FOREWORD

This volume contains the Acts of the West Virginia Legislature for the 1972 Regular Session and the Second Extraordinary Session of 1971, and resolutions of general interest adopted during these sessions.

Regular Session, 1972

The second regular session of the 60th Legislature convened on January 12 and expired at midnight March 11. However, the session having been extended by proclamation of the Governor for the purpose of completing work on the annual Budget Bill, final adjournment did not come until 1:29 A.M., March 12.

Bills totaling 1154 were introduced in the two houses during the session—749 House and 405 Senate. The Legislature passed 144 bills—87 House and 57 Senate. The Governor approved 135 bills and vetoed 9.

There were 123 concurrent resolutions introduced during the session—82 House and 41 Senate, of which 18 House and 8 Senate were adopted. Nineteen House Joint and 16 Senate Joint Resolutions were introduced proposing amendments to the State Constitution. The Legislature adopted three of the Joint Resolutions—HJR 18 and SJR 4 and 11. The House had 45 House Resolutions and the Senate had 22 Senate Resolutions, of which 30 House and 20 Senate were adopted.

The Senate failed to pass 57 House Bills passed by the House and 44 Senate Bills passed by that body failed passage by the House.
Second Extraordinary Session, 1971

This session started on October 26, 1971, and adjourned sine die on November 4, 1971.

The proclamation of the Governor convening the session stated five items of business for consideration as follows: (1) Redistricting the State into Senatorial Districts and apportioning the membership of the House of Delegates, (2) creating county airport authorities, (3) appropriation for the West Virginia Labor-Management Relations Board, (4) regional planning and development, and (5) an appropriation for capital improvements at Huntington State Hospital.

Thirteen bills were introduced in the two houses during the session—six House bills and seven Senate bills. The Legislature passed six bills—five House and one Senate—carrying out in full the purposes for which the session was called. The Governor approved five of the acts and vetoed one. The act vetoed was S. B. No. 3, redistricting the State into senatorial districts.

There were 12 concurrent resolutions introduced—eight House and four Senate—of which two House and two Senate were adopted. The House had 13 plain House Resolutions with 12 of them being adopted; and the Senate had six Senate Resolutions, all six being adopted.

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C. A. Blankenship, Clerk
House of Delegates
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# MEMBERS OF THE HOUSE OF DELEGATES

**Regular Session, 1972**

## OFFICERS

- **Speaker**: Lewis N. McManus, Beckley
- **Clerk**: C. A. Blankenship, Pineville
- **Sergeant at Arms**: Oce W. Smith, Jr., Fairmont
- **Doorkeeper**: Dannie Wingo, Yukon

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1 Elected Speaker March 13, 1971, to fill the vacancy resulting from the death of Speaker Ivor F. Boalsky.
2 Appointed January 11, 1971, to fill the vacancy caused by the death of Michael R. Presler, a Delegate-elect.
3 Appointed by the Governor April 13, 1971, to fill the vacancy caused by the death of her husband, the Honorable Ivor F. Boalsky.
4 Appointed February 1, 1971, to fill the vacancy caused by the disqualification of W. R. Wilson, a Delegate-elect.
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5Appointed January 7, 1972, to fill the vacancy caused by the resignation of Robert C. Halbritter.

(D) Democrats 68
(R) Republicans 32
Total 100
MEMBERS OF THE SENATE

Regular Session, 1972

OFFICERS

President—E. Hans McCourt, Webster Springs
President Pro Tempore—C. H. McKown, Wayne
Clerk—Howard W. Carson, Fayetteville
Sergeant at Arms—John E. Howell, Charleston
Doorkeeper—J. Brent Monroe, Summersville

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<td>†William L. Gilligan (R)</td>
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<td>Alan L. Susman (D)</td>
<td>Beckley</td>
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<td>Tenth</td>
<td>*R. E. Barnett (D)</td>
<td>Bluefield</td>
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<td>J. C. Dillon, Jr. (D)</td>
<td>Hinton</td>
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<td>Eleventh</td>
<td>*Robert K. Holliday (D)</td>
<td>Oak Hill</td>
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<td>Ralph D. Williams (D)</td>
<td>Rainelle</td>
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<td>Carl E. Gainer (D)</td>
<td>Richwood</td>
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<td>*E. Hans McCourt (D)</td>
<td>Webster Springs</td>
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<td>Thirteenth</td>
<td>W. Walter Neeley (D)</td>
<td>Clarksburg</td>
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<td>*Wm. R. Sharpe, Jr. (D)</td>
<td>Weston</td>
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<td>Fourteenth</td>
<td>*O. G. Hedrick (D)</td>
<td>Fairmont</td>
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<td>Wm. A. Morélard (D)</td>
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<td>Fifteenth</td>
<td>C. N. Harman (R)</td>
<td>Grafton</td>
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<td>*Dallas Wolfe (R)</td>
<td>Rowlesburg</td>
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<tr>
<td>Sixteenth</td>
<td>Louise Leonard (R)</td>
<td>Harpers Ferry</td>
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<td>*John I. Rogers (R)</td>
<td>Keyser</td>
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<td>Seventeenth</td>
<td>*W. T. Brotherton, Jr. (D)</td>
<td>Charleston</td>
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<td>Si Galperin, Jr. (D)</td>
<td>Charleston</td>
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</tbody>
</table>

*Senators elected in 1968. All others elected in 1970.
†Appointed October 18, 1971, to fill vacancy caused by resignation of John E. Carrigan.

(D) Democrats 22
(R) Republicans 11
Total 33

[XV]
AGRICULTURE

Susman (Chairman), Gainer (Vice Chairman), Dillon, Hedrick, McKown, Neeley, Williams, Leonard, Rogers and Sayre.

CONFIRMATIONS

Galperin (Chairman), Holliday (Vice Chairman), Dillon, Gainer, Hylton, McKown, Tompos, Wallace, Ward, Gilligan, Harman, Knapp and Sayre.

EDUCATION

Palumbo (Chairman), Barnett (Vice Chairman), Beall, Dillon, Galperin, Holliday, McKown, Sharpe, Wallace, Ward, Deem, Gilligan, Hubbard, Poffenbarger and Rogers.

ELECTIONS

Ward (Chairman), Fanning (Vice Chairman), Brotherton, Galperin, Moreland, Neeley, Nelson, Williams, Knapp, Leonard and Sayre.

FINANCE

McKown (Chairman), Susman (Vice Chairman), Barnett, Beall, Dillon, Fanning, Galperin, Hedrick, Hylton, Sharpe, Williams, Bowers, Deem, Harman, Leonard, Rogers and Wolfe.

HEALTH

Wallace (Chairman), Sharpe (Vice Chairman), Brotherton, Galperin, Holliday, Moreland, Knapp, Leonard and Rogers.

INSURANCE AND CORPORATIONS

Hylton (Chairman), Neeley (Vice Chairman), McKown, Moreland, Nelson, Susman, Ward, Williams, Gilligan, Harman, Hubbard, Poffenbarger and Sayre.

INTERSTATE COOPERATION

Gainer (Chairman), Moreland (Vice Chairman), Neeley, Nelson, Susman, Bowers and Deem. The President is a non-voting member.

JUDICIARY

Brotherton (Chairman), Ward (Vice Chairman), Barnett, Fanning, Gainer, Hedrick, Holliday, Moreland, Neeley, Nelson, Palumbo, Tompos, Wallace, Gilligan, Hubbard, Knapp, Poffenbarger and Sayre.
SENATE COMMITTEES

LABOR
Tompos (Chairman), Sharpe (Vice Chairman), Dillon, Holliday, Neeley, Ward, Bowers, Harman and Wolfe.

LOCAL GOVERNMENT
Moreland (Chairman), Dillon (Vice Chairman), Fanning, Nelson, Ward, Poffenbarger, Rogers and Wolfe.

MILITARY
Williams (Chairman), Hedrick (Vice Chairman), Fanning, Holliday, Moreland, Palumbo, Harman, Knapp and Poffenbarger.

MINES AND MINING
Hedrick (Chairman), Hylton (Vice Chairman), Brotherton, Fanning, Gainer, Williams, Bowers and Deem.

NATURAL RESOURCES
Gainer (Chairman), Fanning (Vice Chairman), Barnett, Beall, Galperin, Hedrick, Hylton, Nelson, Palumbo, Susman, Bowers, Deem, Hubbard and Wolfe.

PUBLIC INSTITUTIONS
Sharpe (Chairman), Holliday (Vice Chairman), Beall, Hylton, Tompos, Wallace, Gilligan, Harman, Knapp and Leonard.

RULES
McCourt, Mr. President (Chairman ex officio), Brotherton, Gainer, McKown, Moreland, Palumbo, Deem, Hubbard and Wolfe.

TRANSPORTATION
Barnett (Chairman), Dillon (Vice Chairman), Beall, Gainer, Hedrick, Hylton, Moreland, Neeley, Palumbo, Sharpe, Wallace, Williams, Bowers, Deem, Knapp, Poffenbarger, Rogers and Wolfe.

JOINT COMMITTEES

ENROLLED BILLS
Beall (Chairman), Holliday, Palumbo, Leonard and Sayre.

GOVERNMENT AND FINANCE
McCourt, Mr. President (Chairman ex officio), Barnett, Brotherton, McKown, Sharpe, Hubbard and Wolfe.

JOINT RULES
McCourt, Mr. President (Chairman ex officio), Brotherton and Hubbard.
STANDING COMMITTEES OF THE
HOUSE OF DELEGATES

Regular Session, 1972

AGRICULTURE AND NATURAL RESOURCES

Hawse (Chairman), Queen (Vice Chairman), Ballouz, Belknap, Bowman, Cline, Colombo, Donley, Edgar, Fitzgerald, Goodwin, Hatfield, Holt, McKenzie, Merritt, Reed, Withrow, Broyles, Butcher, Moats (of Taylor), Mulneix, Ours, Polen, Shaffer and Terry.

BANKING AND INSURANCE

Hager of Lincoln (Chairman of Banking), Cookman (Chairman of Insurance), Laulis (Vice Chairman), Albright, Belknap, Bowman, Cline, Crandall, Fantasia, Hager (of Logan), Hatfield, Hawse, Myles, Pauley, Shingleton, Tucker, Wanstreet, Beneke, Broyles, Buck, Calendine, Paterno, Romine, Teets and Zakaib.

CONSTITUTIONAL REVISION

Huffman (Chairman), Dinsmore (Vice Chairman), Albright, Auvil, Ballouz, Boiarsky, Christian, Laulis, Neely, Paul, Perry, Richardson, Scott, Stalnaker, Underwood, White (of Cabell), Whitlow, Copenhaver, Jones (of Kanawha), Jones (of Roane), Mulneix, Potter, Rogerson, Smirl and Stone.

EDUCATION

Lohr (Chairman), Goodwin (Vice Chairman), Boiarsky, Colombo, Cookman, Davidson, Donley, Given (of Kanawha), Hager (of Logan), Kincaid, McKenzie, Merritt, Moore, Paul, Rollins, Toney, Wilson, Beneke, Calendine, Harman, Jones (of Monongalia), Lilly, Moats (of Taylor), Moats (of 6th District) and Shaffer.

FINANCE

Burke (Chairman), Fantasia (Vice Chairman), Colombo, Crandall, D'Aurora, Edgar, Farley, Griffith, Hager (of Logan), Kincaid, Neely, Perry, Reed, Richardson, Rutledge, Tucker, Withrow, Buck, Grewe, Herndon, Kopelman, Ours, Rogerson, Romine and Terry.

HEALTH AND WELFARE

Withrow (Chairman), D'Aurora (Vice Chairman), Ballouz, Colombo, Cookman, Davidson, Fitzgerald, Griffith, Lohr, Merritt, Moore, Rutledge, Shingleton, Stalnaker, Wanstreet, White (of Boone), Wilson, Calendine, Daugherty, Lilly, Moats (of 6th District), Paterno, Polen, Romine and Shaffer.
HOUSE COMMITTEES

INDUSTRY AND LABOR

Kopp (Chairman), D'Aurora (Vice Chairman), Boiar sky, Colombo, Fantasia, Gilliam, Given (of Kanawha), Goodwin, Griffith, Hager (of Lincoln), Hatfield, Holt, McKenzie, Moore, Varney, White (of Boone), Whitlow, Beneke, Butcher, Copenhaver, Harman, Jones (of Monongalia), Kopelman, Shaffer and Terry.

INTERSTATE COOPERATION

Hager of Logan (Chairman), Edgar, Fantasia, Kopp, Loop, Buck and Potter. The Speaker is a nonvoting member.

JUDICIARY

Steptoe (Chairman), Sparacino (Vice Chairman), Albright, Christian, Davidson, Dinsmore, Given (of Webster), Huffman, Kopp, Loop, McGraw, Myles, Queen, Scott, Underwood, Varney, White (of Cabell), Daugherty, Field, Jones (of Kanawha), Jones (of Roane), Polen, Potter, Stone and Zakaib.

POLITICAL SUBDIVISIONS

Dinsmore (Chairman), Varney (Vice Chairman), Ball, Chambers, Farley, Kincaid, Laulis, McGraw, Neely, Pauley, Rollins, Stalmaker, Toney, Underwood, White (of Boone), White (of Cabell), Wilson, Grewe, Herndon, Jones (of Monongalia), Polen, Rogerson, Smirl, Stone and Zakaib.

REDISTRICTING

Perry (Chairman), Loop (Vice Chairman), Burke, Chambers, Cline, Dinsmore, Edgar, Fantasia, Farley, Given (of Kanawha), Hager (of Lincoln), Kopp, Lohr, Pauley, Rollins, Sparacino, Tucker, Beneke, Buck, Butcher, Field, Jones (of Kanawha), Ours, Teets and Terry.

ROADS AND TRANSPORTATION

Bowman (Chairman), Wanstreet (Vice Chairman), Ball, Belknap, Christian, Cline, Davidson, Donley, Fitzgerald, Gilliam, Hager (of Lincoln), Hawse, Holt, Pauley, Reed, Scott, Singleton, Buck, Butcher, Copenhaver, Harman, Herndon, Moats (of 6th District), Paterno and Zakaib.

RULES

McManus (ex officio Chairman), Burke, Edgar, Kopp, Lohr, Myles, Perry, Steptoe, Buck, Jones (of Kanawha), Ours and Seibert.

STATE AND FEDERAL AFFAIRS

Edgar (Chairman), Crandall (Vice Chairman), Chambers, Fantasia, Gilliam, Given (of Webster), Loop, McGraw, McKenzie, Paul, Queen, Reed, Richardson, Singleton, Sparacino, Toney, Whitlow, Butcher, Harman, Mulneix, Potter, Smirl, Stone, Teets and Zakaib.
ERRATA

A transposition by the printer resulted in an error in line 5, Account No. 286, Chapter 7, Page 39. The line should read “Statewide Testing Program $176,000.00.”
AN ACT to amend and reenact section five, article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enforcement of certain liens.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-5. Enforcement of certain liens.

1 No lien reserved on the face of any conveyance of real estate, or lien created by any trust deed or mortgage on real estate, shall be valid or binding as a lien on such real estate, after the expiration of twenty years from the date on which the debt or obligation secured thereby becomes due, unless suit to enforce the same shall have been instituted prior to the expiration of such period. If any debt or obligation incurred or maturing subsequent to the debt or obligation secured by a lien reserved on the face of any conveyance of real estate, or lien created by any trust deed or mortgage on real estate, be also secured, in whole or in part, by the same lien, such lien shall continue to be valid and binding as a lien on such real estate
for a period of twenty years from the date on which such
subsequent debt or obligation secured by such lien be-
comes due, but not thereafter unless suit to enforce the
same shall have been instituted prior to the expiration of
such period. No extension of the original time of payment
of such debt or obligation, or renewal of any note or
other evidence of indebtedness secured by such lien, or
provision for such extension or renewal in such convey-
ance, trust deed or mortgage, shall operate to extend the
limitation of twenty years hereinbefore provided: Pro-
vided, That the lien reserved or created as aforesaid shall
continue to be valid and be enforceable, if, prior to the
expiration of the original period of limitations, the vendor
or the mortgagee or the trustee or beneficiary, or their
successors or assigns, shall execute and cause to be re-
corded in the office where the lien instrument was re-
corded an affidavit setting forth the unpaid balance of
the debt and interest secured by such lien instrument.
Upon the filing of such affidavit the lien of the lien instru-
ment shall continue and be enforceable for an additional
period of twenty years from the date of the filing of such
affidavit unless sooner released, and the clerk of the court
shall cause the extension affidavit to be recorded and in-
dexed in the same manner as the lien instrument and
shall note the fact of filing such extension affidavit on the
margin of the page where such lien instrument is record-
ed. Such affidavit shall recite the book and page of re-
cordation of the deed, deed of trust or mortgage. The
provisions of this section shall apply, with like effect, to
every such lien now existing, as well as to every such
lien hereafter reserved or created.

CHAPTER 2

(House Bill No. 506—By Mr. Steptoe)

(Passed March 10, 1972; in effect ninety days from passage. Approved by the
Governor.)

AN ACT to amend and reenact section twenty-one, article two,
chapter forty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to raising the amount preferably payable for funeral expenses; raising the amount preferably allowable for claims of physicians, accounts of druggists, claims of professional nurses and accounts of hospitals and sanitariums; requiring the excess of amounts preferably paid for funeral expenses and physicians, druggists, professional nurses and hospitals and sanitariums to be paid only if the commissioner of accounts determines them to be reasonable and to have been necessarily incurred.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, 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.

§44-2-21. Order in which debts of decedent to be paid.

1 When the assets of the decedent in the hands of his personal representative, after the payment of charges of administration, are not sufficient for the satisfaction of all demands against him, they shall be applied in the following order:

6 (a) To the payment of funeral expenses, to an amount not exceeding six hundred dollars;

(b) To the claims of physicians, not exceeding one hundred dollars, for services rendered during the last illness of the decedent; and accounts of druggists, not exceeding the same amount, for articles furnished during the same period; and claims of professional nurses or other person rendering service as nurse to the decedent, at his request or the request of some member of his immediate family, not exceeding the same amount, for services rendered during the same period; and accounts of hospitals and sanitariums, not exceeding the same amount, for articles furnished and services rendered during the same period;

(c) To debts due the United States;

(d) To debts due this state;
To taxes and levies assessed upon the decedent previous to his death;

(f) To debts due as trustee for persons under disabilities, as receiver or commissioner under decree of court of this state, as personal representative, guardian, committee or other fiduciary, where the qualification was in this state;

(g) To the balances on any items listed in subdivisions (a) and (b) hereof but only to the extent that they are determined by the commissioner of accounts to be reasonable in amount and to have been necessarily incurred, and to all other demands except those in the next class;

(h) To voluntary obligations.

CHAPTER 3

(House Bill No. 508—By Mr. Steptoe)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article fourteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to substitution of trustees by circuit court or judge for trustee in deed, will or other writing.

Be it enacted by the Legislature of West Virginia:

That section one, article fourteen, 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 14. SUBSTITUTION OF TRUSTEES; POWERS OF SURVIVING OR REMAINING TRUSTEES.

§44-14-1. By circuit court or judge, for trustee in deed, will or other writing; appointment of ancillary trustee under certain circumstances.

1 When the trustee, or, if there is more than one trustee, one or more of the trustees, in any will, deed or other writing, die or remove beyond the limits of this state, or
4 decline to accept the trust, or having accepted, resign the 
5 same, or refuse to act as trustee, or be unable due to phys-
6 ical or mental disability to perform his or their duties un-
7 der the trust, the circuit court of the county in which such 
8 will was admitted to probate, or such deed or other writing 
9 is or may be recorded, or the judge of such court in vaca-
10 tion, may, on motion of any party interested, and upon 
11 satisfactory evidence of such death, removal, declination, 
12 resignation, refusal or inability, appoint a trustee or trus-
13 tees in the place of the trustee or trustees named in such 
14 instrument and so dying, removing, declining, resigning or 
15 refusing, or being unable to perform his or their duties 
16 under the trust.

If any such trust, other than a security trust, include 
real property situate in this state, and the trustee, or, if 
there be more than one trustee, one or more of the trus-
tees, appointed by or under the will, deed or other 
writing creating such trust and required under the pro-
visions thereof to act in respect of such real property, 
be a corporation or association chartered under the laws 
of any other state or jurisdiction which is not qualified 
under the laws of this state to hold property or transact 
business in this state, and refuses or is unable to so qual-
ify, such court, or the judge thereof in vacation, may in 
like manner appoint an ancillary trustee of such trust to 
act with respect to such real property situate in this state 
pursuant to, and with all the powers and authorities 
granted to the trustee or trustees of such trust by, the 
 provision of the will, deed or other writing creating such 
trust.

CHAPTER 4
(House Bill No. 594—By Mr. Burke)

[Passed February 23, 1972; in effect ninety days from passage. Approved by the 
Governor.]

AN ACT to amend and reenact sections two, three, four, five, 
seven, eight, ten, thirteen and fourteen, article twelve,
chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insect pests, plant diseases and noxious weeds.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, seven, eight, ten, thirteen and fourteen, article twelve, 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 12. INSECT PESTS, PLANT DISEASES AND NOXIOUS WEEDS.

