of
3 West Virginia for Use of Department of Agriculture.—The
4 county court of Lincoln county, West Virginia, is hereby
5 authorized and empowered to transfer and convey to the
6 state of West Virginia for the use of the department of
7 agriculture the surface and surface rights in and to a
8 certain tract and parcel of land, situate on the lower Mud
9 River Road in Carroll district of Lincoln county, West
10 Virginia, bounded and described as follows: Beginning at
11 a set metal stake in the right of way line of the state road
12 on lower Mud River, a distance of fifteen (15) feet east of
13 or up stream from a culvert under said road, about 150
14 feet above the main house on the Lincoln county farm;
15 thence in a southwesterly direction in a straight line, up
16 a drain, a distance of 1800 feet, more or less, to a set metal
17 stake near the foot of the hill; thence at a right angle and
18 in a straight line a distance of 1800 feet, more or less, to
19 a set metal stake between an apple tree and a persimmon
20 tree; thence at a right angle and in a straight line a dis-
21 tance of 1800 feet, more or less, to a set metal stake near
22 the cannery building and in the right of way line of said
23 lower Mud River Road; thence with the right of way line
24 to said road, up the same, a distance of 1800 feet, more or
25 less, to the place of beginning, containing eight (8) acres,
26 more or less, and being a part of the Lincoln county farm.
AN ACT authorizing the Pendleton county court to establish a Pendleton county development fund and to make expenditures therefrom.

Be it enacted by the Legislature of West Virginia:

Pendleton County Development Fund.

Section 1. Pendleton county court authorized to establish a Pendleton county development fund.

Section 1. Pendleton County Court Authorized to Establish a Pendleton County Development Fund.—The county court of Pendleton county is hereby authorized and empowered to create a special development fund, to be known as the "Pendleton County Development Fund," to be used for the agricultural, industrial and recreational development of Pendleton county and for making capital improvements to county property. The said county court is authorized and empowered to transfer into such fund such unexpended sums and surpluses, presently or hereafter existing, in the county general fund or in any special fund of the county, as the county court shall deem proper and advisable. Said county court is also authorized to make expenditures from such fund for the agricultural, industrial and recreational development of the county and for making capital improvements to county property in any manner the court shall deem proper and advisable.
RESOLUTIONS

(Only resolutions of general interest adopted by the Legislature are included in this volume.)

HOUSE CONCURRENT RESOLUTION NO. 16
(By Mr. Pauley, of McDowell, and Mr. Watson)
[Adopted January 28, 1966]

Conveying the displeasure of the Legislature of the State of West Virginia at the action taken by the Honorable Stewart L. Udall, Secretary of the Interior, concerning the importation of residual oil.

WHEREAS, It has come to the attention of this legislative body that the Honorable Stewart L. Udall, Secretary of the Interior of the United States, has in his official capacity, recently caused to become effective an increase in the permitted quota of the importation into this country of residual oil; and

WHEREAS, The continued and increased importation of residual oil into this country, is extremely injurious to the production and sale of domestic coal, which is a product that is basic to the economic well-being of this State, and has an effect which is adverse to the employment situation existing in this State; and

WHEREAS, The federal government in the past has evidenced a great concern in connection with the unemployment problems existing in this State, and has frequently publicized the desire to assist in alleviating these problems; and

WHEREAS, The citizens of this State have in the past and are, at present, working diligently and continually to overcome these problems, and are willing to work, if and when they are given the opportunity; and

WHEREAS, The recent action of the Secretary of the Interior is extremely detrimental and is contrary to the expressed desires of the federal government, and the efforts of both the government and the people of this State to overcome this problem; therefore, be it

[937]
Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby expresses its extreme displeasure at the recent action taken by the Secretary of the Interior in raising the importation quota upon residual oil; and, be it

Further Resolved, That this Legislature hereby respectfully requests that the Secretary of the Interior review this order, and further respectfully requests that the same be rescinded; and, be it

Further Resolved, That the Clerk of the House of Delegates be directed to cause copies of this resolution to be forwarded to the Honorable Stewart L. Udall, Secretary of the Interior, and to each member of the West Virginia Congressional Delegation.

HOUSE CONCURRENT RESOLUTION NO. 30
(By Mr. Casey and Mr. Kopp)
[Adopted February 10, 1966]

Creating a special interim committee to visit and inspect state penal and correctional institutions, and to report its findings to the Legislature at the next Regular Session.

WHEREAS, It is customary for members of standing committees of the Legislature to visit and inspect the various public penal and correctional institutions maintained and operated by the State of West Virginia, and such visitations and inspections have resulted in constructive recommendations for the improvement of services and facilities at such institutions; and

WHEREAS, It is deemed desirable that such visitations and inspections be made in the interim between the current session of the Legislature and the next Regular Session of the Legislature to be held in the year 1967 in order to carry out recommendations previously made and to consider current problems as they arise; therefore, be it

Resolved by the Legislature of West Virginia:

That a special interim committee is hereby created to visit and inspect the penal and correctional institutions maintained
and operated by the State of West Virginia. Such committee shall consist of four members to be appointed by the Speaker of the House of Delegates and four members to be appointed by the President of the Senate from the appropriate standing committees of their respective Houses; and, be it

Further Resolved, That the committee shall report its findings and recommendations to the Legislature on or before the second day of the Regular Session of the Legislature to be held in the year 1967; and, be it

Further Resolved, That the members appointed to this committee shall receive mileage at the rate of ten cents per mile, and all sums actually spent by such members for meals and lodging while visiting and inspecting such institutions, all of which expenses shall be paid from Acct. No. 103 for joint expenses: Provided, That no such visitations and inspections shall be made or expenses incurred unless the approval of the Joint Committee on Government and Finance therefor is first had and obtained by said special interim committee.

HOUSE CONCURRENT RESOLUTION NO. 39
(By Mr. Craig, Mrs. Schupbach and Mr. D'Aurora)
[Adopted February 5, 1966]

Relating to the importation of glassware from the Republic of Mexico.

WHEREAS, Under present tariff and trade regulations the Republic of Mexico is exporting glassware to the United States at the ad valorem duty of fifty per cent and at the same time is embargoing shipment of glassware from the United States into Mexico; and

WHEREAS, As a result of this favorable treatment, Mexican glass producers are copying and duplicating many popular items manufactured in West Virginia and due to cheaper labor and manufacturing costs underselling West Virginia glassware in many important markets in the United States; and

WHEREAS, The Glass Crafts of America, the trade organization of the glass industry in the United States, has protested
to the United States Department of Commerce, the Tariff Commission and the State Department on the unfair competitive position in which existing regulations and agreements place West Virginia glass manufacturers, but has to date failed to obtain any remedial action; and

WHEREAS, Since our government has been a strong advocate of the Common Market and has utilized the Reciprocal Trade Agreements Act in many areas, it paradoxically is permitting this grossly unfair competitive situation in the glass industry to continue; and

WHEREAS, It is the opinion of the members of the West Virginia Legislature that the appropriate agencies of the United States should either take action to bring about the lifting of the embargo of Mexico on the importation of glassware from the United States or impose an embargo on the importation of glassware from Mexico to the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That the members thereof do hereby express their displeasure with the unfair competitive conditions imposed upon the glass industry of West Virginia as outlined in the preamble to this resolution, and respectfully request the appropriate agencies of the United States government to take proper corrective action; and, be it

Further Resolved, That the Clerk of the House of Delegates transmit copies of this resolution to the United States Department of Commerce, the Tariff Commission and the Department of State; and to the members of the Congress from the State of West Virginia, with the request that they lend their full efforts to bringing about a correction of the conditions herein stated.

HOUSE CONCURRENT RESOLUTION NO. 40

(By Mr. Speaker, Mr. White)

[Adopted February 7, 1966]

Continuing certain studies by the Joint Committee on Government and Finance and the Commission on Interstate Cooperation.
WHEREAS, Certain studies have been referred to the Joint Committee on Government and Finance and the Commission on Interstate Cooperation by prior sessions of the Legislature which have not been completed; therefore, be it

Resolved by the Legislature of West Virginia:

That the studies authorized by the following resolutions be continued:

1. House Concurrent Resolution No. 23, adopted Regular Session, 1965, relating to conflict of interest;

2. House Concurrent Resolution No. 40, adopted Regular Session, 1964, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to data processing;

3. House Concurrent Resolution No. 37, adopted Regular Session, 1965, relating to removal of abandoned and dilapidated buildings;

4. Senate Concurrent Resolution No. 29, adopted Regular Session, 1963, and continued by House Concurrent Resolution No. 52, adopted Regular Session, 1965, relating to elementary schools;

5. House Concurrent Resolution No. 20, adopted Regular Session, 1963, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to executive and administrative offices;

6. Senate Concurrent Resolution No. 11, adopted Regular Session, 1957, and continued by Senate Concurrent Resolution No. 33, adopted Regular Session, 1965, relating to institutions of higher education;

7. Senate Concurrent Resolution No. 27, adopted Regular Session, 1965, relating to publication of legal notices;

8. Senate Concurrent Resolution No. 30, adopted Regular Session, 1965, relating to licensing of various professions, occupations and businesses;

10. Senate Concurrent Resolution No. 31, adopted Regular Session, 1965, relating to special revenue funds;

11. House Concurrent Resolution No. 44, adopted Regular Session, 1965, relating to a long-range program of taxation and state revenue; and, be it

Further Resolved, That all provisions of said Senate and House Concurrent Resolutions be continued in full force and effect; and, be it

Further Resolved, That all reports, together with findings, conclusions, recommendations, and any proposed drafts of legislation, be made to the Legislature at its Regular Session, 1967.

HOUSE CONCURRENT RESOLUTION NO. 44
(Originating in the House Committee on the Judiciary)
[Adopted February 8, 1966]

Directing the Joint Committee on Government and Finance to make a comprehensive study of automobile insurance in West Virginia.

WHEREAS, A multitude of problems have arisen concerning the coverage and provisions of automobile insurance policies; and

WHEREAS, Legislative regulations have failed to keep pace with the mounting complex problems of automobile insurance; and

WHEREAS, Some of the problems have been brought to the attention of the Legislature, and it is deemed appropriate and beneficial that a study be made of all the various coverages and provisions contained in automobile insurance policies issued in this State, and of the practices employed by the insurers issuing such policies, and that constructive recommendations be presented to the Legislature; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, with the cooperation of the Insurance Commissioner, be directed to conduct a comprehensive study of the various types of auto
mobile insurance coverage offered in this State and of the practices employed by the insurance companies issuing such coverage; and, be it

Further Resolved, That a report containing the results of such study and any recommendations and drafts of proposed legislation be submitted to the Legislature no later than the second day of its next Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct such study be paid from the appropriate joint fund.

HOUSE CONCURRENT RESOLUTION NO. 46
(Originating in the House Committee on Finance)

[Adopted February 9, 1968]

Directing the Joint Committee on Government and Finance to conduct a study of the Transportation Privilege Tax.