§19-12-2. Definitions.
§19-12-3. Commissioner to enforce article; powers and duties generally.
§19-12-4. Detection and abundance surveys; findings of commissioner; eradication and suppression.
§19-12-5. Rules and regulations for eradication, etc., of plant pests and other insects and noxious weeds; enjoining violations of article or rules and regulations.
§19-12-7. Infected or infested nursery stock, articles or materials subject to seizure, etc.
§19-12-8. Right of entry on premises.
§19-12-10. Inspection of nurseries; orders of commissioner as to eradication or control of infestation.
§19-12-13. Inspection of plants, etc., by commissioner upon request; certificate stating results of inspection.
§19-12-14. Permit required to sell, transport, etc., plant pests or noxious weeds.

§19-12-2. Definitions.

1 The following definitions shall apply in the interpretation and enforcement of this article. All words shall be construed to import either the plural or the singular, as the case demands:

(a) “Department” means the department of agriculture of the state of West Virginia.
(b) “Commissioner” means the commissioner of agriculture of the state of West Virginia and his duly authorized representatives.
(c) “Agent” means any person soliciting orders for nursery stock under the partial or full control of a nurseryman or dealer.
(d) “Dealer” means any person not a grower of nursery stock, who buys, receives on consignment or other-
Ch. 4] AGRICULTURE

wise acquires and has in his possession nursery stock for
the purpose of offering or exposing for sale, reselling, re-
shipping or distributing same. Each separate location shall
constitute a dealership.

(e) "Nursery" means any grounds or premises on or
in which nursery stock is being propagated or grown for
sale or distribution, including any grounds or premises on
or in which nursery stock is being fumigated, treated,
packed or stored or otherwise prepared or offered for sale
or movement to other localities.

(f) "Nurseryman" means and includes any person who
owns, leases, manages or is in charge of a nursery.

(g) "Nursery stock" means all trees, shrubs and woody
vines, including ornamentals, bush fruits, grapevines, fruit
trees and nut trees, whether cultivated, native or wild,
and all buds, grafts, scions, fruit pits and cuttings from
such plants. It also means sod, including sod plugs and
sod-producing plants, and such herbaceous plants, includ-
ing strawberry plants, narcissus plants and narcissus
bulbs as the commissioner declares by regulation to be so
included whenever he considers control of the movement
of such plants and bulbs necessary for the control of any
destructive plant pest. Florists' or greenhouse plants for
inside culture or use, unless declared otherwise by the
commissioner, as herein authorized, shall not be consid-
ered nursery stock, except that all woody plants, whether
greenhouse or field grown, if for outside planting, are
hereby defined as nursery stock.

(h) "Person" means any individual or combination of
individuals, partnership, corporation, company, society, as-
association, governmental organization, or other business
ty and each officer, agent or employee thereof.

(i) "Plant and plant products" means trees, shrubs,
vines; forage, fiber, cereal plants and all other plants;
cuttings, grafts, scions, buds and lumber and all other
parts of plants; and fruit, vegetables, roots, bulbs, seeds,
wood, lumber and all other parts of plants and plant
products.
(j) "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants.

(k) "Host" means any plant or plant product upon which a pest is dependent for completion of any portion of its life cycle.

(l) "Regulated article" means any article of any character, as described in the quarantine or other order of the commissioner carrying or capable of carrying a pest.

(m) "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with a pest.

(n) "Permit" means a document issued or authorized by the commissioner to provide for a movement of regulated articles to restricted destinations for limited handling, utilization or processing.

(o) "Noxious weed" means rosa multiflora commonly known as multiflora rose or parts thereof; cannabis sativa L. commonly known as marihuana or any parts thereof and opium poppy or any parts thereof.

(p) "Infected area" means any area of uncontrolled growth of plant pests, other insects or noxious weeds, and any area of cultivated or controlled growth of cannabis sativa L., commonly known as marihuana, or of opium poppy.

(q) "Quarantine" means a legal declaration by the commissioner which specifies:

(1) The noxious weeds.
(2) The articles to be regulated.
(3) Conditions governing movement.
(4) The area or areas quarantined.
(5) Exemptions.
§19-12-3. Commissioner to enforce article; powers and duties generally.

(a) It shall be the duty of the commissioner to exercise the powers and duties imposed upon him by this article for the purpose of protecting agricultural, horticultural and other interests of the state from plant pests or other insects and noxious weeds and for this purpose he is hereby authorized and empowered to promulgate such rules and regulations as are necessary to effectively eradicate, suppress or control plant pests or other insects or noxious weeds or to retard the dissemination of plant pests or other insects or noxious weeds as far as may be practical and to employ or contract with such persons as may be appropriate.

(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.

§19-12-4. Detection and abundance surveys; findings of commissioner; eradication and suppression.

The commissioner shall cause detection and abundance surveys to be made for plant pests or other insects or noxious weeds of a highly injurious nature that may be present in the state to determine the necessity for establishing control practices. When the commissioner determines that a new and dangerous plant pest or other insect or noxious weed exists within the state or that an established pest or weed requires control and the nature of the pest or weed dictates immediate action, he shall proceed with a plan of eradication or suppression.

§19-12-5. Rules and regulations for eradication, etc., of plant pests and other insects and noxious weeds; enjoining violations of article or rules and regulations.

The commissioner may promulgate rules and regulations under which he may proceed to eradicate or suppress
and prevent the dissemination of plant pests or other insects or noxious weeds as far as may be practical and such rules and regulations as are necessary to carry out the purpose of this article. Any person violating any of the provisions of this article or any rules or regulations promulgated thereunder may be enjoined from continuing such violation or violations upon proper application to the circuit court of any county, and a judge thereof shall not require a bond as a condition precedent to the issuance of the injunction.

§19-12-7. Infected or infested nursery stock, articles or materials subject to seizure, etc.

The commissioner is hereby authorized to stop the delivery of, destroy, stop sale, to seize, to treat or to order returned to point of origin, at the owner's expense, any nursery stock or any article or material whatsoever transported or moved within this state or being transported into this state from any place outside thereof, if such nursery stock, article or material is found by him to be infested or infected with any dangerous plant pest or other insect or noxious weed or is in violation of any part of this article whether or not there is attached a valid certificate of inspection.

§19-12-8. Right of entry on premises.

To effectuate the purpose of this article, the commissioner is hereby invested with authority, during reasonable working hours, to enter upon any public or private premises, except private residences, to examine and sample all plants and trees, soil, articles, and substances which are suspected of being infested or infected with dangerous plant pests or other insects or noxious weeds in discharge of the duties prescribed by this article. No person shall obstruct or hinder him in the discharge of his duties.

§19-12-10. Inspection of nurseries; orders of commissioner as to eradication or control of infestation.

All stock in custody of any dealer or person shall be subject to inspection. It shall be the duty of the commiss-
The commissioner may order the owner or any person in charge of any infested or infected nursery stock or other nursery material, article or host plants, including soil, to take such necessary measures as will eradicate or control the said infestation or infection as he may deem necessary or proper. Such owner or person in charge shall carry out the order of the commissioner within the period of time designated in the order. If such owner or person in charge shall refuse or fail to carry out any such order, the commissioner may cause to be performed such eradication or control measures as are required by the order which shall be at the expense of the owner or person in charge.

§19-12-13. Inspection of plants, etc., by commissioner upon request; certificate stating results of inspection.

Any person growing or possessing any plants or plant products or any other substance, material or thing may apply to the commissioner for a special inspection for the purpose of determining the presence of plant pests or noxious weeds which might prevent the movement or use of same. The expenses incurred in making the inspection shall be paid by the person making such request. The commissioner may comply with such request and shall issue to the person requesting an inspection a certificate stating the results of the inspection.

§19-12-14. Permit required to sell, transport, etc., plant pests or noxious weeds.

No person shall sell, barter, expose, offer for sale or move, transport, deliver, ship or offer for shipment into or within this state any plant pest or other insects or noxious weeds in any living stage without first obtaining a permit from the commissioner. Such permit shall be issued only after it has been determined that the plant pests or other insects or noxious weeds are not injurious, are generally present already or are for scientific purposes subject to specified safeguards.
AN ACT to repeal section eight, article seven, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections four, six, seven, ten, eleven and twelve of said article seven; and to further amend said article seven by adding thereto a new section, designated section thirteen-a, relating to alcoholic liquors and licenses for private clubs for the sale thereof; providing that a license to operate a private club of a specified type shall not be issued to applicants who discriminate because of race or color; increasing the amount of the bond required for a license to operate a private club; changing the state fees required for a license to operate a private club; providing for the payment of the annual state license fees; relating to the municipal fees for private clubs located within the corporate limits of such municipality; repealing the bottle tax imposed upon alcoholic liquor sold in private clubs and provisions with respect to a bottle marker, stamp or designation in connection therewith; relating to the powers and duties of the alcohol beverage control commissioner and his duly authorized agents with respect to private clubs; specifying certain prohibited acts; providing criminal penalties; and providing for reports of violations to county prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That section eight, article seven, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections four, six, seven, ten, eleven and twelve of said article seven be amended and reenacted; and that said article seven be further amended by adding thereto a new section, designated section thirteen-a, all to read as follows:
ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-4. Application for license; information required; verification; application to be accompanied by fees; bond; college fraternities and sororities ineligible for license; racial discrimination by applicants.

§60-7-6. Annual license fee; partial fee.
§60-7-7. Municipal fee.
§60-7-10. Duties and powers of commissioner.
§60-7-11. Licensee must purchase alcoholic liquors from or through commissioner.
§60-7-12. Certain acts of licensee prohibited; penalties.
§60-7-13a. Commissioner to report violations to prosecuting attorney.

§60-7-4. Application for license; information required; verification; application to be accompanied by fees; bond; college fraternities and sororities ineligible for license; racial discrimination by applicants.

(a) Application for a license to operate a private club shall be made on such form as may be prescribed by the commissioner and shall include:

(1) The name of the applicant;
(2) If such applicant be an unincorporated association, the names and addresses of the members of its governing board;
(3) If such applicant be a corporation, the names and addresses of its officers and directors;
(4) The place at which such applicant will conduct its operations and whether the same is owned or leased by the applicant;
(5) The number of members of the applicant;
(6) The name or names of any national organizations with which applicant is affiliated and the nature of such affiliation;
(7) The size and nature of the dining and kitchen facilities operated by applicant; and
(8) Such other information as the commissioner may reasonably require which shall include, but not be limited to, the criminal records, if any, of each member of the applicant’s governing board and/or its officers and directors who have been convicted of a felony or a crime involving moral turpitude.

(b) Such application shall be verified by each member of the governing board of the applicant if an unin-
corporated association or, if the applicant be a corpora-
tion, by each of its officers and all members of its board
of directors. Such application shall be accompanied by
the license fee hereinafter prescribed and by a bond of
the applicant in the penal sum of five thousand dollars
with a corporate surety authorized to transact business
in the state of West Virginia, payable to the state of
West Virginia, which bond shall be conditioned on the
payment of all fees herein prescribed and on the faithful
performance of and compliance with the provisions of
this article.

(c) Under no circumstance shall any college fraternity
or sorority be issued a license to operate a private club.

(d) No license to operate a private club will be issued
to applicants who discriminate against any person or
group of persons because of race or color of such person
or group of persons except clubs as defined in clauses (1)
and (2), subdivision (a), section two of this article.

§60-7-6. Annual license fee; partial fee.

(a) The annual license fee for a license issued under
the provisions of this article to a fraternal or veterans
organization or a nonprofit social club shall be seven
hundred fifty dollars.

(b) The annual license fee for a license issued under
the provisions of this article to a private club other than
a private club of the type specified in subsection (a)
of this section shall be one thousand dollars if such pri-
vate club has less than one thousand members and two
thousand five hundred dollars if such private club has
one thousand or more members.

(c) The fee for any such license issued following the
first day of January of any year and to expire on the
thirtieth day of June of such year shall be one half of
the annual license fee prescribed by subsections (a) and
(b) of this section six.

(d) All such fees shall be paid by the commissioner
to the state treasurer and credited to the general revenue
fund of the state.
§60-7-7. Municipal fee.

Any municipality in this state is hereby authorized to levy a fee for revenue purposes only upon any licensee whose premises are situate within such municipality, which fee shall not exceed one half the amount of the license fee levied by this state under the provisions of section six of this article. Any such municipality is hereby authorized and empowered to enact and adopt ordinances necessary for the collection and enforcement of such fee.

§60-7-10. Duties and powers of commissioner.

The commissioner is hereby authorized:

(a) To enforce the provisions of this article.

(b) To enter the premises of any licensee at reasonable times for the purpose of inspecting the same, and determining the compliance of said licensee with the provisions of this article and any rules and regulations promulgated by the commissioner pursuant to the provisions of this article.

(c) To promulgate such reasonable rules and regulations as may be necessary for the execution and enforcement of the provisions of this article, which may include but shall not be limited to the hours during which licensees may sell alcoholic liquors, and the use, handling, service and sale of such alcoholic liquors. Such rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of the code in like manner as if said article three of said chapter twenty-nine-a were set forth in extenso in this subdivision.

(d) To issue subpoenas and subpoenas duces tecum for the purposes of conducting hearings under the provisions of section thirteen of this article, which subpoenas and subpoenas duces tecum shall be issued in the time, for the fees, and shall be enforced in the manner specified in section one, article five, chapter twenty-nine-a of this code with like effect as if said section one were set forth in extenso in this subdivision.
ALCOHOLIC LIQUORS

The authority granted in subdivisions (a), (b), and (d) of this section may also be exercised by the duly authorized agents of the commissioner.

§60-7-11. Licensee must purchase alcoholic liquors from or through commissioner.

All licensees shall purchase all alcoholic liquors sold by them from the West Virginia alcohol beverage control commissioner at prices established by such commissioner for sales of such alcoholic liquors to the public generally.

§60-7-12. Certain acts of licensee prohibited; penalties.

(a) It shall be unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell or offer for sale any alcoholic liquors other than from the original package or container;

(2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice; gambling or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine;

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any alcoholic liquors, for any minor, mental incompetent, or person who is physically incapacitated due to the consumption of alcoholic liquor, or the use of drugs;

(4) Sell, give or dispense alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of three o'clock a.m. and one o'clock p.m. on any Sunday;

(5) Permit the consumption by, or serve to, on the licensed premises any alcoholic liquors, covered by this article, to any person under the age of twenty-one years;

(6) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(7) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues pay-
28 ing member in good standing of said private club or a
29 guest of such member; or
30 (8) Violate any reasonable rule or regulation of the
31 commissioner.
32 (b) It shall further be unlawful for any licensee to
33 advertise in any news media or other means, outside of
34 the licensee's premises, the fact that alcoholic liquors
35 may be purchased thereat.
36 (c) Any person who violates any of the foregoing
37 provisions shall be guilty of a misdemeanor, and, upon
38 conviction thereof, shall be punished by a fine of not less
39 than one hundred dollars nor more than five hundred
40 dollars, or by imprisonment in the county jail for a
41 period not to exceed one year, or by both fine and im-
42 prisonment.

§60-7-13a. Commissioner to report violations to prosecuting
attorney.

1 The commissioner shall report violations of any of the
2 provisions of section twelve of this article to the prosecut-
3 ing attorney of the county in which the licensed premise
4 is located.

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CHAPTER 6

(House Bill No. 1149—By Mr. Myles)

[Passed March 9, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four and fourteen,
article four, chapter fifty-eight of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
relating to appeals from, or writs of error or supersedeas
to, any judgment, decree or order rendered or made by a
court of record of limited jurisdiction; requiring a notice
of intent in criminal cases to be filed within sixty days
after judgment is entered by a court of record of limited
jurisdiction; relating to contents of notice of intent; re-
lating to process upon any such appeal, writ of error or
supersedeas; and relating to time for presentation of record and the giving of bond in any such case.

Be it enacted by the Legislature of West Virginia:

That sections four and fourteen, article four, 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 4. APPEALS FROM COURTS OF RECORD OF LIMITED JURISDICTION.

§58-4-4. Time for appeal or writ of error; notice of intent to file petition in criminal cases to be filed with clerk stating grounds.

§58-4-14. Time for presenting record and giving bond.

§58-4-4. Time for appeal or writ of error; notice of intent to file petition in criminal cases to be filed with clerk stating grounds.

1 No petition shall be presented 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 limited jurisdiction, 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: Provided, That for good cause shown the judge of such court of limited jurisdiction may, prior to the expiration of such period of four months, by order entered of record extend such period for an additional period not to exceed one month.

12 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 after 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.

§58-4-14. Time for presenting record and giving bond.

1 No process shall issue upon any appeal, writ of error or supersedeas allowed by a circuit court or judge to or from a judgment, decree or order, if, when the record is delivered to the clerk of the circuit court, four months
(or the extended period, if any, allowed by order pur-
suant to section four of this article) shall have elapsed
since the date of such judgment, decree or order; but the
appeal, writ of error or supersedeas shall be dismissed
whenever it appears that four months or the extended
period, if any, as the case may be, has elapsed since
such date before the record is delivered to such clerk,
or that two months have elapsed since the date when the
appeal, writ of error or supersedeas was granted before
such bond is given as is required to be given before the
appeal, writ of error or supersedeas takes effect.

CHAPTER 7
(Com. Sub. for Senate Bill No. 44—Originating in the
Senate Committee on Finance)

[Passed March 12, 1972; in effect from passage. Approved by the Governor
March 16, 1972, after reducing three items and deleting two items and a portion
of another. For details of the action of the Governor on this bill, see his
communication to the Secretary of State, dated 3/16/72, in the House Journal
of March 11, 1972.]

AN ACT making appropriations of public moneys 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.
§1. General policy.
§2. Definitions.
§3. Classification of appropriations.

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

1 Sec. 2. Definitions.—For the purpose of this act:
2 "Governor" shall mean the Governor of the State of West
3 Virginia;
4 "Spending Unit" shall mean the department, agency or
5 institution to which an appropriation is made;
6 The "fiscal year one thousand nine hundred seventy-
7 three" shall mean the period from July first, one thousand
8 nine hundred seventy-two through June thirtieth, one
9 thousand nine hundred seventy-three;
10 "From collections" shall mean that part of the total ap-
11 propriation which must be collected by the spending unit
12 to be available for expenditure. If the authorized amount
13 of collections is not collected, the total appropriation for
14 the spending unit shall be reduced automatically by the
15 amount of the deficiency in the collection. If the amount
16 collected exceeds the amount designated "from collections"
17 the excess shall be set aside in a special surplus fund and
18 may be expended for the purpose of the spending unit as
19 provided by Chapter 5-A, Article 2 of the Code of West
20 Virginia.

1 Sec. 3. Classification of Appropriations.—An appro-
2 priation for:
3 "Personal Services" shall be expended only for the pay-
4 ment of salaries, wages, fees and other compensation for
5 skill, work, or employment, except from the appropriations
6 made to the spending units of State Government, there
7 may be transferred upon approval of the Governor, to a
8 special account an amount sufficient to match Federal
9 Funds under any Federal Acts.
10 Unless otherwise specified, appropriations for personal
11 services shall include salaries of heads of spending unit;
12 "Current Expenses" shall be expended only for operating
13 cost other than personal services or capital outlay;
14 "Repairs and Alterations" shall include all expenditures
15 for materials, supplies and labor used in repairing and
16 altering buildings, grounds and equipment, other than personal service;

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

21 "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;

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

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

1 Sec. 4. Method of Expenditure.—Money appropriated by this act, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Chapter 12, Article 3 of the Code of West Virginia, or according to any law detailing a procedure specifically limiting that article.

**TITLE 2. APPROPRIATIONS.**

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§4. Appropriations from surplus revenue.

§5. Awards for claims against the state.

§6. Legislative findings of fact claims.

§7. Special revenue appropriations.

§8. Specific funds and collection accounts.
§9. Appropriation for refunding erroneous payments.
§10. Sinking fund deficiencies.
§11. Appropriations from taxes and license fees.
§12. Appropriations to pay cost of publication of delinquent corporations.
§14. Total appropriations.
§15. General school fund.

1 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-A, Article 2 of the Code of West Virginia, the following amounts, as itemized, for expenditure during the fiscal year one thousand nine hundred seventy-three.

LEGISLATIVE
1—Senate
Acct. No. 101

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1971-72</td>
<td>Compensation and per diem of officers and attaches</td>
<td>$95,000.00</td>
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<tr>
<td>1972-73</td>
<td>Compensation of Members</td>
<td>$151,900.00</td>
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<tr>
<td></td>
<td>Compensation and per diem of officers and attaches</td>
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<tr>
<td></td>
<td>Expenses of Members</td>
<td>$113,500.00</td>
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<td></td>
<td>Current Expenses and Contingent Fund</td>
<td>$150,000.00</td>
</tr>
<tr>
<td></td>
<td>To pay cost of printing the 1972 edition of Blue Book</td>
<td>$55,000.00</td>
</tr>
</tbody>
</table>

8 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.
The appropriations for the Senate for the fiscal year 1971-72 are to remain in full force and effect, and are hereby reappropriated to June 30, 1973.

Any balances so reappropriated may be transferred and credited to the 1972-73 accounts.

Upon 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 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 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.

On and after the first day of July, one thousand nine hundred seventy-two, for duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary of twenty-five hundred dollars, payable from the amount appropriated for compensation and per diem of officers and attaches.