WHEREAS, The Supreme Court of Appeals of West Virginia decided on November 8, 1965, in the case of the State of West Virginia, ex rel. G. Thomas Battle, State Tax Commissioner vs. The Baltimore and Ohio Railroad Company, that section five-b, article twelve-a, chapter eleven of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, was unconstitutional because it violated article one, section eight of the Constitution of the United States insofar as such section five-b, when applied, taxed receipts from interstate commerce and unduly burdened such commerce; and

WHEREAS, Substantial revenues will be lost to the State as a result of the aforesaid decision of the Supreme Court of Appeals for each and every year hereafter and approximately twelve million dollars will be subject to refund to taxpayers who filed returns and paid taxes under the said section five-b, article twelve-a, chapter eleven of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, before such statute was declared invalid; and

WHEREAS, It is deemed indicated that some change or revision be made to one or more of the sections of the law under the said article twelve-a, chapter eleven of the said Code for the purpose of continuing to realize approximately the same
revenues which were realized prior to the said section being found invalid and unconstitutional; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance be directed to conduct a comprehensive general study of the privilege tax on certain carrier corporations, with particular emphasis upon chapter eleven, article twelve-a, section five-b of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, in order to determine ways and means of amending the existing statutes so that the tax yield realized will not be appreciably reduced by the effects of the decision in the case of the State of West Virginia, ex rel. G. Thomas Battle, State Tax Commissioner vs. The Baltimore and Ohio Railroad Company; and, be it

Further Resolved, That a report containing the results of such study and any recommendations and drafts of proposed legislation be submitted to the Legislature no later than the second day of its next Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct such study be paid from the appropriate joint fund.

HOUSE CONCURRENT RESOLUTION NO. 48
(Originating in the House Committee on Finance)
[Adopted February 9, 1966]

Creating special budget study committees and authorizing appointment of members thereof.

WHEREAS, The complexity of the budget and budget requests remains a major legislative problem; and

WHEREAS, It is essential that an immediate attempt be made to provide a more thorough legislative analysis and understanding of this important area of governmental operations; therefore, be it

Resolved by the Legislature of West Virginia:

That there is hereby created for each House of the Legislature a special budget study committee. The Senate Com-
mittee shall consist of not more than eighteen members and the House Committee of not more than twenty-five members. Said committees to be appointed by the President of the Senate and the Speaker of the House of Delegates, respectively. In the appointment of these committees the President of the Senate and the Speaker of the House of Delegates shall apportion them as to political parties on a basis approximating the numerical membership of the two parties in their respective Houses. It shall be the duty of these committees to meet, as hereinafter provided, for the purpose of studying and analyzing the budget and requests for appropriations to be submitted to the Legislature and to prepare in advance of the session recommendations to the Finance Committee of the two Houses; and, be it

Further Resolved, That these committees may meet jointly or separately and shall be convened for such purpose by the President and Speaker at a time, or times, to be designated by them. The committees are authorized to conduct such hearings as may be deemed proper and pertinent to the discharge of their functions and make such reports to the Finance Committees of the two Houses as they may deem appropriate; and, be it

Further Resolved, That the authority and duties of these committees shall terminate on the first day of the following Regular Session of the Legislature; and, be it

Further Resolved, That all expenses incurred by said special budget study committees to conduct the above-mentioned study and to make their findings, recommendations and reports, including reimbursement for expenses of the members of said committees in the amount of twenty-five dollars per diem, and mileage at the rate of ten cents per mile, shall be paid from the appropriations under Acct. No. 103 for joint expenses.

HOUSE CONCURRENT RESOLUTION NO. 49
(By Mrs. Withrow and Mr. Holliday)
[Adopted February 10, 1968]
Creating a special interim committee to visit and inspect state hospitals and Colin Anderson Center under the supervision
and control of the State Department of Mental Health and the hospitals, homes and sanitariums under the supervision and control of the Commissioner of Public Institutions, and to report its findings to the Legislature at the next Regular Session.

Whereas, It is customary for members of standing committees of the Legislature to visit and inspect during legislative sessions the state hospitals and Colin Anderson Center under the supervision and control of the State Department of Mental Health and the hospitals, homes and sanitariums under the supervision and control of the Commissioner of Public Institutions, and such visitations and inspections have resulted in constructive recommendations for the improvement of services and facilities at such institutions; and

Whereas, It is deemed desirable that such visitations and inspections be made in the interim between the current session of the Legislature and the next Regular Session of the Legislature to be held in the year 1967 in order to carry out recommendations previously made and to consider current problems as they arise; therefore, be it

Resolved by the Legislature of West Virginia:

That a special interim committee is hereby created to visit and inspect the state hospitals and Colin Anderson Center under the supervision and control of the State Department of Mental Health and the hospitals, homes and sanitariums under the supervision and control of the Commissioner of Public Institutions. Such committee shall consist of three members to be appointed by the Speaker of the House of Delegates and three members to be appointed by the President of the Senate from the appropriate standing committees of their respective Houses; and, be it

Further Resolved, That the committee shall report its findings and recommendations to the Legislature on or before the second day of the Regular Session of the Legislature to be held in the year 1967; and, be it

Further Resolved, That the members appointed to this committee shall receive mileage at the rate of ten cents per mile, and all sums actually spent by such members for meals and
lodging while visiting and inspecting such institutions, all of which expenses shall be paid from Acct. No. 103 for joint expenses: Provided, That no such visitations and inspections shall be made or expenses incurred unless the approval of the Joint Committee on Government and Finance therefor is first had and obtained by said special interim committee.

HOUSE CONCURRENT RESOLUTION NO. 50
(By Messrs. McCoy, Ours, Slonaker and Harman)

[Adopted February 8, 1966]

Requesting the State Road Commission to designate U. S. Route No. 220 "Appalachian Thruway."

WHEREAS, U. S. Route No. 220 is a major economic artery extending north and south the length of the Appalachian Mountains; and

WHEREAS, In its course Route No. 220 passes through the most scenic area of the eastern United States and is traveled by many tourists; and

WHEREAS, U. S. Route No. 220 passes through the beautiful and historic valley of the South Branch of the Potomac River in eastern West Virginia and the newly organized recreation complex known as the "Potomac Highland of West Virginia"; and

WHEREAS, U. S. Route No. 220 has been designated "Appalachian Thruway" in the states of Pennsylvania and Maryland and has received nation-wide publicity under this title; and

WHEREAS, This major highway transverses Mineral, Hampshire, Hardy, Grant and Pendleton counties in the State of West Virginia and much favorable publicity would be gained and continuity maintained if U. S. Route No. 220 is also known as "Appalachian Thruway" in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the State Road Commission of West Virginia is hereby requested to designate that portion of U. S. Route No. 220 lying within this State and passing through the county seats of the counties of Mineral, Hardy, Grant and Pendleton as
"Appalachian Thruway" and to erect appropriate markers along its right-of-way; and, be it

Further Resolved, That the Clerk of the House of Delegates cause a copy of this resolution to be delivered to the State Road Commissioner of West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 51
(By Mr. Watson)
[Adopted February 9, 1966]

Directing the Joint Committee on Government and Finance to make a study of the feasibility of using electronic voting machines in West Virginia.

WHEREAS, Most of the counties in West Virginia use paper ballots in all elections, and the few counties that employ voting machines use a type that is very expensive, difficult to transport and costly to store while not in use; and

WHEREAS, A new electronic voting machine has been developed that has received wide acceptance in other states because it is inexpensive and its small size facilitates ease of transportation and storage; and

WHEREAS, A study would be useful in determining the feasibility and advisability of using such electronic voting machines in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to make a study of the feasibility and advisability of approving the use of electronic voting machines in the State of West Virginia; and, be it

Further Resolved, That such report and any recommendations of the committee be presented to the Legislature at the beginning of its next Regular Session in the year 1967, and that any expenses incurred in the preparation of same be paid from the legislative appropriations made to the Joint Committee on Government and Finance.
HOUSE CONCURRENT RESOLUTION NO. 52
(By Mr. Speaker, Mr. White)

[Adopted February 10, 1966]

Requesting the Joint Committee on Government and Finance to make a study of unregulated and unlicensed debt consolidation and second mortgage loans.

WHEREAS, Numerous complaints from irate borrowers have been made to the Commissioner of Banking and to members of the Legislature about the expanding activity of second mortgage lenders who, through clever advertising and persistent personal contact with prospective borrowers, have been making an increasing number of second mortgage loans that reduce a borrower's monthly payments but double the borrower's debt by adding to interest a long list of substantial and questionable "fees"; and

WHEREAS, Those lenders are unregulated and unlicensed by this State and their exorbitant profits cannot be controlled adequately under existing law; and

WHEREAS, Such lenders frequently operate on a precarious financial basis with only a postoffice box or telephone number as an office, and they move frequently from one area to another; and

WHEREAS, Their method of operations, including the selling of the loan to an out-of-state purchaser makes it difficult, if not impossible, for the innocent borrower to protect himself from usurious repayment or arbitrary foreclosure; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance make a study of unregulated and unlicensed debt consolidation and second mortgage loans and report to the Legislature at its Regular Session, 1967, on its findings, conclusions and recommendations, together with drafts of any proposed legislation to carry its recommendations into effect; and be it

Further Resolved, That the expense necessary to make the study, to prepare a report, and to draft any proposed legislation shall be paid from legislative appropriations to the Joint Committee on Government and Finance.
Approving the issuance of revenue bonds by the State Building Commission of West Virginia in an amount not to exceed eighteen million dollars for the purpose of acquiring land for the construction of new state office buildings and parking facilities and for the construction, equipping and furnishing of same, and for all the plans and specifications necessary and incident thereto.

WHEREAS, Committee Substitute for Senate Bill No. 42 was enacted by the 1966 Session of the Fifty-seventh Legislature, establishing the "State Building Commission of West Virginia" and prescribing its powers, responsibilities and duties; and

WHEREAS, Said statute provides that no bonds or obligations may be issued in accordance with provisions of said act unless and until the Legislature by concurrent resolution has approved the purpose and amount of each separate project; therefore, be it

Resolved by the Legislature of West Virginia:

That the issuance of revenue bonds by the State Building Commission of West Virginia in an amount not to exceed eighteen million dollars is hereby approved by the Legislature for the purpose of acquiring the necessary land for the construction of new state office buildings and parking facilities, and for the purpose of constructing, equipping and furnishing same, in accordance with existing plans and specifications furnished to the former "State Office Building Commission of West Virginia," designated as "phase 2" in the "State Capitol Master Plan, State of West Virginia," January, 1966, prepared by Zando, Martin and Milstead, Architects and Engineers, and Boggs and Rehm, Landscape Architects and Land Planners; and, be it

Further Resolved, That the purpose for which said revenue bonds are to be issued is likewise hereby approved; and, be it

Further Resolved, That the Clerk of the House of Delegates transmit a copy of this resolution to the Secretary of State of
the State of West Virginia, the designated Secretary of the State Building Commission of West Virginia.

HOUSE JOINT RESOLUTION NO. 1
(By Mr. Speaker, Mr. White, and Mr. Seibert)

[Adopted January 20, 1966]

Ratifying the proposed amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

WHEREAS, The Eighty-ninth Congress of the United States of America, at the first session begun and held at the City of Washington on Monday, the fourth day of January, one thousand nine hundred sixty-five, by a constitutional two-thirds vote in both Houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, to wit:

Joint Resolution

Proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein):

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three fourths of the several states within seven years from the date of its submission by the Congress:

Article

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2. Whenever there is a vacancy in the office of
the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SECTION 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as the Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as acting President; otherwise, the President shall resume the powers and duties of his office.

Therefore, be it
Resolved by the Legislature of West Virginia:

That the Legislature of the State of West Virginia hereby ratifies and adopts this proposed amendment to the Constitution of the United States; and, be it

Further Resolved, That the Secretary of State of the State of West Virginia notify the President of the United States, the President pro tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Administrator of General Services of the United States, and each Senator and Representative from West Virginia in the Congress of the United States of this action of the Legislature by forwarding to each of them a certified copy of this Resolution.