2—House of Delegates

Acct. No. 102

Compensation and per diem of officers and employees

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>1971-72</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$95,000.00</td>
</tr>
</tbody>
</table>
The appropriations for the House of Delegates for the fiscal year 1971-72 are to remain in full force and effect, and are hereby reappropriated to June 30, 1973. Any balances so reappropriated may be transferred and credited to the 1972-73 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 the same to be accompanied by bills to be filed with the Auditor.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in House Resolution No. 14, adopted January 21, 1972, payable from

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation of Members</td>
<td>415,900.00</td>
</tr>
<tr>
<td>Compensation and per diem of officers and employees</td>
<td>220,000.00</td>
</tr>
<tr>
<td>Expenses of Members</td>
<td>276,000.00</td>
</tr>
<tr>
<td>Current Expenses and Contingent Fund</td>
<td>170,000.00</td>
</tr>
</tbody>
</table>

*Fiscal Year*

1972-73
the contingent fund of the House of Delegates, and the full-time employees of the Clerk's office shall be paid at the salaries provided in said resolution.

The Speaker of the House of Delegates, upon recommendation of the Chairman of the Finance 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 requisitions upon the State Auditor, payable out of the appropriation for Contingent Expenses for such services.

3—Joint Expenses

Acct. No. 103

Fiscal Year 1971-72

1 To pay the cost of legislative printing $70,000.00

Fiscal Year 1972-73

1 To pay the cost of Legislative Printing $220,000.00
2 Commission on Interstate Cooperation $35,000.00
3 Joint Committee on Government and Finance 1,875,223.00
4 Other Legislative Committees 55,500.00

The appropriations for Joint Expenses for the fiscal year 1971-72 are to remain in full force and effect and are hereby reappropriated to June 30, 1973.

Any balances so reappropriated may be transferred and credited to the 1972-73 accounts.

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

JUDICIAL

4—Supreme Court of Appeals

Acct. No. 110

1 Salaries of Judges .................................. $ 175,000.00
2 Other Personal Services ............................... 249,648.00
3 Current Expenses ...................................... 47,500.00
4 Equipment ........................................... 5,000.00

5 Total .................................................. $ 477,148.00

5—Judicial Auditor's Office

Acct. No. 111

1 Salaries of Judges .................................. $ 856,000.00
2 Other Personal Services ............................... 174,400.00
3 Current Expenses ...................................... 45,400.00
4 Judges Retirement System ............................. 375,000.00
5 Criminal Charges ..................................... 600,000.00

6 Total .................................................. $ 2,050,800.00

7 This appropriation shall be administered by the State Auditor who shall draw his requisition for warrants in payments 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

1 Personal Services .................................... $ 67,147.00
2 Current Expenses ...................................... 9,500.00
3 Equipment ........................................... 45,000.00

4 Total .................................................. $ 121,647.00
7—Judicial Council
Acct. No. 118

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

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

1 Salary of Governor $ 31,242.00
2 Other Personal Services 143,240.00
3 Current Expenses 60,000.00
4 Equipment 15,000.00
5 Publication of Governor’s Papers and Inaugural Expense 80,000.00

7 Total $ 329,482.00

9—Governor’s Office—Custodial Fund
Acct. No. 123

1 Total $ 75,000.00

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

10—Governor’s Office—Civil Contingent Fund
Acct. No. 124

1 Total $ 400,000.00

2 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 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.
11—Governor's Office—Federal-State Coordination

Acct. No. 125

1 Total

$1,250,000.00

2 Any unexpended balance remaining in this account at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

12—Governor's Office—Disaster Relief—Federal Matching

Acct. No. 126

1 Total

$50,000.00

2 To match and aid Federal Programs, and any part of this appropriation may be transferred to any department for such purposes.

FISCAL

13—Auditor's Office—General Administration

Acct. No. 150

1 Salary of State Auditor

$21,237.00

2 Other Personal Services

554,780.00

3 Current Expenses

151,925.00

4 Equipment

13,000.00

5 Microfilm Program

10,000.00

6 Total

$750,942.00

14—Auditor's Office—Social Security

Acct. No. 151

1 To match contributions of state employees for social security

$4,500,000.00

3 The above appropriation is intended to cover the state's share of social security costs for those spending units operating from General Revenue Fund. The State Department of Highways, Department of Motor Vehicles, Workmen's Compensation Commission, Public Service Commission, and other
10 departments operating from Special Revenue Fund and/or Federal Funds shall pay their proportionate share of the social security cost for their respective divisions.

14 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

15—Treasurer’s Office

<table>
<thead>
<tr>
<th>Acct. No. 160</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Treasurer $20,968.00</td>
</tr>
<tr>
<td>2 Other Personal Services $181,220.00</td>
</tr>
<tr>
<td>3 Current Expenses $44,468.00</td>
</tr>
<tr>
<td>4 Equipment $9,500.00</td>
</tr>
<tr>
<td>5 Board of Investments $2,500.00</td>
</tr>
<tr>
<td>6 Total $258,656.00</td>
</tr>
</tbody>
</table>

16—Sinking Fund Commission

<table>
<thead>
<tr>
<th>Acct. No. 170</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services $36,618.00</td>
</tr>
<tr>
<td>2 Current Expenses $3,300.00</td>
</tr>
<tr>
<td>3 Equipment $1,500.00</td>
</tr>
<tr>
<td>4 Total $41,418.00</td>
</tr>
</tbody>
</table>

17—State Tax Department

<table>
<thead>
<tr>
<th>Acct. No. 180</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services $2,369,100.00</td>
</tr>
<tr>
<td>2 Current Expenses $1,574,530.00</td>
</tr>
<tr>
<td>3 Equipment $46,000.00</td>
</tr>
<tr>
<td>4 Circuit Breaker Reimbursement $200,000.00</td>
</tr>
<tr>
<td>5 Total $4,189,630.00</td>
</tr>
</tbody>
</table>

6 The above appropriation “Circuit Breaker Reimbursement” is to be used in accordance with Engrossed House Bill No. 751, 1972 Regular Session of the Legislature.
### Appropriations

**18—State Tax Department**  
**Property Appraisal**

Acct. No. 185

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$700,000.00</td>
</tr>
<tr>
<td>2 Other Expenses</td>
<td>$300,000.00</td>
</tr>
<tr>
<td>3 Reimbursement to Counties</td>
<td>$80,000.00</td>
</tr>
</tbody>
</table>

**Total** $1,080,000.00

5 The above appropriation “Reimbursement to Counties” is to be used pursuant to the provisions of Engrossed House Bill No. 1048, 1972 Regular Session of the Legislature.

9 Any balance remaining in the “Property Appraisal Account” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

### 19—State Commissioner of Public Institutions

Acct. No. 190

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>2 Salaries of Board Members—Board of Probation and Parole</td>
<td>$36,000.00</td>
</tr>
<tr>
<td>4 Other Personal Services</td>
<td>$484,900.00</td>
</tr>
<tr>
<td>5 Current Expenses</td>
<td>$135,900.00</td>
</tr>
<tr>
<td>6 Equipment</td>
<td>$4,500.00</td>
</tr>
</tbody>
</table>

**Total** $677,300.00

### 20—Department of Finance and Administration

Acct. No. 210

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$925,550.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$513,360.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$68,460.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$19,530.00</td>
</tr>
<tr>
<td>5 Postage</td>
<td>$290,000.00</td>
</tr>
<tr>
<td>6 Records Management</td>
<td>$49,000.00</td>
</tr>
<tr>
<td>7 Office of State Emergency Planning</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>8 State Agency Surplus Property</td>
<td>$53,000.00</td>
</tr>
<tr>
<td>9 Transportation Division—Vehicles</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>
10 Major Building Repairs ........................................ 200,000.00
11 Fire Service Fee .............................................. 75,000.00

12 Total .................................................................. $ 2,318,900.00

13 The Workmen's Compensation Commission, Department of Welfare, Public Service Commission, Department of Natural Resources, Department of Motor Vehicles, State Department of Highways, State Health Department and State Tax Department—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 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

Any unexpended balance remaining in "Major Building Repairs", at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73. Major Building Repairs to include
48 maintenance and repairs to Governor's Mansion.
49 State Department of Highways, shall reimburse the appropriation of the Department of Finance and Administration monthly for all actual expenses incurred pursuant to the provisions of Chapter 17, Article 2-A, Section 13 of the Code of West Virginia.
50 There also is appropriated for the State Agency for Surplus Property all sums of money collected by that agency from the sale of surplus state property which has been declared expendable by the director of the Purchasing Division, and a special account created for expenditure for the purchase of operating equipment.

21—State Board of Insurance

Acct. No. 225

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$19,920.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,900.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$600.00</td>
</tr>
<tr>
<td>4 Self-Insurance Fund</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>5 Combined Insurance Premiums</td>
<td>$1,100,000.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

7 The above appropriation on line five is for the purpose of paying premiums for fire, automobile and bonds for the various state agencies. Should this appropriation be insufficient to meet the premium requirements of the state spending units, any excess premium requirements shall be a proper charge against the units and each spending unit shall reimburse to the Board of Insurance any amounts required for that department for premiums in excess of this appropriation.
8 Any unexpended balance remaining in the appropriation for "Self-Insurance Fund"
at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73. Any or all of the funds appropriated for “Self-Insurance Fund” may be transferred to a special account for disbursement for payment of premiums.

LEGAL
22—Attorney General
Acct. No. 240

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Attorney General</td>
<td>$21,505.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$644,280.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$64,750.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$14,500.00</td>
</tr>
<tr>
<td>To protect the resources or tax structure of the State in controversies or legal proceedings</td>
<td>$3,250.00</td>
</tr>
<tr>
<td>Total</td>
<td>$748,285.00</td>
</tr>
</tbody>
</table>

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.

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

To pay expenses of members of the Commission on Uniform State Laws.

INCORPORATING AND RECORDING
24—Secretary of State
Acct. No. 250

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Secretary of State</td>
<td>$20,699.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$111,740.00</td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>3 Current Expenses</th>
<th>40,015.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Equipment</td>
<td>5,107.00</td>
</tr>
<tr>
<td>5 Produce and Distribute Training Film</td>
<td>25,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$202,961.00</strong></td>
</tr>
</tbody>
</table>

### Educational

#### 25—State Department of Education

<table>
<thead>
<tr>
<th>Acct. No. 277</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Teacher Education Program</td>
</tr>
</tbody>
</table>

#### 26—State Board of Education

<table>
<thead>
<tr>
<th>Acct. No. 278</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Early Childhood Demonstration</td>
</tr>
<tr>
<td>2 Early Childhood Ed. (Public Kindergarten)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

#### 27—West Virginia Board of Regents (Control)

<table>
<thead>
<tr>
<th>Acct. No. 279</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>2 Current Expenses</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
</tr>
<tr>
<td>4 Equipment</td>
</tr>
<tr>
<td>5 Oak Wilt Research</td>
</tr>
<tr>
<td>6 Veterinary Tuition</td>
</tr>
<tr>
<td>7 Educational T.V.</td>
</tr>
<tr>
<td>8 Bureau for Coal Research</td>
</tr>
<tr>
<td>9 Forestry Products</td>
</tr>
<tr>
<td>10 Regional Research Institute</td>
</tr>
<tr>
<td>11 Intensive Agriculture-Demonstration Trial</td>
</tr>
<tr>
<td>12 Individual Accreditation</td>
</tr>
<tr>
<td>13 New Programs</td>
</tr>
<tr>
<td>14 Center of Economic Action</td>
</tr>
<tr>
<td>15 Community and Development Research</td>
</tr>
<tr>
<td>16 Unclassified</td>
</tr>
<tr>
<td>17 Title I—Matching Funds</td>
</tr>
<tr>
<td>18 Awareness Program</td>
</tr>
</tbody>
</table>
### APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>Scholarship Program</td>
<td>$425,000.00</td>
</tr>
<tr>
<td>20</td>
<td>Facilities and Scholarship Administration</td>
<td>$47,630.00</td>
</tr>
<tr>
<td>21</td>
<td>Total</td>
<td>$66,808,473.00</td>
</tr>
</tbody>
</table>

#### 28—West Virginia Board of Regents

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$252,694.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$87,800.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$344,494.00</td>
</tr>
</tbody>
</table>

#### 29—West Virginia University—Medical School

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$3,786,825.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$1,299,955.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$214,775.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$350,420.00</td>
</tr>
<tr>
<td>5</td>
<td>Intern and Residency Support Programs for Community Hospitals</td>
<td>$300,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$5,951,975.00</td>
</tr>
</tbody>
</table>

8 To be transferred to the West Virginia University—Medical School Fund upon the requisition of the Governor.

#### 30—Department of Education

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$680,320.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$191,700.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$9,350.00</td>
</tr>
<tr>
<td>4</td>
<td>National Defense Education Act</td>
<td>$355,554.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$2,163,885.00</td>
</tr>
<tr>
<td>6</td>
<td>Safety Education—Aid to Counties</td>
<td>$135,000.00</td>
</tr>
<tr>
<td>7</td>
<td>State Aid to Children’s Home</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>8</td>
<td>Comprehensive Education Program</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
<td>$2,572,924.00</td>
</tr>
</tbody>
</table>
10 The above appropriation includes the State Board of Education and their executive offices.
13 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.

31—State Department of Education—School Lunch Program

Acct. No. 287

1 Personal Services .......................... $ 98,100.00
2 Current Expenses .................................. 19,510.00
3 Aid to Counties—Includes hot lunches and canning for hot lunches .................. 650,000.00

5 Total .................................................. $ 767,610.00

32—State Board of Education—Vocational Division

Acct. No. 289

1 Personal Services .......................... $ 126,945.00
2 Current Expenses .............................. 68,900.00
3 Equipment .................................. 2,050.00
4 Vocational Aid .................................. 378,335.00
5 Adult Basic Education ...................... 250,000.00

6 Total .................................................. $ 826,230.00

33—Educational Broadcasting Authority

Acct. No. 291

1 Personal Services .......................... $ 42,040.00
2 Current Expenses .............................. 29,020.00
3 Equipment .................................. 2,000.00
4 Regional ETV ................................ 1,135,192.00

5 Total .................................................. $ 1,208,252.00

6 For participation in the construction and operation of Regional ETV stations by Marshall University, Concord College, Bluefield
9 State College, West Virginia Institute of Technology and West Virginia State College and may be transferred to Special Revenue accounts for matching County and/or Federal Funds.

34—State Board of Education—Vocational Division
Acct. No. 293

1 To implement Vocational Education Act of 1963 P.L. 88-210 $ 2,250,000.00
2 The above appropriation includes $100,000.00 for Manpower Training.

35—State Board of Education—Vocational Division
Acct. No. 294

1 Total $ 150,000.00
2 Any unexpended balance remaining in the appropriation “Aid to Counties” at the close of the fiscal year 1971-72 is hereby re-appropriated for expenditure during the fiscal year 1972-73.

36—State Department of Education—State Aid to Schools
Acct. No. 295

1 State Aid to Schools $156,346,378.00

37—Department of Education—Aid for Exceptional Children
Acct. No. 296

1 Personal Services $ 47,645.00
2 Current Expenses 16,240.00
3 Out-of-State Instruction 100,000.00
4 Aid to Counties 2,000,000.00
5 Total $ 2,163,885.00
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.
38—Teachers Retirement Board

Acct. No. 298

1 Benefit Fund—Payments to Retired
2 Teachers $14,502,000.00
3 Employers' Accumulation Fund—To match contributions of members 3,525,000.00
4 Expense Fund 35,000.00
6 Total $18,062,000.00

39—West Virginia Schools for the Deaf and the Blind

Acct. No. 333

1 Personal Services $1,282,342.00
2 Current Expenses 237,139.00
3 Repairs and Alterations 63,850.00
4 Equipment 54,800.00
5 Environmental Replacement (Heating Conversion) 175,000.00
7 Total $1,813,131.00

8 Any unexpended balance remaining in the appropriation “Intermediate Classroom Dormitory Unit” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

40—State FFA-FHA Camp and Conference Center

Acct. No. 336

1 Personal Services $60,570.00
2 Current Expenses 10,000.00
3 Repairs and Alterations 14,950.00
4 Equipment 18,100.00
5 Total $103,620.00

41—Department of Archives and History

Acct. No. 340

1 Personal Services $89,275.00
2 Current Expenses 21,900.00
### Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Equipment</td>
<td>22,600.00</td>
</tr>
<tr>
<td>4 Total</td>
<td>133,775.00</td>
</tr>
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</table>

**42—West Virginia Library Commission**

Acct. No. 350

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>155,640.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>5,145.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>5,000.00</td>
</tr>
<tr>
<td>4 Books and Periodicals</td>
<td>31,480.00</td>
</tr>
<tr>
<td>5 To Match Federal Funds</td>
<td>410,000.00</td>
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<tr>
<td>6 Library Matching Fund</td>
<td>250,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>857,265.00</strong></td>
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</table>

8 Any unexpended balance remaining in the appropriation “Library Matching Fund” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

### Charities and Correction

**43—West Virginia Industrial School for Boys**

Acct. No. 370

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>695,720.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>234,800.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>59,150.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>30,160.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,019,830.00</strong></td>
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</table>

**44—Forestry Camp for Boys No. 1 (Davis)**

Acct. No. 371

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>158,473.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>99,050.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>15,300.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>21,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>294,123.00</strong></td>
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</table>
## 45—West Virginia Industrial Home for Girls

**Acct. No. 372**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$293,420.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$108,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$29,100.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$26,100.00</td>
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<tr>
<td>5 Vocational Training</td>
<td>$5,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$462,120.00</strong></td>
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## 46—West Virginia Forestry Camp No. 2 (Leckie)

**Acct. No. 373**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$156,076.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$108,465.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$15,225.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$22,050.00</td>
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<td><strong>Total</strong></td>
<td><strong>$301,816.00</strong></td>
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</table>

## 47—West Virginia State Prison for Women

**Acct. No. 374**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$79,974.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$43,715.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$9,000.00</td>
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<tr>
<td>4 Equipment</td>
<td>$7,500.00</td>
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<td><strong>Total</strong></td>
<td><strong>$140,189.00</strong></td>
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## 48—West Virginia Penitentiary

**Acct. No. 375**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,306,185.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$576,030.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$71,650.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$40,100.00</td>
</tr>
<tr>
<td>5 Repairs to Roof and Replacement of Windows and Sash (Security Windows)</td>
<td><strong>$158,700.00</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,643,585.00</strong></td>
</tr>
</tbody>
</table>
7 Replacement of Sanitary System (Sewers) and Construction of Boiler Plant $419,875.00

9 Total $2,572,540.00

Any or all of the accounts “Repairs to Roof and Replacement of Windows and Sash (Security Windows)”; “Replacement of Sanitary System (Sewers) and Construction of Boiler Plant” may be used to match and aid Federal Funds.

49—Huttonsville Correctional Center

Acct. No. 376

1 Personal Services $723,512.00
2 Current Expenses $225,750.00
3 Repairs and Alterations $36,750.00
4 Equipment $19,000.00

5 Total $1,005,012.00

50—West Virginia Children’s Home

Acct. No. 380

1 Personal Services $84,815.00
2 Current Expenses $51,180.00
3 Repairs and Alterations $14,000.00
4 Equipment $14,600.00

5 Total $164,595.00

51—Andrew S. Rowan Memorial Home

Acct. No. 384

1 Personal Services $451,570.00
2 Current Expenses $199,610.00
3 Repairs and Alterations $33,700.00
4 Equipment $40,150.00

5 Total $725,030.00
### HEALTH AND WELFARE

#### 52—State Health Department

<table>
<thead>
<tr>
<th>Acct. No. 400</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$900,600.00</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$137,695.00</td>
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<tr>
<td>3</td>
<td>Equipment</td>
<td>$22,515.00</td>
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<tr>
<td>4</td>
<td>Emergency Medical Services</td>
<td>$35,000.00</td>
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<tr>
<td>5</td>
<td>Cancer Control and Treatment</td>
<td>$200,000.00</td>
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<tr>
<td>6</td>
<td>Local Health Services</td>
<td>$1,000,000.00</td>
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<tr>
<td>7</td>
<td>Dental Clinics</td>
<td>$114,000.00</td>
</tr>
<tr>
<td>8</td>
<td>Heart Disease Control</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>9</td>
<td>Maternal and Child Health Mobile Medical Examination</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Clinic</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Home Health Services</td>
<td>$40,000.00</td>
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<tr>
<td>12</td>
<td>Mobile Chest X Ray &amp; Diagnostic Services</td>
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</tr>
<tr>
<td>13</td>
<td>for Tuberculosis Control</td>
<td>$80,000.00</td>
</tr>
<tr>
<td>14</td>
<td>Hospital and Medical Facilities Construction</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Program</td>
<td>$17,500.00</td>
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<tr>
<td>16</td>
<td>Special Project for Eradication of Tuberculosis</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td></td>
<td>$245,000.00</td>
</tr>
<tr>
<td>18</td>
<td>Environmental Health Services</td>
<td>$123,335.00</td>
</tr>
<tr>
<td>19</td>
<td>Nursing Home Inspection Unit</td>
<td>$76,000.00</td>
</tr>
<tr>
<td>20</td>
<td>Biologica l for Immunization and Vener al Disease</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td></td>
<td>$51,000.00</td>
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<tr>
<td>22</td>
<td>Total</td>
<td>$3,392,645.00</td>
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</table>

#### 52-a—Commission on Post-mortem Examination

<table>
<thead>
<tr>
<th>Acct. No. 401</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Total</td>
<td>$125,000.00</td>
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#### 53—Department of Veterans Affairs

<table>
<thead>
<tr>
<th>Acct. No. 403</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>In aid of Veterans Day Patriotic Exercises</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>2</td>
<td>To be expended subject to the approval of the</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Department of Veterans Affairs upon pres-</td>
<td></td>
</tr>
</tbody>
</table>
entation of satisfactory plans by the Graf- 
ton G.A.R. Post, American Legion, Vet- 
erans of Foreign Wars and Sons of 
Veterans.