COMMITTEE SUBSTITUTE FOR
HOUSE JOINT RESOLUTION NO. 2

(By Mr. Auvil)

(Adopted February 10, 1966)

Proposing an amendment to the Constitution of the State of West Virginia, amending sections twenty-two and thirty-three, article six thereof, relating to the Legislature of the State of West Virginia.

Resolved by the Legislature of West Virginia, two thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred sixty-six, which proposed amendment is as follows:

That sections twenty-two and thirty-three, article six of the Constitution be amended to read as follows:

Article VI. The Legislature.

Section 22. Length of Legislative Session.—The regular session of the Legislature held in the year one thousand nine hundred sixty-seven and every year thereafter shall not exceed sixty days. Any such regular session may be extended by the
concurrence of two thirds of the members elected to each House.

Sec. 33. Compensation and Expenses of Members.—Each member of the Legislature shall receive for his services the sum of two thousand five hundred dollars a year, and such expenses in connection with any session and party caucuses and the performance of authorized interim assignments as may be provided for by general law.

Notwithstanding any other provision of the Constitution, the compensation herein provided for, and such expenses as may be provided for by general law, shall be paid to each member of the Legislature on and after the ratification of this amendment.

HOUSE JOINT RESOLUTION NO. 3
(Originating in the House Committee on the Judiciary)
[Adopted February 8, 1966]

Proposing an amendment to the Constitution of the State of West Virginia, amending section ten, article eight thereof, relating to courts of record and the judges thereof.

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-six, which proposed amendment is as follows:

That section ten, article eight of the Constitution be amended to read as follows:

Article VIII. Judicial Department.

Section 10. Circuit Courts.—The State shall be divided into as many judicial circuits as the Legislature may prescribe. The judges of the circuit courts shall be elected by the qualified voters of the circuit in the manner prescribed by law and shall hold their offices for the term of eight years unless sooner removed in the manner prescribed by this Con-
stitution. Any such judge in office when this amendment takes effect shall continue in office in the circuit in which he resides until his term shall expire, unless he is sooner removed, as aforesaid. During his continuance in office a judge of a circuit court shall reside in the circuit of which he is a judge.

The Legislature may increase or decrease the number of circuit judges in any circuit. The judicial circuits existing at the time of the adoption of this amendment shall remain as they are until changed by law. A judge of a circuit court in office at the time of any such change shall continue as a judge of the circuit in which he shall continue to reside after such change, unless his term shall expire, or unless he is sooner removed, as aforesaid.

A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals.

There shall be at least one judge for each circuit and as many more as may be necessary to transact the business of such circuit. If there be two or more judges of a circuit, the business shall be apportioned among them by the chief judge of the circuit in the manner provided by law. The judge longest in continuous service as a circuit court judge shall be chief judge of the circuit. If two or more have so served for the same period, the senior in years of these shall be chief judge: Provided, That if such judge declines to serve as chief judge, then another judge of the circuit shall be designated chief judge in accordance with the rules of that circuit. If the chief judge is temporarily disqualified or unable to serve, one of the judges of the circuit designated in accordance with the rules of that circuit shall serve temporarily in his stead.

The Legislature may, by appropriate legislation at the session thereof next after the time of the ratification of this amendment, provide for the continuance of the legislative courts of record of limited jurisdiction in existence at the time of such ratification, or make one or more of the judges thereof judges of the judicial circuits in which they shall then reside: Provided, however, That the term of any circuit judge, whether originally elected to office as judge of a judicial circuit or
originally elected to office as judge of a legislative court of record of limited jurisdiction, shall not extend beyond the thirty-first day of December, one thousand nine hundred seventy-six.

SENATE CONCURRENT RESOLUTION NO. 14
(By Mr. Carson, Mr. President, and Mr. Carrigan)

[Adopted January 31, 1966]

Extending the time within which the special committee on higher education appointed under the direction and authority of House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, may complete its studies, make the final reports required of it, and draft the legislation to carry out its recommendations.

WHEREAS, House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, requested the Governor of West Virginia to place before a committee consisting of the members of the Board of Governors of West Virginia University, the members of the West Virginia Board of Education, and the members of the West Virginia Association of College and University Presidents, the study of the allocation of function and fields of graduate study, as between the state-supported institutions of higher learning, with special emphasis upon the most efficient and economical use of all academic and staff facilities available at all said educational institutions, and requested the said committee to report its findings and recommendations resulting from its study to the Governor on or before December 20, 1965, so that he, the Governor, might consider including any suggested legislation required to implement same in his proclamation and call for the 1966 Budget Session of the Legislature; and

WHEREAS, The members of the committee created by the afore-mentioned House Concurrent Resolution No. 51, known and described as the West Virginia Committee on Higher Education, consists of the members of the West Virginia University Board of Governors, namely: Mrs. Gilbert Bachmann, Wheeling; Ralph J. Bean, Moorefield; K. Douglas Bowers, Beckley; Albert B. C. Bray, Jr., Logan; Okey B. Glenn, Williamson; Thomas L. Harris, Parkersburg; Forrest H. Kirkpatrick,
Wheeling; James H. Swadley, Jr., Keyser; Charles C. Wise, Jr., Charleston; the members of the West Virginia Board of Education, namely: W. Robert Abbot, Fayetteville; Mrs. Anagene P. Bartram, Kenova; S. J. Baskerville, Charleston; Charles H. Brown, Kingwood; Joseph C. Jefferds, Jr., Charleston; Lacy I. Rice, Martinsburg; Perce J. Ross, Buckhannon; Elmus L. Snoderley, Fairmont; A. H. Spangler, Bluefield; and the members of the West Virginia Association of College and University Presidents, namely: Marshall Buckalew, president, Morris Harvey College; Todd Bullard, president, Potomac State College; Lewis Case, president, Ohio Valley College; Paul N. Elbin, president, West Liberty State College; E. K. Feaster, president, Fairmont State College; Perry Gresham, president, Bethany College; Gordon E. Hermanson, president, Davis and Elkins College; K. Duane Hurley, president, Salem College; Oliver S. Ikenberry, president, Shepherd College; Joseph F. Marsh, Jr., president, Concord College; Stanley H. Martin, president, West Virginia Wesleyan College; Paul A. Miller, president, West Virginia University; John F. Montgomery, president, Greenbrier College for Women; L. C. Nelson, president, West Virginia Institute of Technology; E. J. Scrafford, acting president, Bluefield State College; Richard E. Shearer, president, Alderson-Broaddus College; D. K. Shroyer, president, Beckley College; Stewart H. Smith, president, Marshall University; William F. Troy, S.J., president, Wheeling College; William J. L. Wallace, president, West Virginia State College; and D. Banks Wilburn, president, Glenville State College; and