54—Department of Veterans Affairs

<table>
<thead>
<tr>
<th>Account No. 404</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$269,270.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$70,800.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$5,100.00</td>
</tr>
<tr>
<td>4</td>
<td>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-seven</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$365,170.00</td>
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</tbody>
</table>

Any unexpended balance remaining in the appropriation “To Provide Educational Opportunities for Children of War Veterans” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

55—Department of Welfare

<table>
<thead>
<tr>
<th>Account No. 405</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$3,837,520.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$2,099,840.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$42,515.00</td>
</tr>
<tr>
<td>4</td>
<td>Public Assistance Grants (Classified Aid)</td>
<td>$16,300,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Child Welfare Services</td>
<td>$3,562,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Emergency Assistance Program</td>
<td>$1,350,000.00</td>
</tr>
<tr>
<td>7</td>
<td>Social Security Matching Fund</td>
<td>$281,685.00</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td>$27,473,560.00</td>
</tr>
</tbody>
</table>
## 56—State Commission on Aging

### Acct. No. 406

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$40,730.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$2,970.00</td>
</tr>
<tr>
<td>3 Programs for Elderly</td>
<td>$88,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$131,700.00</strong></td>
</tr>
</tbody>
</table>

## 57—Department of Welfare—Food Stamp and Government Donated Food

### Acct. No. 407

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,148,065.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$556,005.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$57,145.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,761,215.00</strong></td>
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## 58—Department of Welfare—Medical Programs

### Acct. No. 408

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,063,648.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$270,355.00</td>
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<tr>
<td>3 Equipment</td>
<td>$10,667.00</td>
</tr>
<tr>
<td>4 Direct Aid (Medical)</td>
<td>$9,820,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$11,164,670.00</strong></td>
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</table>

## 59—Department of Mental Health

### Acct. No. 410

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$802,650.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$217,610.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$14,800.00</td>
</tr>
<tr>
<td>4 Research and Training</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>5 Civil Service Costs</td>
<td>$68,100.00</td>
</tr>
<tr>
<td>6 Division of Health Education</td>
<td>$18,500.00</td>
</tr>
<tr>
<td>7 Community Mental Retardition Program</td>
<td>$320,000.00</td>
</tr>
<tr>
<td>8 Alcohol and Drug Abuse Program</td>
<td>$350,000.00</td>
</tr>
<tr>
<td>9 Community Mental Health Programs</td>
<td>$752,412.00</td>
</tr>
<tr>
<td>10 Roney's Point Branch Hospital</td>
<td>$200,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,774,072.00</strong></td>
</tr>
</tbody>
</table>
12 Any unexpended balance remaining in the
13 account “Mental Health Center—Princeton” at the close of the fiscal year 1971-72
14 is hereby reappropriated for expenditure
15 during fiscal year 1972-73.

60—Commission on Mental Retardation

<table>
<thead>
<tr>
<th>Acct. No. 411</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$32,000.00</td>
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</table>

61—Guthrie Center

<table>
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<tr>
<th>Acct. No. 418</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>$451,895.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$174,407.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$60,400.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$51,500.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$738,202.00</td>
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</table>

62—Colin Anderson Center

<table>
<thead>
<tr>
<th>Acct. No. 419</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$2,200,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$385,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$72,790.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$99,500.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$2,757,790.00</td>
</tr>
</tbody>
</table>

6 Any unexpended balance remaining in the
7 appropriation “Capital Outlay Improvement” at the close of fiscal year 1971-72 is
8 hereby reappropriated for expenditure
9 during the fiscal year 1972-73.

63—Weston State Hospital

<table>
<thead>
<tr>
<th>Acct. No. 420</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$3,820,850.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$1,191,200.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$120,750.00</td>
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</tbody>
</table>
### 64—Spencer State Hospital

Acct. No. 421

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,947,160.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$645,000.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$75,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,742,160.00</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>1 Personal Services</td>
<td>$2,537,350.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$843,580.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$139,625.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$78,500.00</td>
</tr>
<tr>
<td>5 Student Nurse Affiliation Program</td>
<td>$51,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,650,055.00</strong></td>
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</table>

### 66—Lakin State Hospital

Acct. No. 423

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,198,920.00</td>
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<tr>
<td>2 Current Expenses</td>
<td>$341,250.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$102,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$59,100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,701,270.00</strong></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation "Renovate Classroom Building, Construct Ward Building", at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.
### Ch. 7] APPROPRIATIONS

#### 67—Barboursville State Hospital

<table>
<thead>
<tr>
<th></th>
<th>Acct. No. 424</th>
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</thead>
<tbody>
<tr>
<td><strong>1 Personal Services</strong></td>
<td>$627,700.00</td>
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<tr>
<td><strong>2 Current Expenses</strong></td>
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<tr>
<td><strong>3 Repairs and Alterations</strong></td>
<td>$47,250.00</td>
</tr>
<tr>
<td><strong>4 Equipment</strong></td>
<td>$18,050.00</td>
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<tr>
<td><strong>Total</strong></td>
<td>$882,000.00</td>
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</table>

#### 68—Fairmont Emergency Hospital

<table>
<thead>
<tr>
<th></th>
<th>Acct. No. 425</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Personal Services</strong></td>
<td>$416,530.00</td>
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<td><strong>Total</strong></td>
<td>$602,670.00</td>
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#### 69—Welch Emergency Hospital

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<tr>
<td><strong>1 Personal Services</strong></td>
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<td><strong>Total</strong></td>
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#### 70—Hopemont State Hospital

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<td><strong>1 Personal Services</strong></td>
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#### 71—Pinecrest State Hospital

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<td><strong>1 Personal Services</strong></td>
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### Repairs and Alterations

<table>
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<td>3 Repairs and Alterations</td>
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<td><strong>Total</strong></td>
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#### 72—Denmar State Hospital

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<th>Description</th>
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<tr>
<td>1 Personal Services</td>
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<td><strong>Total</strong></td>
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#### 73—State Board of Education—Rehabilitation Division

<table>
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<th>Description</th>
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<tbody>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>3 Rehabilitation Center</td>
<td>674,911.00</td>
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<td>4 Case Services</td>
<td>1,283,080.00</td>
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<tr>
<td>5 Supervisory Services for Vending Stand Program for the Blind</td>
<td>54,291.00</td>
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<td>6 Training and Special Projects</td>
<td>89,206.00</td>
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<td>7 Social Security Matching Fund</td>
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<td><strong>Total</strong></td>
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### BUSINESS AND INDUSTRIAL RELATIONS

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

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<th>Description</th>
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<tr>
<td>1 Personal Services</td>
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<tr>
<td>2 Current Expenses</td>
<td>195,975.00</td>
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### 75—West Virginia Labor Management Relations Board

**Acct. No. 452**

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### 76—Department of Mines

**Acct. No. 460**

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### 77—Department of Commerce

**Acct. No. 465**

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<tr>
<td>Mt. State Forest Festival</td>
<td>$25,000.00</td>
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<tr>
<td>Alpine Festival</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>West Virginia Historical Drama Association</td>
<td>$35,000.00</td>
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<tr>
<td>Calhoun County Wood Festival</td>
<td>$2,500.00</td>
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<tr>
<td>Arts and Humanities Fund</td>
<td>$150,000.00</td>
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<tr>
<td>New Martinsville Regatta</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Braxton County Regatta</td>
<td>$4,000.00</td>
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<tr>
<td>Independence Hall, Wheeling, West Virginia</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>White Water Weekend</td>
<td>$2,000.00</td>
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<tr>
<td>Industrial Development Loan Fund</td>
<td>$500,000.00</td>
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<tr>
<td>Oil and Gas Festival</td>
<td>$2,500.00</td>
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<tr>
<td>National Youth Science Camp</td>
<td>$80,000.00</td>
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<tr>
<td>West Virginia Water Festival</td>
<td>$15,000.00</td>
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<tr>
<td>Cherry River Navy</td>
<td>$2,000.00</td>
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<tr>
<td>Mothers Day Founders Festival</td>
<td>$2,000.00</td>
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<tr>
<td>Total</td>
<td>$2,191,030.00</td>
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</table>

20 The above appropriations, Mountain State Forest Festival, Alpine Festival, White Water Weekend, Oil and Gas Festival, West Virginia.
23 Virginia Water Festival, Calhoun County
24 Wood Festival, New Martinsville Regatta,
25 Braxton County Regatta, West Virginia
26 Historical Drama Association, Cherry River
27 Navy, and the Mothers Day Founders Festival
shall be expended only upon authori-
28 zation of the Commerce Commissioner
29 and in accordance with the provisions of
30 Chapter 5-A of the Code of West Virginia.
31
32 All Federal moneys received as reimburse-
33 ments to the Department of Commerce, for
34 moneys expended from the General Rev-
35 enue fund for Arts and Humanities are
36 hereby reappropriated for the purposes as
37 originally made, including Personal Serv-
38 ices, Current Expenses and Equipment.
39 Any unexpended balance remaining in the
40 appropriation “Independence Hall, Wheel-
41 ing, West Virginia” at the close of the fiscal
42 year 1971-72 is hereby reappropriated for
43 expenditure during the fiscal year 1972-73.
44 Any unexpended balance remaining in the
45 account “National Youth Science Camp”
46 at the close of the fiscal year 1971-72 is
47 hereby reappropriated for expenditure dur-
48 ing the fiscal year 1972-73.

78—Ohio River Basin Commission
Acct. No. 469

<p>| | | | | |</p>
<table>
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<td>1</td>
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79—State Commission on Manpower, Technology
and Training
Acct. No. 470

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<td>Current Expenses</td>
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<td>3</td>
<td>Equipment</td>
<td>$ 600.00</td>
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<td>4</td>
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<td>$ 30,965.00</td>
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### Appropriations

#### 79-a—Interstate Mining Compact

**Acct. No. 471**

| 1 | Total | $10,000.00 |

#### 80—Council of State Governments

**Acct. No. 472**

| 1 | Total | $21,900.00 |

#### 81—Interstate Commission on Potomac River Basin

**Acct. No. 473**

1. West Virginia’s contribution to Potomac River Basin Interstate Commission: $12,450.00

#### 82—Ohio River Valley Water Sanitation Commission

**Acct. No. 474**

1. West Virginia’s contribution to the Ohio River Valley Water Sanitation Commission: $23,657.00

#### 83—Southern Regional Education Board

**Acct. No. 475**

1. West Virginia’s contribution to Southern Regional Education Board: $75,000.00

3. To be expended upon requisition of the Governor.

#### 84—West Virginia Air Pollution Commission

**Acct. No. 476**

| 1 | Personal Services | $314,055.00 |
| 2 | Current Expenses  | $89,635.00  |
| 3 | Equipment         | $18,750.00  |
| 4 | Total             | $422,440.00 |

#### 85—Interstate Education Compact

**Acct. No. 477**

1. West Virginia’s contribution to Interstate Education Compact.
<table>
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<td></td>
<td>86—Antiquities Commission</td>
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<td></td>
<td>Acct. No. 478</td>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>87—Department of Banking</td>
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<td>3 Equipment</td>
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<td>4 Total</td>
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<td>88—West Virginia State Aeronautics Commission</td>
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<td></td>
<td>Acct. No. 485</td>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>3 Equipment</td>
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<td></td>
<td>4 Aerial Markers</td>
<td>$ 1,200.00</td>
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<td></td>
<td>5 Civil Air Patrol Expenses</td>
<td>$ 12,000.00</td>
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<td>6 Total</td>
<td>$ 62,417.00</td>
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<tr>
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<td>7 Any unexpended balance remaining in the</td>
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<tr>
<td></td>
<td>8 appropriation “Airport Matching Fund” at</td>
<td></td>
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<tr>
<td></td>
<td>9 the close of the fiscal year 1971-72 is hereby</td>
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</tr>
<tr>
<td></td>
<td>10 reappropriated for expenditure during fiscal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>11 year 1972-73.</td>
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<td></td>
<td>89—West Virginia Nonintoxicating Beer Commissioner</td>
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<td>Acct. No. 490</td>
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<td>2 Current Expenses</td>
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<td></td>
<td>3 Equipment</td>
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<td>4 Total</td>
<td>$ 224,770.00</td>
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90—West Virginia Racing Commission

Acct. No. 495

1 Personal Services ........................................ $ 278,260.00
2 Current Expenses ........................................... 37,980.00
3 Equipment ................................................... 2,500.00

4 Total .......................................................... $ 318,740.00

AGRICULTURE

91—Department of Agriculture

Acct. No. 510

1 Salary of Commissioner .................................. $ 20,699.00
2 Other Personal Services .................................... 876,060.00
3 Current Expenses ........................................... 331,985.00
4 Equipment ................................................... 30,000.00

5 Total .......................................................... $ 1,258,744.00

Out of the above funds a sum may be used to
match Federal Funds for the eradication
and control of pest and plant diseases.

92—Department of Agriculture—Soil Conservation
Committee

Acct. No. 512

1 Personal Services ........................................ $ 127,410.00
2 Current Expenses ........................................... 45,150.00
3 Watershed Program ....................................... 100,000.00

4 Total .......................................................... $ 272,560.00

Any unexpended balance remaining in the
Watershed Program at the end of the fiscal
year 1971-72 is hereby reappropriated for
expenditure during fiscal year 1972-73.

93—Department of Agriculture—Division of Rural Resources

Acct. No. 513

1 Matching Fund ............................................. $ 360,000.00
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.

94—Department of Agriculture—Meat Inspection

Acct. No. 514

<table>
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<th>Item</th>
<th>Description</th>
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<tbody>
<tr>
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Any unexpended balance remaining in the appropriation “Meat Inspection” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

95—Department of Agriculture—Agricultural Awards

Acct. No. 515

<table>
<thead>
<tr>
<th>Item</th>
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<tr>
<td>1</td>
<td>West Virginia State Fair</td>
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<td>2</td>
<td>Agricultural Awards</td>
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<td>Walnut Festival</td>
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<td>4</td>
<td>Apple Festival</td>
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<td>5</td>
<td>Marshall Fair</td>
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<td>6</td>
<td>Strawberry Festival</td>
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<tr>
<td>7</td>
<td>Town and Country Days</td>
<td>$2,500.00</td>
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<tr>
<td>8</td>
<td>Buckwheat Festival</td>
<td>$1,000.00</td>
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<td>9</td>
<td>Potato Festival</td>
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<tr>
<td>10</td>
<td>Agricultural Exposition</td>
<td>$5,000.00</td>
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<tr>
<td>11</td>
<td>Webster County Logging Festival</td>
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<tr>
<td>12</td>
<td>Paden City Labor Day Festival</td>
<td>$2,000.00</td>
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<tr>
<td>13</td>
<td>Jackson County Junior Fair</td>
<td>$1,500.00</td>
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<tr>
<td>14</td>
<td>Mason County Fair</td>
<td>$3,500.00</td>
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<tr>
<td>15</td>
<td>Tyler County Fair</td>
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<td>16</td>
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## CONSERVATION AND DEVELOPMENT

### 96—Geological and Economic Survey Commission

<table>
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<td><strong>3</strong> Repairs and Alterations</td>
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<td><strong>4</strong> Equipment</td>
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<td>51,100.00</td>
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<tr>
<td><strong>5</strong> Cooperative Mapping and Water Studies Program</td>
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<tr>
<td><strong>7</strong> Total</td>
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Of the above appropriation for “Cooperative Mapping and Water Studies Program”, the sum of $65,000.00 may be used to cooperate with the United States Geological Survey in Ground Water Resources Study.

### 97—Department of Natural Resources

<table>
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<td><strong>2</strong> Current Expenses</td>
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<td><strong>3</strong> Repairs and Alterations</td>
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<td><strong>4</strong> Equipment</td>
<td></td>
<td>280,000.00</td>
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<tr>
<td><strong>5</strong> Subsistence for Conservation Officers</td>
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<td>210,500.00</td>
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<td><strong>6</strong> Debt Service</td>
<td></td>
<td>675,000.00</td>
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<tr>
<td><strong>7</strong> Grave Creek Mound Park</td>
<td></td>
<td>150,000.00</td>
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<tr>
<td><strong>8</strong> Clarke-McNary Fire Prevention</td>
<td></td>
<td>400,000.00</td>
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<tr>
<td><strong>9</strong> A.R.A.-E.D.A. Park Programs</td>
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<td>100,840.00</td>
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<tr>
<td><strong>10</strong> Water Resources Board</td>
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<td>12,840.00</td>
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<tr>
<td><strong>11</strong> U.S. Geological Survey</td>
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<td>42,500.00</td>
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<td><strong>12</strong> Rabies Control</td>
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<td><strong>13</strong> NYC Program</td>
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<td><strong>14</strong> Work Incentive Program</td>
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<td>254,000.00</td>
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<td><strong>15</strong> French Creek Game Farm</td>
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<td><strong>16</strong> Berkeley Springs State Park</td>
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</tr>
<tr>
<td><strong>17</strong> Reclamation Board of Review</td>
<td></td>
<td>15,000.00</td>
</tr>
<tr>
<td><strong>18</strong> Repairs, Replacement of Equipment and Furnishings at State Parks and State Forests</td>
<td></td>
<td>400,000.00</td>
</tr>
<tr>
<td><strong>20</strong> Land Purchase and Development of Sandstone Falls</td>
<td></td>
<td>75,000.00</td>
</tr>
</tbody>
</table>
22 Purchase of Land at Pipestem State Park.......... 25,000.00
23 Land Purchase and Upgrading Facilities at
24 Laural Lake ............................................. 132,500.00
25 Coal Refuse Disposal Control Act ................. 200,000.00

26 Total .................................................................. $ 6,947,735.00

27 Out of the above appropriation for “Subsistence for Conservation Officers”, subsistence shall be paid at the rate of five dollars per calendar day to the chief conservation officer and each full-time uniformed conservation officer, under his direct supervision whose primary duties and responsibilities are law enforcement.

28 Any or all funds appropriated for “Clarke-McNary Fire Prevention” may be transferred to special fund to match and aid Federal Funds.

29 Any unexpended balance remaining in the appropriations “Capital Improvements, State Parks,” “Cacapon State Park Golf Course,” and “Grave Creek Mound Park” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

30 Any or all of the appropriation “Capital Improvements, State Parks” may be used to match and aid Federal Funds.

98—Public Land Corporation
Acct. No. 566

1 Total................................................................. $ 50,000.00

PROTECTION

99—Department of Public Safety
Acct. No. 570

1 Personal Services ........................................... $ 4,788,960.00
2 Current Expenses ........................................... 2,200,000.00
### Ch. 7] Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>140,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>850,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Emergency Fund</td>
<td>10,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>7,988,960.00</td>
</tr>
</tbody>
</table>

#### 100—Adjutant General—State Militia

**Acct. No. 580**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>108,799.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>206,495.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>24,400.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>6,310.00</td>
</tr>
<tr>
<td>5</td>
<td>Compensation of Commanding Officers, Clerical Allowances and Uniform Allowances</td>
<td>94,700.00</td>
</tr>
<tr>
<td>7</td>
<td>Property Maintenance</td>
<td>206,000.00</td>
</tr>
<tr>
<td>8</td>
<td>State Armory Board</td>
<td>1,005,852.00</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
<td>1,652,556.00</td>
</tr>
</tbody>
</table>

#### 101—Department of Civil and Defense Mobilization

**Acct. No. 581**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>12,960.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>500.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>700.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>60,775.00</td>
</tr>
</tbody>
</table>

#### 102—West Virginia State Board of Land Surveyors

**Acct. No. 585**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>6,000.00</td>
</tr>
<tr>
<td>3</td>
<td>From Collections</td>
<td>6,000.00</td>
</tr>
</tbody>
</table>

#### 103—State Board of Professional Foresters

**Acct. No. 586**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>700.00</td>
</tr>
<tr>
<td>3</td>
<td>From Collections</td>
<td>700.00</td>
</tr>
</tbody>
</table>
104—West Virginia Board of Examiners for Practical Nurses

Acct. No. 587

1 To pay the per diem of members and other
2 general expenses .............................................. $ 33,000.00
3 From Collections ............................................ 33,000.00

105—State Board of Chiropractic Examiners

Acct. No. 588

1 To pay the per diem of members and other
2 general expenses .............................................. $ 700.00
3 From Collections ............................................ 700.00

106—State Board of Pharmacy

Acct. No. 590

1 To pay the per diem of members and other
2 general expenses .............................................. $ 35,000.00
3 From Collections ............................................ 35,000.00

107—State Board of Osteopathy

Acct. No. 591

1 To pay the per diem of members and other
2 general expenses .............................................. $ 2,356.00
3 From Collections ............................................ 2,356.00

108—State Board of Embalmers and Funeral Directors

Acct. No. 593

1 To pay the per diem of members and other
2 general expenses .............................................. $ 25,000.00
3 From Collections ............................................ 25,000.00

109—State Board of Registration for Professional Engineers

Acct. No. 594

1 To pay the per diem of members and other
2 general expenses .............................................. $ 37,000.00
3 From Collections ............................................ 37,000.00
Ch. 7]

APPROPRIATIONS

110—State Board of Architects
Acct. No. 595

1 To pay the per diem of members and other
2 general expenses ____________________________ $ 9,000.00
3 From Collections ______________________________ 9,000.00

111—State Veterinary Board
Acct. No. 596

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

112—State Board of Law Examiners
Acct. No. 597

1 To pay the per diem of members and other
2 general expenses ____________________________ $ 3,900.00

113—Human Rights Commission
Acct. No. 598

1 Personal Services ______________________________ $ 131,595.00
2 Current Expenses ______________________________ 65,280.00
3 Equipment ______________________________________ 3,125.00
4 Total...................................................................$ 200,000.00

114—West Virginia State Board of Sanitarians
Acct. No. 599

1 To pay the per diem of members and other
2 general expenses ____________________________ $ 800.00
3 From Collections ______________________________ 800.00

115—West Virginia Public Employees Retirement Board
Acct. No. 614

1 Employers Accumulation Fund ________________ $ 2,695,000.00
2 Expense Fund _________________________________ 25,000.00
3 Total..................................................................$ 2,720,000.00
4 The above appropriation is intended to cover
5 the state's share of the West Virginia Pub-
6 lic Employee's Retirement cost in accord-
7 ance with Chapter 5, Article 10 of the Code
8 of West Virginia for those departments
9 operating from General Revenue Fund.
10 The State Department of Highways, De-
11 partment of Motor Vehicles, State Tax De-
12 partment—Gasoline Tax Division, Work-
13 men's Compensation Commission, Public
14 Service Commission, and other depart-
15 ments operating from Special Revenue
16 Funds and/or Federal Funds shall pay
17 their proportionate share of the retirement
18 costs for their respective divisions. When
19 specific appropriations are not made such
20 payments may be made from the balances
21 in the various Special Revenue Funds in
22 excess of specific appropriations.

116—West Virginia Public Employees Insurance Board
Acct. No. 615

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Expense Fund</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>2 Public Employees Health Insurance—State</td>
<td></td>
</tr>
<tr>
<td>3 Contribution</td>
<td>$2,071,630.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,131,630.00</strong></td>
</tr>
</tbody>
</table>

5 The above appropriation is intended to cover
6 the state's share of Public Employees
7 Health Insurance costs for those spending
8 units operating from General Revenue
9 Fund. The State Department of Highways,
10 Department of Motor Vehicles, Workmen's
11 Compensation Commission, Public Service
12 Commission, and other departments oper-
13 ating from Special Revenue Funds and/or
14 Federal Funds shall pay their proportion-
15 ate share of the Public Employees Health
16 Insurance cost for their respective divi-
17 sions. When specific appropriations are not
made such payments may be made from the balances in the various Special Reven-
ue Funds in excess of specific appropria-
tions.

Any or all of the above appropriation may be transferred to a Special Revenue Ac-
count for disbursement.

### 117—Insurance Commissioner

<table>
<thead>
<tr>
<th>Acct. No. 616</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
</tr>
<tr>
<td>2 Current Expenses</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
</tr>
<tr>
<td>4 Equipment</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

### Sec. 2. Appropriations from Other Funds.—From the funds designated there is hereby appropriated condition-
ally upon the fulfillment of the provisions set forth in 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 seventy-three.

### 118—State Department of Highways

<table>
<thead>
<tr>
<th>Acct. No. 670</th>
</tr>
</thead>
<tbody>
<tr>
<td>TO BE PAID FROM STATE ROAD FUND</td>
</tr>
</tbody>
</table>
| 1 Federal-Aid Construction—Interstate Pro-
gram | $172,000,000.00 |
| 3 Federal-Aid Construction—ABC Program | $20,000,000.00 |
| 4 Appalachian Program | $100,000,000.00 |
| 5 Interstate Maintenance | $5,000,000.00 |
| 6 Maintenance |
| 7 —Expressway, Trunkline and Feeder | $24,700,000.00 |
| 8 Maintenance |
| 9 —State Local Service | $34,100,000.00 |
| 10 Nonfederal Aid Construction | $20,000,000.00 |
| 11 Emergency Road Operations | $8,200,000.00 |
| 12 Scenic Highway | $1,200,000.00 |
13 Forest Highway ........................................... 300,000.00
14 General Operations ..................................... 23,000,000.00
15 Equipment Purchases ..................................... 2,000,000.00
16 Inventory Purchases ..................................... 1,000,000.00
17 Debt Service ............................................. 37,600,000.00

18 Total ...................................................... $449,100,000.00

19 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 17 of the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

20 Funds in excess of amounts herein appropriated may be made available by budget amendment upon request of the Highways Commissioner and approval of the Governor.

21 The State Commissioner of Highways 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 and materials and supplies: Provided, That the operation of such revolving funds shall not cause expenditures in excess of the foregoing appropriations.

22 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 of the Code of West Virginia, one thousand nine hundred thirty-one, as amended.
Notwithstanding the provisions of Chapter 5-A, Article 2, Section 19 of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, transfer of amounts between the line items of appropriation herein is authorized.

### 119—Department of Motor Vehicles

Acct. No. 671

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$892,160.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$908,760.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>4 Purchase of License Plates</td>
<td>$260,000.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$54,041.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$97,149.00</td>
</tr>
<tr>
<td>7 Public Employees Health Insurance</td>
<td>$24,505.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,266,615.00</strong></td>
</tr>
</tbody>
</table>

### 120—State Tax Department—Gasoline Tax Division

Acct. No. 672

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$276,410.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$105,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$15,084.00</td>
</tr>
<tr>
<td>5 Public Employees Health Insurance</td>
<td>$8,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$409,194.00</strong></td>
</tr>
</tbody>
</table>

### 121—Department of Education—Veterans Education

Acct. No. 702

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$108,706.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$23,350.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$132,056.00</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 Governor for any emergency which might arise in the operation of this division during the fiscal year.

### 122—Treasurer’s Office

**Acct. No. 800**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Abandoned and Unclaimed Property — Trust and Expense Fund</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

### 123—Real Estate Commission

**Acct. No. 801**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$38,065.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$12,530.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$1,865.00</td>
</tr>
<tr>
<td>4 Public Employees Retirement Matching Fund</td>
<td>$3,265.00</td>
</tr>
<tr>
<td>5 Public Employees Health Insurance</td>
<td>$870.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$56,595.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid out of collections of license fees as provided by law.

### 124—West Virginia Racing Commission

**Acct. No. 808**

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Medical Expenses</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>
2 The total amount of this appropriation shall be paid from Special Revenue Fund out of collections of license fees and fines as provided by law.

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

10 Special funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the West Virginia Racing Commission and approval of the Governor.

125—Auditor’s Office—Land Department Operating Fund

Acct. No. 812

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$25,800.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Microfilm Program</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Public Employees Health Insurance</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

5 Total                                           $47,400.00

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

9 Special funds in excess of the amount herein appropriated may be made available by budget amendments upon request of the State Auditor and the approval of the Governor.

126—Department of Finance and Administration—Division of Purchases—Revolving Fund

Acct. No. 814

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$208,195.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>
3 Equipment ........................................... 10,000.00
4 Social Security Matching Fund ................. 11,212.00
5 Public Employees Retirement Matching Fund ... 20,229.00
6 Public Employees Health Insurance ................ 11,400.00

7 Total ............................................... $ 281,036.00

8 The total amount of this appropriation shall
9 be paid from Special Revenue Fund as pro-
10 vided by Chapter 5-A, Article 2 of the Code
11 of West Virginia.
12 The above appropriation includes salaries
13 and operating expenses.
14 There is hereby appropriated from this fund,
15 in addition to the above appropriation, the
16 necessary amount for the purchase of sup-
17 plies for resale.
18 Special funds in excess of the amounts here-
19 in appropriated may be made available by
20 budget amendments upon request of the
21 Department of Finance and Administration
22 and approval of the Governor.

127—Department of Finance and Administration—
Information System Services Division Fund
Acct. No. 8151-01

TO BE PAID FROM SPECIAL REVENUE

1 Personal Services .................................. $1,320,000.00
2 Current Expenses .................................. 2,151,543.00
3 Social Security Matching Fund ................... 72,415.00
4 Public Employees Retirement Matching
5 Fund .............................................. 132,297.00
6 Public Employees Health Insurance .............. 69,000.00

7 Total ............................................... $3,745,255.00

8 The total amount of this appropriation shall
9 be paid from Special Revenue Fund out of
10 collections made by the Department of
11 Finance and Administration as provided by
12 law. It is the intention that special funds
in excess of the amounts hereby appropriated may be made available by budget amendments upon request of the Commissioner of Finance and Administration and approval of the Governor.

### 128—Department of Agriculture

**Acct. No. 818**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$241,450.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$59,790.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>6 Public Employees Health Insurance</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

**Total** $374,240.00

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 may be made available by budget amendments upon request of the Commissioner of Agriculture and approval of the Governor.

### 129—State Committee of Barbers and Beauticians

**Acct. No. 822**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$73,324.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$35,700.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$3,984.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$7,072.00</td>
</tr>
<tr>
<td>6 Public Employees Health Insurance</td>
<td>$1,584.00</td>
</tr>
</tbody>
</table>

**Total** $122,664.00
8 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.

130—Public Service Commission

Acct. No. 828

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Commissioners</td>
<td>$48,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$835,375.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$134,235.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$17,085.00</td>
</tr>
<tr>
<td>5 Social Security Matching Fund</td>
<td>$31,360.00</td>
</tr>
<tr>
<td>6 Public Employees Retirement Matching Fund</td>
<td>$80,000.00</td>
</tr>
<tr>
<td>7 Public Employees Health Insurance</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>8 Total</td>
<td>$1,159,055.00</td>
</tr>
</tbody>
</table>

9 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.

131—Public Service Commission

Gas Pipeline Division

Acct. No. 8285

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$86,080.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$19,650.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>4 Social Security Matching Fund</td>
<td>$2,950.00</td>
</tr>
<tr>
<td>5 Public Employees Retirement Matching Fund</td>
<td>$7,310.00</td>
</tr>
</tbody>
</table>
Ch. 7]  

**APPROPRIATIONS**

<table>
<thead>
<tr>
<th>6 Public Employees Health Insurance</th>
<th>$854.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 Total</td>
<td>$121,854.00</td>
</tr>
</tbody>
</table>

8 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 pipeline companies.

132—Public Service Commission—Motor Carrier Division

Acct. No. 829

TO BE PAID FROM SPECIAL REVENUE FUND

| 1 Personal Services                  | $344,815.00 |
| 2 Current Expenses                   | 88,305.00   |
| 3 Equipment                          | 5,060.00    |
| 4 Social Security Matching Fund      | 20,100.00   |
| 5 Public Employees Retirement Matching Fund | 30,757.00 |
| 6 Public Employees Health Insurance  | 6,740.00    |
| 7 Total                             | $495,777.00 |

8 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.

133—Department of Natural Resources

Acct. No. 830

TO BE PAID FROM SPECIAL REVENUE FUND

| 1 Personal Services                  | $1,588,575.00 |
| 2 Current Expenses                   | 640,500.00   |
| 3 Repairs and Alterations            | 103,000.00   |
| 4 Equipment                          | 188,500.00   |
| 5 Public Employees Health Insurance  | 48,000.00    |
| 6 Land Purchase and Buildings        | 300,000.00   |
| 7 Total                             | $2,868,575.00 |
8 The total amount of this appropriation shall be paid from Special Revenue Fund out of fees collected for inspection stickers as provided by law.
9 Special Funds in excess of the amounts hereby appropriated may be made available by budget amendment upon request of the Governor for the purpose of repairs to, or construction of, police barracks.

135—West Virginia Alcohol Beverage Control

<table>
<thead>
<tr>
<th>1 Salary of Commissioner</th>
<th>$ 16,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Other Personal Services</td>
<td>4,407,210.00</td>
</tr>
</tbody>
</table>
### Ch. 7] Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>$1,380,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$30,500.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$252,500.00</td>
</tr>
<tr>
<td>6 Social Security Matching Fund</td>
<td>$245,000.00</td>
</tr>
<tr>
<td>7 Public Employees Retirement Matching Fund</td>
<td>$445,000.00</td>
</tr>
<tr>
<td>8 Public Employees Health Insurance</td>
<td>$120,000.00</td>
</tr>
</tbody>
</table>

Total: $6,896,210.00

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

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

12 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.

136—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>$257,290.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$106,950.00</td>
</tr>
<tr>
<td>3 Social Security Matching Fund</td>
<td>$17,067.00</td>
</tr>
<tr>
<td>4 Public Employees Retirement Matching Fund</td>
<td>$29,276.00</td>
</tr>
<tr>
<td>5 Public Employees Health Insurance</td>
<td>$8,280.00</td>
</tr>
</tbody>
</table>

6 Total: $418,863.00

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

11 The Governor is hereby authorized to make available by budget amendment, upon request of the Civil Service Commission,
funds in excess of the amounts hereby appropriated.

137—Board of Regents—West Virginia University—Special Capital Improvement Fund

Acct. No. 853

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service $550,417.00
2 The total amount of this appropriation shall be paid from the nonrevolving Capital Improvement Fund created by the 1959 Legislature, amended by the 1963 Legislature.
3 Any unexpended balance remaining in the appropriation for the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

138—Board of Regents—State System Special Capital Improvement Fund

Acct. No. 8535

TO BE PAID FROM SPECIAL REVENUE FUND

1 Miscellaneous Projects $800,000.00
2 Renovation of Existing Buildings 245,000.00
3 Property Acquisition 195,000.00
4 Campus Long Range Land Utilization and Facilities Master Planning 150,000.00
5 West Virginia University, Natatorium 1,500,000.00
6 Parkersburg Community College, Learning Resources Center and Technical Instructional Facility, Phase I 2,000,000.00
7 Marshall University, Academic Facility, Phase I 3,000,000.00
8 Shepherd College, Academic Building 2,300,000.00
9 West Liberty State College, Science Building 3,000,000.00
10 West Virginia University—Woodburn Circle—Martin Hall Renovation 1,000,000.00

16 Total $14,190,000.00
The total amount of this appropriation shall be paid from the Capital Improvement Fund created by the 1971 Legislature.

The appropriation of items on lines 1 through 6 is to be paid on a cash basis and made available from date of passage; items on lines 7 through 15 are to be started as funds become available and then only in listed order of priority.

139—Board of Regents—Special Capital Improvement Fund
Acct. No. 854

TO BE PAID FROM SPECIAL REVENUE FUND

1 Debt Service and Reserve Requirements $ 2,324,167.00
2 The total amount of this appropriation shall be paid from the nonrevolving Capital Improvement Fund created by the 1959 Legislature, as amended.
6 Any unexpended balance remaining in the appropriation for the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

140—West Virginia University—Medical School
Acct. No. 873

TO BE PAID FROM MEDICAL SCHOOL FUND

1 Personal Services $ 14,492,081.00
2 Current Expenses 4,722,969.00
3 Repairs and Alterations 811,807.00
4 Equipment 1,325,118.00
5 Intern and Residency Support Program for Community Hospitals 310,000.00

7 Total $ 21,661,975.00
8 The above includes the appropriation to be transferred from Account No. 285.
10 Special funds in excess of the amounts hereby appropriated may be made available by
12 budget amendment upon request of the
13 Board of Regents and approval of the
14 Governor.

141—Workmen’s Compensation Commission

Acct. No. 900

TO BE PAID FROM WORKMEN’S COMPENSATION FUND

1 Personal Services ........................................ $1,143,040.00
2 Current Expenses ........................................ 437,085.00
3 Equipment .................................................. 23,700.00
4 Social Security Matching Fund ......................... 64,000.00
5 Public Employees Retirement Matching Fund .......... 120,000.00
6 Public Employees Health Insurance .................... 33,040.00
7 U. S. Department of Labor Statistics ................. 28,447.00

  Total ...................................................... $1,849,312.00

9 There is hereby authorized to be paid out of
10 the above appropriation for current ex-
11 penses the amount necessary for the pre-
12 miums on bonds given by the State Treas-
13 urer and bond custodian for the protection
14 of the Workmen’s Compensation Fund.
15 This sum shall be transferred to the Board
16 of Insurance.

1 Sec. 3. Supplemental and Deficiency Appropriations.—
2 From the State Fund, General Revenue, except as other-
3 wise provided, there are hereby appropriated the follow-
4 ing amounts, as itemized, for expenditure during the
5 fiscal year one thousand nine hundred seventy-two to
6 supplement the 1971-72 appropriations, and to be available
7 for expenditure upon date of passage.

142—Supreme Court of Appeals

Acct. No. 110

1 Current Expenses ........................................ $ 11,000.00
2 Equipment .................................................. 20,000.00

  Total ...................................................... $ 31,000.00
### 143—State Law Library

**Acct. No. 114**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$1,800.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$12,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$13,800.00</strong></td>
</tr>
</tbody>
</table>

### 144—Department of Finance and Administration

**Acct. No. 210**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$53,000.00</td>
</tr>
<tr>
<td>2 Equipment</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>3 Postage</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>4 Fire Service Fee</td>
<td>$73,965.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$163,965.00</strong></td>
</tr>
</tbody>
</table>

### 145—West Virginia Board of Regents (Control)

**Acct. No. 279**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Marshall University</td>
<td>$195,000.00</td>
</tr>
</tbody>
</table>

The above appropriation is to be used for the establishing on the campus of or property owned by Marshall University, a track field and baseball field.

Any unexpended balance remaining in the appropriation at the close of the fiscal year 1971-72 is hereby reappropriated for the expenditure during the fiscal year 1972-73.

### 146—Teachers Retirement Board

**Acct. No. 298**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Benefit Fund—Payments to Retired Teachers</td>
<td>$0,000,000.00</td>
</tr>
</tbody>
</table>

### 147—West Virginia Industrial Home for Girls

**Acct. No. 372**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$3,725.00</td>
</tr>
</tbody>
</table>
148—West Virginia Penitentiary
Acct. No. 375

1 Purchase of Building and Land $ 40,000.00
2 Repairs and Alterations 20,000.00
3 Renovation and Installation of Recreation Equipment 25,000.00
5 Total $ 85,000.00

149—Huttonsville Correctional Center
Acct. No. 376

1 Current Expenses $ 50,000.00

150—State Department of Health
Acct. No. 400

1 Local Health Services $ 50,000.00
2 Out of the above appropriation a sum of $25,000.00 is to be used to develop a community Health Center in Tyler County, West Virginia.
6 Any unexpended balance remaining in the above appropriation at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

151—Department of Mental Health
Acct. No. 410

1 Day Care Centers $ 30,000.00
2 Community Mental Health Programs 54,226.00
3 Roney’s Point Branch Hospital 20,900.00
4 Total $ 105,126.00

152—Colin Anderson Center
Acct. No. 419

1 Personal Services $ 54,150.00
2 Current Expenses 24,830.00
3 Equipment 13,816.00
4 Total $ 92,796.00
153—Weston State Hospital
Acct. No. 420
1 Current Expenses $ 27,000.00

154—Spencer State Hospital
Acct. No. 421
1 Personal Services $ 9,000.00
2 Current Expenses $ 31,800.00
3 Repairs and Alterations $ 16,000.00
4 Boiler Plant $ 529,000.00
5 Total $ 585,800.00
6 Any unexpended balance remaining in the appropriation “Boiler Plant” at the close of the fiscal year 1971-72 is hereby reappropriated for expenditure during the fiscal year 1972-73.

155—Huntington State Hospital
Acct. No. 422
1 Current Expenses $ 17,800.00

156—Lakin State Hospital
Acct. No. 423
1 Current Expenses $ 18,500.00

157—Barboursville State Hospital
Acct. No. 424
1 Personal Services $ 10,000.00
2 Current Expenses $ 4,500.00
3 Total $ 14,500.00

158—Pinecrest State Hospital
Acct. No. 431
1 Personal Services $ 15,975.00
2 Equipment $ 7,166.00
3 Total $ 23,141.00
159—Ohio River Basin Commission
Acct. No. 469

1 Total .................................................. $ 15,100.00

160—Department of Agriculture
Acct. No. 510

1 Marihuana and Multiflora Rose Eradication Program $ 60,000.00
2 Laboratory Facility—Rent and Moving Expenses 196,700.00

Total .................................................. $ 256,700.00

Any unexpended balance remaining in the above appropriation at the close of the fiscal year is hereby reappropriated for expenditure during the fiscal year 1972-73.