WHEREAS, The Honorable Hulett C. Smith, Governor of West Virginia, activated the West Virginia Committee on Higher Education on June 7, 1965, by calling a meeting thereof on July 14, 1965, and by naming Dr. Paul A. Miller, president of West Virginia University, as temporary chairman; and

WHEREAS, The West Virginia Committee on Higher Education organized and elected as chairman, Dr. Paul A. Miller, president, West Virginia University; as vice chairman, Joseph C. Jefferds, Jr., a member of the West Virginia Board of Education; as secretary, Dr. William J. L. Wallace, president, West Virginia State College; and as treasurer, Dr. Marshall Buckalew, president, Morris Harvey College; and

WHEREAS, Governor Smith in his address to the committee on
July 14, 1965, suggested that it study the present functions of our colleges and universities, and that the possible expansion in various fields of study by these educational institutions be examined carefully; and, further, that the committee make any recommendations it may decide upon in the field of higher education even though such recommendations may not fall within a strict interpretation of the afore-mentioned House Concurrent Resolution No. 51; and

WHEREAS, The West Virginia Committee on Higher Education has in its report to the Governor and to the Legislature, dated January 11, 1966, submitted the following recommendations:

1. The establishment by the Legislature of a West Virginia Board of Regents having authority to make continuous studies and plans for all higher education in West Virginia, to allocate educational functions and programs, to receive, review, revise, and present budget requests for all public institutions of higher education, and to allocate all federal funding programs presently existing as well as those created in the future.

2. The establishment by the Legislature of a board of governors of Marshall University.

3. The establishment by the Legislature of a board of governors of the state colleges of West Virginia.

4. The divestment by the Legislature of the West Virginia Board of Education's present authority and powers respecting the state colleges and Marshall University.

5. The repeal by the Legislature of article twenty-two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, which created the State Commission on Higher Education, the functions of the Commission to be transferred to the West Virginia Board of Regents.

6. The retention of the present Board of Governors of West Virginia University and Potomac State College; and

WHEREAS, The West Virginia Committee on Higher Education has requested the Legislature to extend the time within which it may complete its studies, make its final report, and draft the legislation necessary to carry out its recommendations, until
the commencement of the Regular Session of the Legislature, 1967; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That all provisions of House Concurrent Resolution No. 51, adopted by the Legislature in Regular Session, 1965, be continued in full force and effect until the committee named therein reports its conclusions, recommendations, and drafts of any implementing legislation; and, be it

Resolved further, That a final report containing the conclusions and recommendations of the afore-mentioned committee and any drafts of proposed legislation to carry such conclusions and recommendations into effect be submitted to the Governor and to the Legislature prior to the convening of the Regular Session, 1967.

COMMITTEE SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 18

(By Messrs. Mullins, and Taylor, of Mason)

[Adopted February 10, 1966]

Creating a special interim committee to review and inspect health care activities of the Department of Health, and the Department of Welfare, and to report its findings at the Regular Session of the Legislature, 1967.

WHEREAS, Certain new programs of health care will be initiated by the Department of Health, and the Department of Welfare, during 1966 because of recent federal legislation; and

WHEREAS, The Legislature should keep itself advised concerning the operation of existing and new health care programs of the Department of Health, and the Department of Welfare, particularly with respect to the effect which such programs may have upon existing health facilities and services; and

WHEREAS, New or additional legislation may be required at the Regular Session of the Legislature, 1967; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:
That a special interim committee of the Legislature be created consisting of three members of the Senate, to be appointed by the President of the Senate from the standing Committee on Medicine and Sanitation, and three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, from the standing Committee on Health, no more than two members so appointed from each House to be of the same political party; to study, review and inspect the health care programs and activities of the Department of Health, and the Department of Welfare, with particular attention to new health care for the aged initiated during 1966; and, be it

Resolved further, That this committee shall make a report of its findings and recommendations, together with drafts of any proposed legislation to carry out its findings and recommendations, to the Regular Session of the Legislature, 1967; and, be it

Resolved further, That the members so appointed and serving on this committee shall be reimbursed for actual expenses for meals and lodging and shall receive mileage at the rate of ten cents per mile from legislative appropriations for joint expenses.

SENATE CONCURRENT RESOLUTION NO. 22
(Originating in the Senate Committee on Finance)
[Adopted February 10, 1966]

Requesting and directing the Joint Committee on Government and Finance to have an actuarial study made of the "State Teachers’ Retirement System."