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

1 Webster Logging Festival ................................ $ 1,000.00

162—Department of Natural Resources
Acct. No. 565

1 Equipment ........................................ $ 111,000.00
2 Purchase of Land and Building 58,000.00

Total .................................................. $ 169,000.00

163—Adjutant General
Acct. No. 580

1 Current Expenses .................................... $ 34,500.00

164—State Auditor’s Office—Social Security
Acct. No. 582

1 Total .................................................. $ 400,000.00
165—State Board of Law Examiners
Acct. No. 597
1 Total $250.00

166—West Virginia Public Employees Retirement Board
Acct. No. 614
1 Employers Accumulation Fund $0,000,000.00

167—Department of Motor Vehicles
Acct. No. 671
TO BE PAID FROM STATE ROAD FUND
1 License Plates—Total $171,363.00

1 Sec. 4. Appropriations from Surplus Revenue.—The following items are hereby appropriated from the State Fund, General Revenue and are to be available for expenditure during the fiscal year 1972-73, out of surplus funds only, subject to the terms, conditions, and priority schedule set forth in this section.

By Executive Message No. 23, dated February twenty-one, one thousand nine hundred seventy-two, the Governor stated, in part, that surplus revenues available for appropriation from the State Fund, General Revenue will be $46,027,910.00 by the end of the 1971-72 fiscal year. It is the intent and mandate of this Legislature that the following itemized appropriations made by this section shall be payable only from the surplus accrued as of June 30, 1972.

In the event that surplus revenues as of June 30, 1972 are not sufficient to meet all appropriations made by this section, then the appropriation shall be available, in priority order as listed, only to the extent of the total actual surplus accrued as of June 30, 1972.

Item I. West Virginia Schools for the Deaf and the Blind $1,215,050.00
1 New Dormitory and Equipment.

Item II. State Board of Education-Vocational Rehabilitation $4,148,000.00
1 Construction of Student Activities Center
2 Building. May also be used for the con-
3 struction of client dormitories if Federal
4 matching funds become available.

Item III. Department of Agriculture $150,000.00
1 Construction of a new Cold Storage Facili-
2 ty at Inwood, West Virginia.

Item IV. State Board of Education-Vocational
Education $3,500,000.00
1 Division for the Construction of Compre-
2 hensive Community Technical Education
3 Centers with participating funds from the
4 Federal Vocational Training Act—Appala-
5 chian Regional Commission and Economic
6 Development Administration.

Item V. Governor’s Office—Federal-State Co-
ordination $3,000,000.00
1 Earmarked specifically for participation in
2 the Environmental Protection Agency
3 Sewage and Water Treatment Facility Pro-
4 gram—State Matching Funds for Water
5 Quality Sewage Programs.

Item VI. Mental Health—Total $7,442,360.00
The above appropriation is for the following:
1. Weston State Hospital $200,000.00
1 Repair and replace roof of main building.
2 The roof has deteriorated due to age and
3 leaks. This roof has been leaking several
4 years and has caused considerable damage
5 to the building and contents.

2. Colin Anderson Center $194,400.00
1 Air conditioning of Dormitory and Cottage
2 Building. This work will provide air con-
3 ditioning and air circulation for this section
4 which is plagued with poor air circulation
5 in both winter and summer. This project
6 is completely designed and can be installed
7 for use next summer.

3. Colin Anderson, Weston, Lakin, Spencer,
    Huntington, Barboursville ____________ 619,400.00
1 Provide fire detection devices and other
2 renovations necessary to comply to recom-
3 mendations of the State Fire Marshal. This
4 will eliminate only the most serious of
5 our fire hazard violations.

4. Spencer State Hospital ________________ 1,181,800.00
1 Food Service and Administration Building.
2 Demolish the present food service building
3 and center of the main hospital building
4 and construct new building for food service,
5 food storage and the administration section.
6 This construction will eliminate a serious
7 fire hazard since part of each of these build-
8 ings have been closed by the State Fire
9 Marshal's Office.

5. Colin Anderson Center ________________ 351,000.00
1 Kitchen and Food Storage Building. The
2 existing kitchen and food storage area is
3 located in the basement of the Dormitory
4 Building. This area is subject to floods
5 from surface water and sewers which on
6 occasions have contaminated food.

6. Roney's Point Center _________________ 140,000.00
1 Day Care and Workshop for the Mentally
2 Retarded. Provide day care and rehabilita-
3 tion services for Wheeling area. Federal
4 Funds have been allocated for the construc-
5 tion of this project and construction can
6 start as soon as additional State funds are
7 available. The estimated cost of this proj-
8 ect is $843,096 and $140,000 of State funds
9 are necessary for matching funds and to
10 cover miscellaneous costs.
7. Colin Anderson, Weston, Lakin, Spencer
1 Upgrade electrical distribution system. System is antiquated and does not meet the modern day supply and demand.
2

8. Weston State Hospital
1 Repairs to Steam Distribution System. Because of the complexity of the problems, this should be done in several stages. These repairs will correct the most serious sections of the heating system.
2

9. Lakin State Hospital
1 New construction, renovation and remodeling to develop adolescent training and treatment, housing for adult male patients and supporting facilities.
2

10. Huntington State Hospital
1 New construction of multi-purpose building for central kitchen, dining room and recreation area. This building will replace the current recreation building and the crafts department located over the main kitchen and, also, will contain space for additional classrooms.
2

11. Spencer State Hospital
1 Water Tank. The present open top tank does not meet the Health Department's regulations.
2

12. Weston State Hospital
1 Water Tank. The present open top tank does not meet the Health Department's regulations.
2

13. Weston State Hospital
1 New construction of new multi-purpose and therapeutics building. At present, there is no single building in which various activity therapies, recreation, education, canteen and similar services can be carried
6 out. This has resulted with programs presently scattered throughout the large hospital complex, often in inadequate and improperly designed structures, and with resultant loss of efficiency.

Item VII. Public Institutions—Total $5,809,500.00

The above appropriation is for the following:

1. **West Virginia Penitentiary**
   - Construction of new dining room, construction of a psychiatric ward, food shop and kitchen; relocation of hospital within the institution and construction of facility for mentally ill.
   - Total: $750,000.00

2. **Denmar State Hospital**
   - Roofing Nurses Home $12,000.00
   - Sewers and sewage treatment $29,000.00
   - Power Plant
   - (for emergency use) $20,000.00
   - 150,000 Gallon Water Tank $40,000.00
   - Renovate Prison Barracks to be used as efficiency apartments $35,000.00
   - Total: $136,000.00

3. **Pinecrest State Hospital**
   - Construct a new destructor $8,000.00
   - Construct metal building for storage $11,000.00
   - Total: $19,000.00

4. **Hopemont State Hospital**
   - Fire Alarm System for Units
   - "A" and "B" $16,000.00
   - Fire Alarm System for Administration Building and Annex $15,500.00
   - Deep Well Water System $6,000.00
   - Gas Turbine Auxiliary 300 KW
   - Electric Standby Power Unit $35,000.00
   - Renovation of Conley Hall $920,000.00
   - Total: $992,500.00

5. **Fairmont Emergency Hospital**
   - New Building and renovation.
   - Total: $1,000,000.00
6. Andrew S. Rowan Memorial Home .......................... $1,885,000.00
   1 Construction of Men's Dormitory.

7. Huttonsville Correctional Center ......................... $203,000.00
   1 Indoor Recreation Facilities.

8. Forestry Camp for Boys (Leckie) ......................... $11,000.00
   1 Preconstructed Steel Building.

9. Industrial Home for Girls .............................. $88,000.00
   1 Renovation of Sutton Hall.

10. Forestry Camp for Boys (Davis) ......................... $30,000.00
    1 Shop Building.

11. Industrial School for Boys ............................ $695,000.00
    1 New Dormitory .................................. $675,000.00
    2 Portico ......................................... $20,000.00

Item VIII. Statewide Comprehensive Mental Health Centers $2,000,000.00
   1 To match Federal Funds for construction of statewide comprehensive community mental health centers, and mental retardation centers.

Item IX. Department of Natural Resources—
Total ...................................................... $4,708,000.00

The above appropriation is for the following:

1. French Creek Game Farm ................................. $150,000.00
   1 Develop water supply for all facilities and uses of the area. Upgrade present animal and bird exhibits in the public zoo areas. Purchase of adjacent land. Construction of two lakes and access roads.

2. Twin Falls State Park ................................. $150,000.00
   1 Pave park roads and cabin area roads. Pave golf cart paths. Grade, drain and base two mile trail to falls. Construct garage at residence. Construct game courts. Construct picnic area (100 sites). Expand
6 camping facilities. Bureau of Outdoor Recreation Reimbursement is available.

3. Cabwaylingo State Forest .................................. 180,000.00
1 Correct poor drinking water condition by developing approved water supply, reservoir and treatment system. Improvements to campground area, rock basing and draining road, and approved restroom facilities. Construct two reservoirs to handle water storage needs. Group camp improvements. Bureau of Outdoor Recreation Reimbursement is available.

4. Grave Creek Mound ........................................... 100,000.00
1 Land purchase, demolition and parking lot construction.

5. Grandview State Park ........................................ 220,000.00
1 Construct storage building. Pave and light existing parking lot. Construct canopy shelter and expand concession area for amphitheatre. Land purchase and construct new parking lot, pave and light (pending purchase). Bureau of Outdoor Recreation Reimbursement is available.

6. Cedar Creek State Park ..................................... 120,000.00
1 Construct new water system and park office. Bureau of Outdoor Recreation Reimbursement is available.

7. Camp Creek State Forest .................................. 75,000.00
1 Construct dam on Farley's Branch. Bureau of Outdoor Recreation Reimbursement is available. Development of new picnic area around dam.

8. Watoga State Park ............................................ 235,000.00
1 Construct maintenance building and workshop. Construct and develop campsites along Greenbrier River. Boat docks and walkways. Bureau of Outdoor Recreation Reimbursement (Partial) is available.
<table>
<thead>
<tr>
<th>Project</th>
<th>Details</th>
<th>Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Big Ditch (Webster County)</td>
<td>Campground and picnic development, including utilities. Bureau of Outdoor Recreation Reimbursement is available. Soil Conservation Service Cost Participation is available.</td>
<td>100,000.00</td>
</tr>
<tr>
<td>10. Stonewall Jackson Lake (State Park)</td>
<td>Land purchase. Federal Aid is available.</td>
<td>300,000.00</td>
</tr>
<tr>
<td>11. Plum Orchard Lake</td>
<td>Campsites. Bureau of Outdoor Recreation Reimbursement is available.</td>
<td>30,000.00</td>
</tr>
<tr>
<td>12. Cooper's Rock State Forest</td>
<td>Emergency need for the development of an adequate water and filtering system so as to provide necessary water for all needs. Completion of partially developed picnic area. Top coat of hot-laid asphalt cement from Route 73 to and including parking area at &quot;Rocks.&quot; Place rock and blacktop parking lot and spur roads in the picnic area. Construction of a residence, garage, storage building, water and accessories for added permanent personnel. Construction of a restaurant and visitors center, to include all necessary water, electric and sanitary facilities. Construction of equipment and storage building. Bureau of Outdoor Recreation Reimbursement (Partial) is available.</td>
<td>250,000.00</td>
</tr>
<tr>
<td>13. Mill Creek—Staats Mills (Jackson County)</td>
<td>Land acquisition and recreational development (picnic, camping areas, utilities, etc.). Bureau of Outdoor Recreation Reimbursement is available. Soil Conservation Service Cost Participation is available.</td>
<td>410,000.00</td>
</tr>
</tbody>
</table>
14. *Little Beaver State Park* .......................................................... 220,000.00

15. *Beech Fork Lake (State Park)* .................................................. 100,000.00
1. Land purchase. Bureau of Outdoor Recreation Reimbursement is available.

16. *Canyon Rim (Fayette County)* .................................................. 130,000.00
1. Land purchase 2,000 acres. Bureau of Outdoor Recreation Reimbursement is available.

17. *Greenbrier State Forest* .......................................................... 125,000.00
1. Develop water and filtering system so as to provide acceptable water for all forest needs. Water drainage correction in cabin area and winterize cabins. Service building in cabin area. Expansion of campground area and playground development. Overlook development (Kate’s Mountain). Bureau of Outdoor Recreation Reimbursement (Partial) is available.

18. *Cass Scenic Railroad* .............................................................. 70,000.00

19. *Babcock State Park* ............................................................... 20,000.00
1. Improve water system, install pipeline, etc. Bureau of Outdoor Recreation Reimbursement is available.
20. **Blackwater Falls State Park**


21. **Fire Control**

1. Forestry Division Improvements a/o replacements to observer's cabins and forest fire towers. There are five sites where these facilities have deteriorated to a condition that replacement is imperative. Location: Ivy Knob Tower Site, Raleigh County; Huff Knob Tower Site, Mercer County; Sugar Grove Tower Site, Nicholas County; Blair Mt. Tower Site, Logan County; Bee Mt. Tower Site, Kanawha County. Maintenance and storage shop needed for fire control equipment 20' x 20' equipment storage shed and shop area with benches. Overall dimensions of building to 20' x 60' with an all weather parking area adjacent. Location: Kanawha State Forest, Kanawha County. Federal Aid is available.

22. **Panther State Forest**

1. Campground and picnic area development. Bureau of Outdoor Recreation Reimbursement is available.

23. **Tomlinson Run State Park**

1. Siltation removal and lake improvement. Completion of day-use recreational area and sanitary systems. Bureau of Outdoor Recreation Reimbursement is available.

24. **North Bend State Park**

1. For developing and upgrading the campsites.

25. **Seneca State Forest**

1. Construction of Office-Interpretative Building, water, sewer line and septic tank-
3 drainage field. Rock basing and black-topping road from office to lake area approximately two miles. Expansion of picnic facilities including construction and development of a twenty-five site camping area. Construction of storage and planning building. Landscaping, including cement walks, trees and shrubs, grass and appropriate sign. Land acquisition.

12 Development of access road along Greenbrier River front. Develop approved sanitary facilities for cabin and picnic area. Bureau of Outdoor Recreation Reimbursement is available.

26. Upper Buffalo Fork (Marion County)
   Land Acquisition ........................................... 100,000.00
1 Soil Conservation Service Cost Participation is available.

27. Tygart Lake State Park ................................. 80,000.00
1 Construct parking lot exit road and boat dock parking lot.

28. Kanawha State Forest Land Acquisition .............. 220,000.00
1 Campground expansion and improvements.
2 Bureau of Outdoor Recreation Reimbursement is available.

29. Beartown State Park ..................................... 20,000.00
1 Construction of roads, parking area and trails. Bureau of Outdoor Recreation Reimbursement is available.

30. Chief Logan State Park ................................. 60,000.00
1 Install filtering system for pool. Construct maintenance and shop building. Bureau of Outdoor Recreation Reimbursement is available.

31. Rumsey Memorial ........................................ 15,000.00
1 Land acquisition and ground improvements.
32. Reeds Creek Fish Hatchery Pendleton County ........................................ 600,000.00

33. Pleasant Creek Public Hunting & Fishing Area ........................................ 30,000.00
1 Upgrade campsites and sanitary facilities.
2 Construct and install boat ramps. Bureau of Outdoor Recreation Reimbursement is available.

34. Putnam County Recreational Development ........................................ 3,000.00
1 Project development.

35. Lost River State Park ................................................................. 30,000.00
1 Road improvements. Land acquisition and campground development.

36. Moncove Lake ............................................................... 50,000.00
1 Picnic and camping facilities.

Item X. FFA-FHA Camp and Conference Center ........................................ $ 525,000.00
1 Dining Hall and Water Tank.

Item XI. West Virginia Board of Regents ........................................ $ 300,000.00
1 A performance testing facility.

Item XII. Central Mental Health-Mental Retardation Facility ........................................ $ 6,000,000.00
1 To establish, develop, operate, and maintain a new central mental health-mental retardation facility for the evaluation, diagnosis, treatment, research and training and rehabilitation of persons disabled by mental illness and/or mental retardation and to include, but not to be limited to, alcoholism and drug abuse facilities, specific residential facilities designed for diagnosis, treatment, research and training, and rehabilitation of mentally ill children, adolescents, and other specialized groups; such facility to be located on
14 a site selected in accordance with the
15 state comprehensive mental health and
16 mental retardation plans, such facility
17 shall also serve as a designated com-
18 ponent as one of the fourteen regional
19 mental health centers.

Item XIII. State Aeronautics Commission $ 450,000.00
   1 Airport Matching Fund.

Item XIV. West Virginia Library Commission $ 450,000.00
   1 State Matching Fund

1 Sec. 5. Awards for Claims Against the State.—From
2 the funds designated there are hereby appropriated for
3 the remainder of the fiscal year 1971-72 and to remain in
4 effect until June 30, 1973, for payment of claims against
5 the state, the following amounts as itemized:

6 (a) Claims versus the Department of Highways:
7   To Be Paid from State Road Fund
8   (1) Estate of L. M. Gates, by Florence
9       C. Gates, Executrix $ 89.25

10 (2) Safeco Insurance Company 166.86
11 (3) Frank & Arnold Whitehair 107.08
12 (4) William Bryant 400.00
13 (5) Bertha G. Barton 2,531.00
14 (6) Harleysville Mutual Insurance Co.,
15       subrogee of Lena Nancy Shaver 226.88
16 (7) Arden Harmon 27.86
17 (8) Vcellio and Grogan, Inc., and
18       Foster and Creighton Co. 5,331.25
19 (9) Lurleen (Mrs. John, Jr.) Buckner 171.96
20 (10) Steve and Mary Bukovinsky 725.00
21 (11) Nationwide Insurance Co., subro-
22       gee for Fred or Carolyn Runyon 553.65
23 (12) Collins and Ruth Rivers 3,246.00
24 (13) Tri-State Stone Corporation 112,910.24
25 (14) Earl L. Wright 106.75
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<th>Page</th>
<th>Name and Details</th>
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<td>26</td>
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<td>Joseph and Kathleen Sands</td>
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<td>28</td>
<td>Gloria L. Randolph</td>
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<td>Clyde W. Reinhart</td>
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<td>Paul W. Dixon</td>
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<td>Roy W. Powers</td>
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<td>Vecellio and Grogan, Inc.</td>
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<td>Robert D. Smith</td>
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<td>Murl E. Atkins</td>
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<td>37</td>
<td>Sam Caldwell</td>
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<td>A. M. Foley</td>
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<td>39</td>
<td>The Trustees, Kanawha Aerie No. 1040, Fraternal Order of Eagles</td>
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<td>Kayton Theatre, Inc.</td>
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<td>Anna Cater Murad, widow and sole devisee of Louis F. Murad, deceased, and Ida Cater, widow</td>
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<td>Progressive Investments, Inc.</td>
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<td>Freda Tabit, widow and devisee of Andrew Tabit, deceased</td>
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<td>Joseph W. Drasnin, trading and doing business as Drasnin's Men's Shop</td>
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<td>Mary Ellis</td>
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<td>(39) Home Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards</td>
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<td>(40) New Hampshire Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards</td>
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<td>67</td>
<td>(41) Phoenix Assurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards</td>
<td>68.88</td>
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<td>70</td>
<td>(42) Phoenix Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards</td>
<td>68.88</td>
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<td>73</td>
<td>(43) Eddie Gonano, trading and doing business as Ed's Place</td>
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<td>(44) Belva Halsey, d/b/a Belva's Beauty Shop</td>
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<td>(45) L. J. Hark, trading and doing business as Drasnin's Tailor Shop</td>
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<td>79</td>
<td>(46) Robert W. Jackson, trading and doing business as Henderson's Drug Store</td>
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<td>81</td>
<td>(47) E. W. Kelly, trading and doing business as E. W. Kelly Store</td>
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<td>83</td>
<td>(48) Mearns, Inc., a corporation, trading and doing business as The Fashion Shop</td>
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<td>85</td>
<td>(49) Montgomery Hardware Company, Inc.</td>
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<td>87</td>
<td>(50) Montgomery Motors, Inc.</td>
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<td>(51) Aetna Insurance Company, subrogee of Montgomery Motors, Inc.</td>
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<td>91</td>
<td>(52) Fidelity-Phenix Insurance Company, subrogee of Montgomery Motors, Inc.</td>
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<td>93</td>
<td>(53) Home Insurance Company, subrogee of Montgomery Motors, Inc.</td>
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<td>95</td>
<td>(54) Phoenix Insurance Company, subrogee of Montgomery Motors, Inc.</td>
<td>10,000.00</td>
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<td>96</td>
<td></td>
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<td>97</td>
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<tr>
<td>98</td>
<td></td>
<td></td>
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</tbody>
</table>
(55) The Phoenix Insurance Company.......................... 37,536.42
(56) O. E. Palmer, Administrator, c/t a
d/b/n the estate of A. A. Mitchell,
deceased, and Mary Rose .................. 269.00

(b) Claims versus the Office of the Governor:
To Be Paid from General Revenue Fund
(1) George N. Peraldo, d/b/a Pauley
Drilling Company ............................ 11,119.33
(2) United Air Lines, Inc. .................... 1,040.20

(c) Claims versus the State Auditor:
To Be Paid from General Revenue Fund
(1) Maciej Gal .................................. 3,100.46

(d) Claims versus the Department of
Finance and Administration:
To Be Paid from General Revenue Fund
(1) Retreading Research Associates,
Inc. .................................................. 5,400.00

(e) Claims versus the West Virginia Board
of Regents:
To Be Paid from General Revenue Fund
(1) State Farm Mutual Automobile In-
surance Co., as subrogee for Da-
maris O. Wilson .............................. 97.56
(2) Appraisal & Realty Service, Inc. ...
(3) Thomas Oliver Mucklow .............. 750.00 1,595.00

(f) Claims versus the Department of Mental
Health:
To Be Paid from General Revenue Fund
(1) Singer Sheet Metal Company, Inc..... 5,928.00

(g) Claims versus the Department of Labor:
To Be Paid from General Revenue Fund
(1) Lawrence Barker .......................... 300.00

(h) Claims versus the Adjutant General:
To Be Paid from General Revenue Fund
(1) Andy & Lora Shanabarger ............. 89.00
Claims versus the Department of Natural Resources:
To Be Paid from General Revenue Fund
(1) Budget Rent A Car of Cleveland, Inc. ........................................ 44.59
(2) Fred E. Blair ............................................................... 1,464.00
(3) Willard Blair ............................................................... 1,236.00
(4) Trebag Enterprises, Inc. .................................................. 3,000.00

Claims versus the State Building Commission:
To Be Paid from Special Revenue Fund
(1) First National Bank of South Charleston, as assignee of C & D Equipment Company ........................................ 29,907.68
(2) Orpha E. Jones ............................................................. 5,425.00

Claims versus the Department of Finance and Administration:
To Be Paid from Special Revenue Fund
(1) Columbia Ribbon & Carbon Manufacturing Company ........................................ 3,186.80

Claims versus the Alcohol Beverage Control Commissioner:
To Be Paid from Special Revenue Fund
(1) Blanton M. Friddle ......................................................... 946.95

The Legislature finds that the above moral obligations and the appropriations made in satisfaction thereof shall be the full compensation of all claimants, and that prior to the payment to any claimant provided for in this bill, the court of claims 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 court of claims shall deliver all releases obtained from claimants to the department against which the claim was allowed.

1 Sec. 6. Legislative Findings of Fact Claims.—The Legislature has heretofore made findings of fact that
The state has received the benefit of the commodities and services rendered by certain claimants herein and has considered claims against the state and the department of mental health, an agency thereof, which have arisen due to over-expenditures of departmental appropriations by officers of such state spending unit, such claims having been previously considered by the court of claims which also found that the state has received the benefit of the commodities and services rendered by each claimant, but were denied by the court of claims on the purely statutory grounds that to allow such claims would be condoning illegal acts contrary to the laws of the state. The Legislature, pursuant to its findings of fact and also by the adoption of the findings of fact by the court of claims as its own, and, while not condoning such illegal acts, 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 upon receipt of a properly executed requisition supported by an itemized invoice, statement or other satisfactory document as required by Section 10, Article 3, Chapter 12 of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, for the payment thereof out of any fund appropriated and available for the purpose.

### Claims versus the Department of Mental Health:

#### To Be Paid from General Revenue Fund

<table>
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<tr>
<th>Claimant</th>
<th>Amount</th>
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<tr>
<td>The Upjohn Company</td>
<td>$136.70</td>
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<tr>
<td>P. B. &amp; S. Chemical Company</td>
<td>$56.25</td>
</tr>
<tr>
<td>Ralph E. Rinard, d/b/a Rinard Coal Company</td>
<td>$633.60</td>
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<tr>
<td>3M Business Products Center Company</td>
<td>$61.40</td>
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<tr>
<td>Karoll's, Inc.</td>
<td>$1,308.94</td>
</tr>
<tr>
<td>Will Ross, Inc.</td>
<td>$190.05</td>
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</tbody>
</table>
Sec. 7. Special Revenue Appropriations.—There is hereby appropriated for expenditure during the fiscal year one thousand nine hundred seventy-three 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, 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, the state auditor and the legislative 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 Chapter 12, Article 3 of the Code of West Virginia.

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 governor 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 governor 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 governor from the first remittance collected from any state agency or local taxing district for which the governor 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 soft drink tax revenues for administration and enforcement of the law relating to said tax, a sum not to exceed two and one-half percent 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 treasury out of gross collections.

There is hereby appropriated from the cigarette tax revenues for administration and enforcement of the law relating to said tax, a sum not to exceed one and one-half percent 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 treasury 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 corporations as provided by Chapter 11, Article 12, Sections 75 and 77 of the Code of West Virginia.
Sec. 13. 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. 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 1, 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 Chapter 18, Article 9-A, Section 16 of the Code of West Virginia.

TITLE 3. ADMINISTRATION.

§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 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 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 8
(House Bill No. 775—By Mr. Speaker, Mr. McManus, and Mr. Edgar)

[Passed February 23, 1972; in effect from passage. Approved by the Governor.]

AN ACT transferring an amount between items of the total appropriation of a state spending unit as appropriated by chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the "Budget Bill".

Be it enacted by the Legislature of West Virginia:

That an item of the total appropriation of Account No. 404, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, be transferred so as to read as follows:

48—Department of Veterans Affairs
   Acct. No. 404

Out of the above appropriations there shall be transferred from Line Item 4, to provide Educational Opportunities for Children of War Veterans, an amount of $5,000.00 to Line Item 1, Personal Services.

CHAPTER 9
(House Bill No. 1209—By Mr. Speaker, Mr. McManus)

[Passed February 28, 1972; in effect from passage. Approved by the Governor.]

AN ACT making a supplementary appropriation of public money out of the treasury from the balance of all general revenue remaining unappropriated for the fiscal year end-
ing June thirtieth, one thousand nine hundred seventy-one, to the Governor's Office, Account No. 120, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the "Budget Bill," for flood relief in Logan county and other areas.

WHEREAS, An emergency flood disaster has occurred in Logan County, West Virginia, resulting in death, injury, property loss and dispossession to the detriment of the safety, health and welfare of citizens of this state and necessitating expenditure of public moneys in aid thereof; and

WHEREAS, By Executive Message No. 23, dated February twenty-one, one thousand nine hundred seventy-two, the governor transmitted to the Legislature a revised statement of the state fund, general revenue, including the fiscal year 1971-72, revised as of January three, one thousand nine hundred seventy-two, in which it is set forth and stated that cash balances and investments, as of July one, one thousand nine hundred seventy-one, amounted to $26,131,154.30, which said amount is reduced by net appropriation balances forwarded of $15,488,477.51, thereby leaving a net unencumbered cash balance of $10,642,706.79 available for appropriation and expenditure for said fiscal year 1971-72; a portion of said net unencumbered cash balance is hereby appropriated by the terms of this supplementary appropriation bill; therefore,

Be it enacted by the Legislature of West Virginia:

That Account No. 120, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the Budget Bill, be supplemented by adding thereto the following sum to the designated line item:

EXECUTIVE
8—Governor's Office

Acct. No. 120

1 19a Disaster Relief .................................. $1,000,000.00

2 The above appropriation is to be expended in connection
3 with the emergency flood disaster in Logan county, West
4 Virginia, and other affected nearby areas. Any unexpended
5 balance remaining in this appropriation at the close of
6 the fiscal year 1971-72 is hereby reappropriated for ex-
penditure during the fiscal year 1972-73.

CHAPTER 10
(Com. Sub. for Senate Bill No. 312—By Mr. Hubbard)

[Passed February 29, 1972; in effect from passage. Approved by the Governor.]

AN ACT transferring amounts between items of the total ap­
nropriations for certain state spending units as appropri­
ated by chapter six, acts of the Legislature, regular session,
one thousand nine hundred seventy-one, known as the
"Budget Bill", as amended.

WHEREAS, Certain spending units have indicated a need to
transfer specific amounts between items of appropriation here­
tofore made by the Legislature for such spending units; and

WHEREAS, Such transfers are necessary in accordance with
article seven, chapter five-a of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, creating an
information system services division within the department of
finance and administration, and in compliance with Executive
Order, 3-71, by the governor, enacted October first, one thou­
sand nine hundred seventy-one, effective January first, one
thousand nine hundred seventy-two; therefore,

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 180,
Account No. 671, and Account No. 837, chapter six, acts of the
Legislature, regular session, one thousand nine hundred seventy-one, as amended, be transferred so as to read as fol­
loows:

12—State Tax Department

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<td>3</td>
<td>Personal Services $2,348,758.00</td>
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<td>Current Expenses 961,455.00</td>
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### APPROPRIATIONS

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<td>2</td>
<td>Current Expenses</td>
<td>724,279.00</td>
</tr>
<tr>
<td>5</td>
<td>Social Security Matching Fund</td>
<td>48,949.00</td>
</tr>
<tr>
<td>6</td>
<td>Public Employees Retirement Matching Fund</td>
<td>87,892.00</td>
</tr>
<tr>
<td>3</td>
<td>Other Personal Services</td>
<td>$4,185,090.00</td>
</tr>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>1,217,101.00</td>
</tr>
<tr>
<td>6</td>
<td>Social Security Matching Fund</td>
<td>228,225.00</td>
</tr>
<tr>
<td>7</td>
<td>Public Employees Retirement Matching Fund</td>
<td>393,584.00</td>
</tr>
</tbody>
</table>

The foregoing constitutes transfers of amounts from one item of appropriation to another item of appropriation within the total appropriation of each designated spending unit. The revised amounts as itemized for expenditure during the fiscal year one thousand nine hundred seventy-one—seventy-two, shall be available for expenditure as revised upon the effective date of this bill.

### CHAPTER 11

(Senate Bill No. 342—Originating in the Senate Committee on Finance)

[Passed March 8, 1972; in effect from passage. Approved by the Governor.]

AN ACT transferring amounts between items of the total appropriations for certain state spending units as appropriated by chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the "Budget Bill".
WHEREAS, Certain spending units have indicated a need to transfer specific amounts between items of appropriation heretofore made by the Legislature for such spending units; and

WHEREAS, Such transfers are necessary in order to protect or to increase the efficiency of the service by each of such spending units; therefore,

Be it enacted by the Legislature of West Virginia:

That items of the total appropriations of Account No. 180, Account No. 240, Account No. 373, Account No. 375, Account No. 376, Account No. 380, Account No. 426, Account No. 430, Account No. 432, Account No. 465, Account No. 829, and Account No. 837, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, be transferred so as to read as follows:

17—Attorney General
Acct. No. 240

2 Other Personal Services $ 577,528.00
3 Current Expenses $ 74,250.00
4 Equipment $ 21,500.00

41—West Virginia Forestry Camp (Leckie)
Acct. No. 373

3 Repairs and Alterations $ 14,500.00
4 Equipment $ 21,000.00

43—West Virginia Penitentiary
Acct. No. 375

1 Personal Services $ 1,234,800.00
2 Current Expenses $ 548,600.00

44—Huttonsville Correctional Center
Acct. No. 376

3 Repairs and Alterations $ 35,000.00
4 Equipment $ 18,000.00

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

2 Current Expenses $ 44,130.00
3 Repairs and Alterations $ 11,500.00
4 Equipment $ 12,100.00
Ch. 11] APPROPRIATIONS

59—Welch Emergency Hospital
Acct. No. 426

1 Personal Services ........................................... $ 406,388.00
3 Repairs and Alterations ................................... 72,500.00
4 Equipment ......................................................... 19,590.00

60—Hopemont State Hospital
Acct. No. 430

1 Personal Services ........................................... $ 1,528,414.00
2 Current Expenses .............................................. 350,000.00

62—Denmar State Hospital
Acct. No. 432

1 Personal Services ........................................... $ 885,338.00
2 Current Expenses .............................................. 273,000.00

12—State Tax Department
Acct. No. 180

1 Personal Services ........................................... $ 2,292,758.00
2 Current Expenses .............................................. 1,017,455.00

67—Department of Commerce
Acct. No. 465

1 Personal Services ........................................... $ 413,750.00
2 Current Expenses .............................................. 792,000.00

122—Public Service Commission—Motor Carrier Division
Acct. No. 829

1 Personal Services ........................................... $ 325,180.00
2 Equipment ......................................................... 8,860.00

125—West Virginia Alcohol Beverage Control
Acct. No. 837

2 Other Personal Services ................................. $ 4,095,090.00
3 Current Expenses .............................................. 1,297,101.00
4 Repairs and Alterations .................................. 39,000.00

The foregoing constitutes transfers of amounts from one item of appropriation to another item of appropriation within the total appropriation of each designated spending unit. The amounts as itemized for expenditure during the fiscal year
one thousand nine hundred seventy-two, shall be available for expenditure upon the effective date of this act.

CHAPTER 12
(Senate Bill No. 207—By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Passed March 7, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section fifteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact article one, chapter twenty-nine of said code, all relating to historic preservation; natural resources; organization and administration; the public land corporation; department of archives and history; short title; legislative findings; department of archives and history created; office of state historian and archivist; powers and duties; organization and advisory commissions established; and providing for the delivery of official books to the archivist for their preservation.

Be it enacted by the Legislature of West Virginia:

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

Chapter
20. Natural Resources.
29. Miscellaneous Boards and Officers.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.


1 The public land corporation of West Virginia, heretofore created and established, shall be continued as an
activity of the department of natural resources. The corporation may sue and be sued, contract and be contracted with, plead and be impleaded, and have and use a common seal. It shall be a public benefit corporation composed of the governor as chairman, the director of the department of natural resources as secretary, the commissioner of agriculture, the attorney general, the director of the engineering experiment station at West Virginia University and the state historian and archivist, none of whom shall receive additional compensation as members of the corporation.

The corporation shall be vested with the title of the state in public land, the title to which now is or may hereafter become absolutely vested in the state of West Virginia by reason of any law governing the title of lands within the state, except such public lands of the state as may be by law specifically allocated to and used by other state agencies, institutions and departments.

The corporation is hereby authorized and empowered to:

(1) Acquire from any persons or the state commissioner of forfeited lands, by purchase, lease or other agreement, any lands necessary and required for public use;

(2) Acquire by purchase, condemnation, lease, or agreement, receive by gifts and devises, or exchange, rights-of-way, easements, waters and minerals suitable for public use;

(3) Sell, purchase or exchange lands or stumpage for the purpose of consolidating lands under state or federal government administration;

(4) Negotiate and effect loans or grants from the government of the United States or any agency thereof for acquisition and development of such lands as may be authorized by law to be acquired for public use;

(5) Expend the income from the use and development of public lands for the purpose of liquidating obligations incurred in the acquisition, development and administration of such lands, until all such obligations have been
fully discharged, and thereafter pay such income into the
state fund for general revenue purposes and uses;

(6) Expend the income from the use and development
of public lands for the purchase, development, restoration
and preservation for public use, of sites, structures, ob-
jects and documents of prehistoric, historical, archeologi-
cal, architectural and cultural significance to the state
of West Virginia; and

(7) Expend the income from the use and development
of public lands for the purpose of obtaining grants or
matching moneys available from the government of the
United States or any of its instrumentalities for prehistoric,
historic, archeological, architectural and cultural purposes.

The corporation shall have the authority to designate
lands to which it has title for development and ad-
ministration for the public use including forestation, rec-
reation, wildlife, stock grazing, agricultural rehabilitation
and homesteading or other conservation activities and
may contract or lease for the proper development of oil,
gas or minerals, except that no contract or lease may be
entered into for the extraction and removal by stripping
or auger mining of coal, and water rights within or upon
the lands or property under its control. It shall convey,
assign, or allot lands to the title or custody of proper
departments or other agencies of state government for
administration and control within the functions of such
departments or other agencies as provided by law. The
corporation shall make proper lands available for the
purpose of cooperating with the government of the United
States in the relief of unemployment and hardship or for
any other public purpose. The corporation shall report an-
ually to the Legislature on its public land holdings, its
financial condition and its operations and shall make such
recommendations to the Legislature as deemed proper
concerning the acquisition, development, disposition and
use of public lands.

During the continuance of the Blennerhassett historical
commission, the public land corporation and its members
shall consult with and keep the said Blennerhassett his-
torical commission fully informed as to any official action
82 to be taken or proposed to be taken pursuant to this act
83 regarding or affecting Blennerhassett island and its pre-
84 historic, historic, archeological, architectural, cultural and
85 recreational significance or development or any of the
86 powers and duties of the Blennerhassett historical com-
87 mission.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DEPARTMENT OF ARCHIVES AND HISTORY.

§29-1-1. Short title.
§29-1-2. Legislative findings.
§29-1-3. Department of archives and history created; office of state
     historian and archivist.
§29-1-4. Powers and duties.
§29-1-5. Organization.
§29-1-6. Advisory commissions established.
§29-1-7. Delivery to state historian and archivist of official books,
     records and documents not in current use; prima facie
     evidence.

§29-1-1. Short title.

1 This article shall be known and may be cited as the
2 "West Virginia Historic Preservation Act of 1972."

§29-1-2. Legislative findings.

1 That the state of West Virginia, being possessed of a
2 heritage that is both ancient and honorable, should
3 undertake a program of systematically identifying, re-
4 storing, preserving, protecting and developing those sites,
5 structures, documents and objects which are of a
6 prehistoric, historical, archeological, architectural and
7 cultural significance by reason of their association with
8 the heritage of the state of West Virginia from the earliest
9 times of the reorganized government of Virginia or of
10 the dominion or colony of Virginia as related to the area
11 which comprises the state of West Virginia for the public
12 use and to serve as a constant reminder of a past
13 that is rich in history and as a source of inspiration for
14 the future. It is the purpose of this article to provide
15 for a coordinated and comprehensive approach to the
16 preservation of the cultural, scientific and historic heri-
17 tage of the state of West Virginia.
§29-1-3. Department of archives and history created; office of state historian and archivist.

A department of archives and history and the office of state historian and archivist are hereby created and established.

The state historian and archivist shall be appointed by the governor, with the advice and consent of the Senate, for a term of four years and shall be the chief executive officer of the department.

§29-1-4. Powers and duties.

The department of archives and history and the state historian and archivist shall have the following powers and duties:

1. Locate, identify, excavate, preserve, protect, restore, acquire and recommend for acquisition to the public land corporation, prehistoric, historic, archeological, architectural and cultural sites, structures, documents and objects worthy of preservation;

2. To survey, investigate and register such prehistoric, historic, archeological, architectural and cultural sites, structures, documents and objects either upon its own initiative or in cooperation with the West Virginia antiquities commission, reputable societies, organizations or agencies of the state and federal government;

3. To operate and maintain a state library and to collect for permanent preservation therein all valuable papers and documents relating to the state of West Virginia, and the territory included therein from the earliest times, together with all public records, state papers, documents of the Legislature, executive and judicial departments, and the reports of all state officials, boards and directors, of state institutions, educational, charitable, penal and otherwise, from the twentieth of June, eighteen hundred and sixty-three, to which the annual additions shall be added as produced;

4. To preserve and protect the battle flags and regimented flags borne by West Virginians in war;

5. To submit to the governor and the Legislature an annual report of its activities and needs, including a list-
(6) To mark by proper monument, tablets or markers, prehistoric, historic, archeological, architectural, scenic or geological sites within the state and to arrange for the purchase, replacement, care of and maintenance of such monuments, tablets or markers and formulate and prepare appropriate copy for them and to protect, preserve and display the Fairfax stones;

(7) To transmit to the department of finance and administration for publication or republication matters of prehistorical, historical, archeological, architectural or cultural interest, to cooperate with said department in compiling, printing and distributing such publications, and to sell publications, postcards and other souvenirs of a prehistorical, historical, archeological, architectural or cultural nature at the state museum and at prehistorical, historical, archeological, architectural or cultural properties administered by the department and to devote the revenue arising therefrom to the work of the department;

(8) To enter into agreements with responsible private historical, archeological, architectural or cultural associations, foundations and similar organizations or with the National Park Service, or with state agencies, for carrying on services or programs, or for the purpose of raising money in order to further improve and develop prehistorical, historical, archeological, architectural or cultural properties, museums, publications and other functions of the department: Provided, That said agreements shall be approved by the governor;

(9) With the advice and consent of the governor to accept, receive and expend gifts, donations, contributions, endowments, bequests or devises or money, security, or property, both real and personal, or any interest therein and to accept, receive and administer the same subject to any terms, limitations or restrictions placed thereon by the donor;

(10) To cooperate with agencies and instrumentalities of the United States of America and to cooperate with and
advise the public land corporation in the purchase, develop-
ment, restoration and preservation for public use, of sites, structures, objects and documents of prehistoric, his-
torical, archeological, architectural and cultural signifi-
cance to the state of West Virginia;

(11) To apply for and accept any grants or other moneys available for the purpose of this article from the federal government or any of its departments, agencies or instrumentalities;

(12) To maintain an office in the state capitol, city of Charleston;

(13) To have and use an official seal for use in official business;

(14) To dispose of real and personal property which does not have sufficient prehistoric, historic, archeological, architectural or cultural value to justify its retention: Provided, however, That such disposals shall not be made without the consent of the governor or of an advisory commission appointed by him pursuant to section six of this article;

(15) To make agreements with the executive depart-
ment and state boards, commissions and agencies, for the provision of state papers to the department and to such state institutions of higher learning as request them;

(16) To make reasonable rules and regulations govern-
ing the public use of its facilities and library;

(17) To edit and publish a quarterly historical maga-
zine devoted to the history, biography, bibliography, and genealogy of West Virginia.

During the continuance of the Blennerhassett historical commission, the department of archives and history and the state historian and archivist shall consult with and keep the said Blennerhassett historical commission fully informed as to any official action to be taken or proposed to be taken pursuant to this act regarding or affecting Blennerhassett island and its prehistoric, historic, arche-
ological, architectural, cultural and recreational signifi-
cance or development or any of the powers and duties of the Blennerhassett historical commission.
§29-1-5. Organization.