WHEREAS, By Chapter 36, Acts of the Legislature, Regular Session, 1941, a retirement system, known as the "State Teachers’ Retirement System" was established by the Legislature for the purpose of providing retirement allowances for the teachers of West Virginia; and

WHEREAS, Since the establishment of said retirement system the Legislature has made numerous amendments to chapter eighteen, article seven-a, of the official Code of West Virginia
of one thousand nine hundred thirty-one, as amended, relating to said retirement system; and

WHEREAS, Over the years the members participating in said retirement system have received numerous salary increases which directly affects the amount of money each member must contribute as well as the amount of money the Legislature must appropriate to match said members contribution to said retirement system; and

WHEREAS, There is some concern and apprehension as to whether the said retirement system is on a sound actuarial basis; and

WHEREAS, It would be to the general benefit of all the members of said retirement system and to the State to have an actuarial study made of said retirement system; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance of the Legislature is requested and directed to have an actuarial study made of the “State Teachers’ Retirement System” for the purpose of determining whether said retirement system is on an actuarially sound financial basis; what steps, if any, are necessary to accomplish same; and said Joint Committee shall report to the Legislature not later than the first day of the Regular Session of the said Legislature, convening in January, 1967, with recommendations, if any, and a report of their findings; and, be it

Further Resolved, That the expenses necessary to conduct such actuarial study be paid from the legislative appropriations made to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 23
(Originating in the Senate Committee on the Judiciary)
[Adopted February 8, 1966]

Directing the West Virginia Commission on Interstate Cooperation to study the feasibility of a compact between the State of West Virginia and the Commonwealth of Penn-
PA. MOUNTAIN VALLEY FLOOD CONTROL DISTRICT

WHEREAS, Wheeling Creek arises in Pennsylvania, flows through at least two counties of that Commonwealth, enters the State of West Virginia, flows through Marshall and Ohio Counties, West Virginia, and empties into the Ohio River at Wheeling; and

WHEREAS, The inhabitants of Marshall and Ohio Counties, West Virginia, living along Wheeling Creek have over the years experienced considerable property loss from flooding of that stream; and

WHEREAS, It appears that the inhabitants of Marshall and Ohio Counties, West Virginia, can best be protected from the flooding of Wheeling Creek by flood controls constructed and provided on the upper reaches of that stream and its tributaries in the Commonwealth of Pennsylvania; and

WHEREAS, It appears that the common interests and objectives of West Virginia and Pennsylvania to protect their citizens from the flooding of Wheeling Creek can best be accomplished through the negotiation and execution of a compact between

Pennsylvania respecting the acquisition of land for, and construction and maintenance of, flood control projects on Wheeling Creek and its tributaries in this State and in the Commonwealth of Pennsylvania; and if the Commission concludes that such a compact is feasible, to negotiate, if possible, a compact with the Commonwealth of Pennsylvania or an appropriate agency thereof respecting these matters, any such compact to be submitted, prior to its execution, to the Legislature for approval during its Regular Session, 1967; to study and to make recommendations to the Legislature respecting the legality of, and methods for, the participation by Marshall and Ohio Counties, West Virginia, financially and otherwise in such acquisition, construction and maintenance; to study and to make recommendations to the Legislature respecting any matter or subject relevant to the foregoing specific directions; and to prepare and submit to the Legislature a draft or drafts of legislation deemed advisable or necessary to carry out its recommendations, all such drafts and recommendations to be submitted to the Legislature during its Regular Session, 1967.
the Commonwealth of Pennsylvania and the State of West Virginia respecting the acquisition of land for, and construction and maintenance of, flood control projects on the stream and its tributaries in this State and in the Commonwealth of Pennsylvania; and

WHEREAS, A compact between two states involves complex constitutional and policy questions and considerations, including the approval of any such compact by the Congress of the United States as required by Article I, Section 10 of the Constitution of the United States; and

WHEREAS, This State has heretofore entered into a number of compacts with other states, such as the Potomac River Basin Compact, the Ohio River Valley Sanitation Compact, and the Southern Interstate Nuclear Compact and in each such case the full terms and provisions of the compact have been approved by the Legislature prior to the execution of the compact on behalf of the State; and

WHEREAS, The West Virginia Commission on Interstate Cooperation was established by the Legislature at its Regular Session, 1937, and was authorized, among other things, “to endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating: (a) The adoption of compacts, ...”; and

WHEREAS, Marshall and Ohio Counties, have evidenced some interest in participating financially and otherwise in the acquisition of land for, and construction and maintenance of, such flood control projects; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the West Virginia Commission on Interstate Cooperation be directed to study the feasibility of a compact between the State of West Virginia and the Commonwealth of Pennsylvania respecting the acquisition of land for, and construction and maintenance of, flood control projects on Wheeling Creek and its tributaries in this State and in the Commonwealth of Pennsylvania; and, be it

Resolved further, That if the Commission concludes that such a compact is feasible, that it be directed to negotiate, if possible,
a compact with the Commonwealth of Pennsylvania or an appropriate agency thereof respecting the afore-mentioned matters; and, be it

Resolved further, That any such compact so negotiated by the Commission be submitted, prior to its execution, to the Legislature for approval during its Regular Session, 1967; and, be it

Resolved further, That the Commission study and make recommendations to the Legislature respecting the legality of, and methods for, the participation by Marshall and Ohio Counties, West Virginia, financially and otherwise in such acquisition, construction and maintenance as hereinabove described; and, be it

Resolved further, That the Commission study and make recommendations to the Legislature respecting any matter or subject relevant to the foregoing specific directions; and, be it

Resolved further, That the Commission prepare and submit to the Legislature a draft or drafts of legislation deemed advisable or necessary to carry out its recommendations, all such drafts and recommendations to be submitted to the Legislature during its Regular Session, 1967; and, be it

Resolved further, That the expenses necessary to conduct such studies, negotiate such compact and prepare any such drafts of legislation be paid from the legislative appropriations to the Commission on Interstate Cooperation or the Joint Committee on Government and Finance: Provided, That said Commission shall obtain the advance approval of the Joint Committee on Government and Finance before incurring any expenses to be paid out of the appropriation to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 25
(Originating in the Senate Committee on Finance)
[Adopted February 10, 1966]

Opposing the enactment by the Congress of the United States of H. R. 11798 or similar legislation designed to regulate or restrict state taxation of interstate commerce.
WHEREAS, H. R. 11798, a bill recently introduced by the chairman of the special subcommittee on state taxation of interstate commerce of the Committee on the Judiciary, United States House of Representatives, proposes to federally regulate the incidence and administration of various state taxes upon multi-state businesses; and

WHEREAS, Federal regulation of state taxing power has far-reaching implications and there are serious questions about the necessity or desirability of federal legislation restricting the powers of a state to levy and collect taxes and to select the objects and events subject to taxation; and

WHEREAS, The bill would alter the fundamental relationship in federal-state fiscal administration and goes to the extent of calling for federal administration of state sales and use taxes; and

WHEREAS, There has been insufficient time to study these proposals and to appraise their manifold impact on state and local government; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of the State of West Virginia hereby conveys to the congressional delegation of this State its opposition to H. R. 11798 in its present form or similar legislation designed to regulate or restrict state taxation of multi-state businesses and respectfully urges the delegation to adopt a similar position and to carefully evaluate any proposals which might limit the State’s authority in regard to matters of taxation; and, be it

Resolved further, That the Legislature of the State of West Virginia does respectfully petition the Committee on the Judiciary of the United States House of Representatives to be guided in its deliberations on solutions to interstate commerce tax problems by the principle that state action to correct unreasonable burdens on interstate business is preferable, and to the extent that these problems can be solved by state action this general policy should prevail to the end that federal intervention in state tax matters is minimized and ultimate reliance on state responsibilities encouraged; and, be it
Resolved further, That the Clerk of the Senate transmit a copy of this resolution to each of the members of the West Virginia congressional delegation, to the Honorable Emmanuel Celler, chairman, Committee on the Judiciary, United States House of Representatives, and to the Honorable Edwin E. Willis, chairman, special subcommittee on state taxation of interstate commerce of the Committee on the Judiciary, House of Representatives.

SENATE CONCURRENT RESOLUTION NO. 26
(Originating in the Senate Committee on the Judiciary)
[Adopted February 10, 1966]

Directing the Joint Committee on Government and Finance to make a study of post-conviction review procedure to provide judicial review on behalf of a person convicted of a crime and under sentence therefor.

WHEREAS, There are a growing number of proceedings being brought by persons convicted in state courts for violation of state criminal statutes for a reconsideration of their conviction and sentence on constitutional grounds, both state and federal; and

WHEREAS, Many of these proceedings are being brought in federal courts with the result that there is a burden on federal court dockets, added expense and inconvenience to the State, and replacement of state responsibility over state criminal matters by federal review thereof; and

WHEREAS, State post-conviction review statutes have been cited with approval by the United States Supreme Court in recent decisions, and such statutes are advocated and recommended by members of the legal profession and members of the judiciary in this State, as well as by the Prosecuting Attorneys’ Association of the State of West Virginia; and

WHEREAS, Senate Bill No. 2 and House Bill No. 202 were introduced at the Regular Session of the Legislature, 1966, to establish a post-conviction review procedure, which bills may not be adequate to solve this complex problem of criminal procedure; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance be directed to make a study of post-conviction review procedure in order to provide an orderly system of judicial review in state courts on behalf of persons convicted of a state crime and sentenced therefor, when a request by such person is made for a judicial review based on a claim of violation of his state or federal constitutional rights; and, be it

Resolved further, That the committee make a report to the Legislature at the Regular Session of the Legislature, 1967, of its findings, conclusions, and recommendations, together with drafts of any proposed legislation necessary to carry its recommendations into effect; and, be it

Resolved further, That the expense necessary to conduct such study, to prepare a report, and to draft proposed legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

SENATE CONCURRENT RESOLUTION NO. 28
(By Mr. Brotherton)
[Adopted February 10, 1966]

Directing the Joint Committee on Government and Finance to make a study of procedures for consideration, approval and payment of claims against the State.

WHEREAS, Sizeable sums of state money have been appropriated by the legislatures over the years to pay claims against the State of West Virginia; and

WHEREAS, The Legislature at each session has found difficulty in making a proper and informed judgment on the many issues of both fact and law on the numerous claims presented for consideration; and

WHEREAS, Payment of legitimate claims often is delayed for a year or more because of disagreement in the Legislature over other claims; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Joint Committee on Government and Finance make a study of procedures, past and present, for considering, approving or disapproving, and payment of approved claims made against the State and a study of such procedures in other states with constitutional provisions similar to those of West Virginia, with the view to developing a method for our State that will improve on present procedures and practices to insure more careful consideration of each claim, both as to fact and law, and to insure the just, equitable, and prompt disposition thereof; and, be it

Resolved further, That the committee report to the Regular Session of the Legislature, 1967, on its findings, conclusions, and recommendations, together with drafts of any proposed legislation necessary to carry its recommendations into effect; and, be it

Resolved further, That the expense necessary to conduct such study, to prepare a report, and to draft proposed legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

SENATE JOINT RESOLUTION NO. 3
(Originating in the Senate Committee on Finance)

[Adopted February 10, 1966]

Proposing an amendment to the Constitution of the State of West Virginia, amending section ten of article ten thereof, known and designated as the “Better Schools Amendment,” and ratified by the voters at the general election in the year one thousand nine hundred fifty-eight.

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-six, which proposed amendment is as follows:
That section ten, article ten of the Constitution of the State of West Virginia be amended to read as follows:

Article X. Taxation and Finance.

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

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

Notwithstanding the provisions of section eight of this article to the contrary, or any other provisions of the Constitution to the contrary, a county board of education may contract indebtedness and issue bonds for public school purposes as provided by law, if, when submitted to a vote of the people of the county, in the manner provided by law, the question of contracting indebtedness and issuing bonds is approved by a majority of the votes cast for and against the same.
**DISPOSITION OF BILLS ENACTED**

The first column gives the number of the bill and the second column the chapter assigned to it.

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**Regular Session, 1965**

**HOUSE BILLS**

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### Disposition of Bills Enacted

#### Senate Bills

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