1. The department of archives and history shall be composed of such administrative divisions as the state historian and archivist shall deem necessary and proper for effectuating the purposes of this article.

§29-1-6. Advisory commissions established.

1. In consultation with the state historian and archivist, the governor may establish and appoint such advisory commissions as are necessary and proper for carrying out the purposes of this article. All members of such commissions shall serve without remuneration, but may be reimbursed for any and all reasonable and necessary expense incurred in the performance of their duties: Provided, That unless the Blennerhassett historical commission has ceased to exist, no such advisory commission shall be appointed regarding Blennerhassett island without the approval of the Blennerhassett historical commission.

§29-1-7. Delivery to state historian and archivist of official books, records and documents not in current use; prima facie evidence.

1. Any state, county or other official may turn over to the state historian and archivist, with his consent, for permanent preservation and record in the state department of archives and history, any official books, records, documents, original papers, or files, not in current use in his office, taking a receipt therefor: Provided, That such official shall first make and keep on record in his official files a certified copy of such book, record, document, original paper, or file. Such official may in like manner turn over to the state historian and archivist, with his consent, for the use of the state, any printed books, records, documents or reports not in current use in his office. Nothing herein, however, shall be construed to allow the removal of any books or records affecting the title to any estate within the jurisdiction of the official having custody of such records. The state historian and archivist shall embody in his report to the governor a general list of all such books, records, documents or pa-
pers so received; and upon the request of any person entitled thereto shall furnish a certified copy of any such record, document, paper, or extract therefrom, and such certified copy shall be entitled to the same weight as evidence as though certified by the official by whom such record, document, or paper was deposited with the state historian and archivist.

CHAPTER 13

(House Bill No. 516—By Mr. Kopelman)

[Passed March 6, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the attorney general acting as counsel in defense of national guardsmen.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. ATTORNEY GENERAL.

§ 5-3-2. Act as counsel for state; duties and powers as to prosecuting attorneys; defense of national guardsmen.

1 The attorney general shall appear as counsel for the state in all causes pending in the supreme court of appeals, or in any federal court, in which the state is interested; he shall appear in any cause in which the state is interested that is pending in any other court in the state, on the written request of the governor, and when such appearance is entered he shall take charge of and have control of such cause; he shall defend all actions and proceedings against any state officer in his official capacity in any of the courts of this state or any of the federal courts when the state is not interested in such
cause against such officer, but should the state be in-
13 terested against such officer, he shall appear for the
14 state; he shall institute and prosecute all civil actions and
15 proceedings in favor of or for the use of the state which
16 may be necessary in the execution of the official duties of
17 any state officer, board or commission on the written re-
18 quest of such officer, board or commission; he may con-
19 sult with and advise the several prosecuting attorneys in
20 matters relating to the official duties of their office, and
21 may require a written report from them of the state and
22 condition of the several causes, in which the state is a
23 party, pending in the courts of their respective counties;
24 he may require the several prosecuting attorneys to per-
25 form, within the respective counties in which they are
26 elected, any of the legal duties required to be performed
27 by the attorney general which are not inconsistent with
28 the duties of the prosecuting attorneys as the legal re-
29 presentatives of their respective counties; when the per-
30 formance of any such duties by the prosecuting attorney
31 conflicts with his duties as the legal representative of his
32 county, or for any reason any prosecuting attorney is
33 disqualified from performing such duties, the attorney
34 general may require the prosecuting attorney of any
35 other county to perform such duties in any county other
36 than that in which such prosecuting attorney is elected
37 and for the performance of which duties outside of the
38 county in which he is elected the prosecuting attorney
39 shall be paid his actual traveling and other expenses out
40 of the appropriation for contingent expenses for the de-
41 partment for which such services are rendered; the at-
42 torney general shall keep in proper books, a register of
43 all causes prosecuted or defended by him in behalf of the
44 state or its officers and of the proceedings had in re-
45 lation thereto, and deliver the same to his successor in
46 office; and he shall preserve in his office all his official
47 opinions and publish the same in his biennial report.
48 Upon request of any member of the West Virginia
49 national guard who has been named defendant in any
50 civil action arising out of that guardsman's action while
51 under orders from the governor relating to national guard
52 assistance in disasters and civil disorders, the attorney
Be it enacted by the Legislature of West Virginia:

That section twelve, article eight, chapter thirty-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 8. HEARINGS; ADMINISTRATIVE PROCEDURES; JUDICIAL REVIEW; UNLAWFUL ACTS; PENALTIES.

§31A-8-12. Branch banks forbidden; one limited off-premises facility permitted; limitation on purchase of bank stock.

(a) No banking institution shall:

1. Install or maintain any branch bank; or
2. Engage in business at any place other than at its principal office in this state: Provided, That at any time any such banking institution may operate one and only one off-premises walk-in or drive-in banking facility, on or in conjunction with or entirely separate from a parking lot for the customers of such banking institution, for the purpose of receiving bank deposits of all kinds, cashing checks, making change, selling and issuing money
orders and travelers checks and receiving payments on installment, savings and rental accounts, and for no other purposes, provided such off-premises banking facility is located within two thousand feet of the banking house premises of the banking institution operating such off-premises facility measured between the nearest points of the banking house premises and the premises on which such off-premises banking facility is located.

(b) It shall be unlawful for any person to purchase and hold stock in any banking institution for the purpose of selling, negotiating or trading participation in the ownership thereof either for the purpose of perfecting control of one or more such banking institutions or for the purpose of inducing other persons, firms or corporations or the general public to become participating owners therein. Nothing herein shall prevent the ownership of stock in any such banking institution by any person for investment purposes.

(c) Any violation of any provision of this section shall constitute a misdemeanor offense punishable by applicable penalties as provided in section fifteen of article eight of this chapter.

CHAPTER 15

(Senate Bill No. 390—Originating in the Senate Committee on Finance)

[Passed March 8, 1972; in effect from passage. Approved by the Governor.]

AN ACT finding and declaring certain claims against the state and its agency 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:

§1. Finding and declaring certain claims against the department of mental health to be moral obligations of the state, and directing payment thereof.
The Legislature has heretofore made findings of fact that the state has received the benefit of the commodities and services rendered by certain claimants herein and has considered claims against the state and the department of mental health, an agency thereof, which have arisen due to over-expenditures of departmental appropriations by officers of such state spending unit, such claims having been previously considered by the court of claims which also found that the state has received the benefit of the commodities and services rendered by each claimant, but were denied by the court of claims on the purely statutory grounds that to allow such claims would be condoning illegal acts contrary to the laws of the state. The Legislature, pursuant to its findings of fact and also by the adoption of the findings of fact by the court of claims as its own, and, while not condoning such illegal acts, 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 upon receipt of a properly executed requisition supported by an itemized invoice, statement or other satisfactory document as required by section ten, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, for the payment thereof out of any fund appropriated and available for the purpose.

Claims versus the Department of Mental Health
TO BE PAID FROM GENERAL REVENUE FUND

(1) The Upjohn Company.......................... $ 136.70
(2) P. B. & S. Chemical Company.................. 56.25
(3) Ralph E. Rinard, d/b/a Rinard Coal Company 633.60
(4) 3M Business Products Center Company........ 61.40
(5) Karoll's, Inc.................................. 1,308.94
(6) Will Ross, Inc.................................. 190.05
(7) Bristol Laboratories, Division of
    Bristol-Myers Company ....................... 462.50
CHAPTER 16

(House Bill No. 1170—By Mr. Buck and Mr. Kincaid)

[Passed March 10, 1972; 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 payments thereof.

Be it enacted by the Legislature of West Virginia:

§1. Finding and declaring certain claims against the department of highways; state building commission; West Virginia board of regents; department of finance and administration; adjutant general; office of the governor; department of mental health; state auditor; department of natural resources; alcohol beverage control commissioner; and department of labor, to be moral obligations of the state, and directing payment thereof.

1 The Legislature has considered the findings of fact and recommendations reported to it by the court of claims 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.

11 (a) Claims against the department of highways:
12 (1) Estate of L. M. Gates, by Florence C. Gates, Executrix $ 89.25
13 (2) Safeco Insurance Company 166.86
14 (3) Frank & Arnold Whitehair 107.08
15 (4) William Bryant 400.00
16 (5) Bertha G. Barton 2,531.00
18 (6) Harleysville Mutual Insurance Co. subrogee of Lena Nancy Shaver 226.88
<table>
<thead>
<tr>
<th>No.</th>
<th>Claim Against the State</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Arden Harmon</td>
</tr>
<tr>
<td>21</td>
<td>Vecellio and Grogan, Inc., and Foster and Creighton Co.</td>
</tr>
<tr>
<td>23</td>
<td>Lurleen (Mrs. John, Jr.) Buckner</td>
</tr>
<tr>
<td>24</td>
<td>Steve and Mary Bukovinsky</td>
</tr>
<tr>
<td>25</td>
<td>Nationwide Insurance Co., subrogee for Fred or Carolyn Runyon</td>
</tr>
<tr>
<td>27</td>
<td>Collins and Ruth Rivers</td>
</tr>
<tr>
<td>28</td>
<td>Tri-State Stone Corporation</td>
</tr>
<tr>
<td>29</td>
<td>Earl L. Wright</td>
</tr>
<tr>
<td>30</td>
<td>Herbert and Lovie Thomas</td>
</tr>
<tr>
<td>31</td>
<td>Joseph and Kathleen Sands</td>
</tr>
<tr>
<td>32</td>
<td>Gloria L. Randolph</td>
</tr>
<tr>
<td>33</td>
<td>Clyde W. Reinhart</td>
</tr>
<tr>
<td>34</td>
<td>Jerry A. Robey</td>
</tr>
<tr>
<td>35</td>
<td>Paul W. Dixon</td>
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<td>36</td>
<td>Paul W. Dixon</td>
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<tr>
<td>37</td>
<td>Roy W. Powers</td>
</tr>
<tr>
<td>38</td>
<td>Vecellio and Grogan, Inc.</td>
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<tr>
<td>39</td>
<td>Robert D. Smith</td>
</tr>
<tr>
<td>40</td>
<td>Murl E. Atkins</td>
</tr>
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<td>41</td>
<td>Sam Caldwell</td>
</tr>
<tr>
<td>42</td>
<td>A. M. Foley</td>
</tr>
<tr>
<td>43</td>
<td>The Trustees, Kanawha Aerie No. 1040, Fraternal Order of Eagles</td>
</tr>
<tr>
<td>45</td>
<td>Kayton Theatre, Inc.</td>
</tr>
<tr>
<td>46</td>
<td>Anna Cater Murad, widow and sole devisee of Louis F. Murad, deceased, and Ida Cater, widow</td>
</tr>
<tr>
<td>49</td>
<td>Progressive Investments, Inc.</td>
</tr>
<tr>
<td>50</td>
<td>Freda Tabit, widow and devisee of Andrew Tabit, deceased</td>
</tr>
<tr>
<td>52</td>
<td>Algie Chiles</td>
</tr>
<tr>
<td>53</td>
<td>Joseph W. Drasnin, trading and doing business as Drasnin's Men's Shop</td>
</tr>
<tr>
<td>55</td>
<td>Mary Ellis</td>
</tr>
<tr>
<td>56</td>
<td>John Fragale, d/b/a Top Hat Billiards</td>
</tr>
<tr>
<td>57</td>
<td>Aetna Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards</td>
</tr>
</tbody>
</table>
(38) Fidelity-Phenix Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards ____________ 27.55
(39) Home Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards ________________ 55.11
(40) New Hampshire Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards ____________ 55.11
(41) Phoenix Assurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards ________________ 68.88
(42) Phoenix Insurance Company, subrogee of John Fragale, d/b/a Top Hat Billiards ________________ 68.88
(43) Eddie Gonano, trading and doing business as Ed's Place ___________________________ 3,032.53
(44) Belva Halsey, d/b/a Belva's Beauty Shop ______________________________________ 1,000.00
(45) L. J. Hark, trading and doing business as Drasnin's Tailor Shop ________________ 2,280.88
(46) Robert W. Jackson, trading and doing business as Henderson's Drug Store ___________ 2,368.27
(47) E. W. Kelly, trading and doing business as E. W. Kelly Store ________________ 1,450.00
(48) Mearns, Inc., a corporation, trading and doing business as The Fashion Shop __________ 11,000.00
(49) Montgomery Hardware Company, Inc. ___________________________ 5,125.01
(50) Montgomery Motors, Inc. __________________________________________ 1,055.37
(51) Aetna Insurance Company, subrogee of Montgomery Motors, Inc. ___________ 4,723.55
(52) Fidelity-Phenix Insurance Company, subrogee of Montgomery Motors, Inc. ___________ 7,834.13
(53) Home Insurance Company, subrogee of Montgomery Motors, Inc. ___________ 11,336.52
(54) Phoenix Insurance Company, subrogee of Montgomery Motors, Inc. ___________ 10,000.00
<table>
<thead>
<tr>
<th>Claim</th>
<th>Amount</th>
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<tr>
<td>55</td>
<td>The Phoenix Insurance Company</td>
</tr>
<tr>
<td>56</td>
<td>O. E. Palmer, Administrator, c t a d b n the estate of A. A. Mitchell, deceased, and Mary Rose</td>
</tr>
<tr>
<td>(b)</td>
<td>Claims against the state building commission:</td>
</tr>
<tr>
<td>1</td>
<td>First National Bank of South Charleston, as assignee of C &amp; D Equipment Company</td>
</tr>
<tr>
<td>2</td>
<td>Orpha E. Jones</td>
</tr>
<tr>
<td>(c)</td>
<td>Claims against the West Virginia board of regents:</td>
</tr>
<tr>
<td>1</td>
<td>State Farm Mutual Automobile Insurance Co., as subrogee for Damaris O. Wilson</td>
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<tr>
<td>2</td>
<td>Appraisal &amp; Realty Service, Inc.</td>
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<td>3</td>
<td>Thomas Oliver Mucklow</td>
</tr>
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<td>(d)</td>
<td>Claims against the department of finance and administration:</td>
</tr>
<tr>
<td>1</td>
<td>Retreading Research Associates, Inc.</td>
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<td>2</td>
<td>Columbia Ribbon &amp; Carbon Manufacturing Company</td>
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<tr>
<td>(e)</td>
<td>Claims against the Adjutant General:</td>
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<tr>
<td>1</td>
<td>Andy &amp; Lora Shanabarger</td>
</tr>
<tr>
<td>(f)</td>
<td>Claims against the office of the governor:</td>
</tr>
<tr>
<td>1</td>
<td>George N. Peraldo, d/b/a Pauley Drilling Company</td>
</tr>
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<td>2</td>
<td>United Air Lines, Inc.</td>
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<td>(g)</td>
<td>Claims against the department of mental health:</td>
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<td>1</td>
<td>Singer Sheet Metal Company, Inc.</td>
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<td>(h)</td>
<td>Claims against the state auditor:</td>
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<tr>
<td>1</td>
<td>Maciej Gal</td>
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<td>(i)</td>
<td>Claims against the department of natural resources:</td>
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<td>1</td>
<td>Budget Rent A Car of Cleveland, Inc.</td>
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<tr>
<td>2</td>
<td>Fred E. Blair</td>
</tr>
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<td>3</td>
<td>Willard Blair</td>
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<tr>
<td>4</td>
<td>Trebag Enterprises, Inc.</td>
</tr>
</tbody>
</table>
CONFLICT OF INTEREST  

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138  (j) Claims against the alcohol beverage control commissioner:
139    (1) Blanton M. Friddle 946.95
140  (k) Claims against the department of labor:
141    (1) Lawrence Barker 300.00
142
143 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 payments to any claimant provided for in this bill, the court of claims 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 appropriation for said claimant. The court of claims shall deliver all releases obtained from claimants to the department against which the claim was allowed.

CHAPTER 17

(House Bill No. 1088—By Mr. Burke)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article one, chapter six-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conflicts of interest; providing that persons employed under the colleges and universities part-time employees program are exempt from the provisions of this article.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. DISCLOSURE.

§6B-1-1. Statements to be filed by members of the Legislature and certain officers and employees; suspension for noncompliance; report of statements filed; forms for statements; exceptions.
In the year one thousand nine hundred sixty-nine and every calendar year thereafter, every person who is or was at any time during the preceding calendar year, a member of the Legislature, an officer, agent, servant or employee in the executive branch of state government or an employee or judge in the judicial branch of state government, shall, between January one and January fifteen in each year file with the clerk of the Senate if a member of that body, with the clerk of the House of Delegates if a member of that body, with the secretary of state if an officer, agent, servant or employee in the executive branch of state government and with the clerk of the supreme court of appeals if an employee or judge of the judicial branch of state government, a written statement under oath of:

(1) The name of every corporation, firm, association, partnership or sole proprietorship, in which he, his spouse, or his unemancipated minor child or children, own either in his or their own name or beneficially at least ten percent of such business entity, which is then furnishing or which within the previous calendar year has furnished to the state, commodities or printing as those terms are defined in section one, article one, chapter five-a of this code.

(2) The name of each person, corporation, firm, partnership or other business association in, for, or of which he is an officer, director, agent, attorney, representative, employee, partner or employer, and which to his actual knowledge is then furnishing or within the previous calendar year has furnished to the state, commodities or printing as those terms are defined in section one, article one, chapter five-a of this code.

(3) Any other interest or relationship which might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.

Those persons to whom the provisions of subdivisions (1), (2) and (3) above are not applicable shall file a written statement under oath to that effect, such statement to be filed within the time and with the appropriate official as above specified.
Any person other than a constitutional officer who shall fail or refuse to file a written statement under oath as required under subdivisions (1), (2) or (3) above or the preceding paragraph hereof shall by operation of law be automatically suspended without pay from his office, position or employment, as the case may be, in, with or by the government of this state, until such statement is filed.

On or before January thirty-first of each year the clerk of the Senate, the clerk of the House of Delegates, the secretary of state and the clerk of the supreme court of appeals shall prepare a report containing the statements for the previous calendar year required to be filed pursuant to this section. Copies of such reports shall be open to public inspection in their respective offices, and shall be retained for a period of five years after the date of the preparation thereof. Each house may adopt rules to implement the provisions of this section, insofar as they relate to members of the Legislature.

The clerk of the Senate, the clerk of the House of Delegates, the secretary of state and the clerk of the supreme court of appeals shall prepare forms for such written statements and distribute the same to those persons who are required to file such written statements with him:

Provided, That the provisions of this article shall not apply to persons receiving hourly compensation under the aid to dependent children of unemployed parents program, to persons receiving compensation under the foster grandparents program, to part-time student employees of colleges or universities, and to volunteer fire fighters compensated from state funds.

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CHAPTER 18

(Senate Bill No. 41—By Mr. Brotherton)

(Passed March 9, 1972; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact sections twenty-one and forty-three, article six, chapter thirty-one of the code of West
Virginia, one thousand nine hundred thirty-one, as amended, relating to building and loan associations; providing that no building and loan association shall take a mortgage or deed of trust upon real estate unless a written report thereon shall have been made by an appraiser examining the real estate and thereafter approved by at least two members of the appraisal committee indicating adequate security for the loan described in such mortgage or deed of trust; increasing from ninety to ninety-five percent of the appraised value of improved real estate the amount which may be secured by a mortgage or deed of trust taken by a savings and loan association, with certain exceptions; and authorizing any building and loan association whose accounts are insured by the federal savings and loan insurance corporation to make any loan or investment permitted to be made by any federal savings and loan association doing business in this state on January two, one thousand nine hundred seventy-two.

Be it enacted by the Legislature of West Virginia:

That sections twenty-one and forty-three, article six, 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:

ARTICLE 6. BUILDING AND LOAN ASSOCIATIONS.

§31-6-21. Conditions on which association may take mortgage or deed of trust.

No building and loan association shall:

1 First: Take a mortgage or deed of trust upon real estate unless a written application is first made for the loan described in such mortgage or deed of trust, showing the date, name of applicant, amount of loan desired, description of the real estate offered, and other information necessary, and unless a written report thereon shall have been made by an appraiser examining the real estate and thereafter approved by at least two members of the appraisal committee indicating, in their judgment, it affords
adequate security for such loan. Such report shall show
separately the value of the land and the value of the im-
provements and of the building or buildings erected
thereon. The application and the report shall be filed and
preserved with all the other papers relating to the loan.

Second: Take a mortgage or deed of trust upon im-
proved real estate if the amount secured by such mort-
gage or deed of trust, plus any prior liens, exceeds
ninety-five per centum of the appraised value thereof as
shown by such report, unless said excess be secured by a
pledge of free stock or notes of the association, or unless
said excess is insured or guaranteed by the United States
or any instrumentality thereof, or there is a commitment
to so insure or guarantee. No loan shall be made on the
security of vacant real estate if the amount so secured,
plus any prior liens, exceed fifty per centum of the ap-
praised value thereof as shown by such report.

Third: Take a mortgage or deed of trust upon real
estate unless the title to such real estate is approved by
the attorney of the association.

§31-6-43. Certain building and loan associations may make
loans and investments permitted to be made by
federal savings and loan associations doing busi-
ness in this state.

In addition to all other powers conferred by this article,
building and loan associations whose accounts are in-
sured by the federal savings and loan insurance corpo-
tion are authorized and empowered to make any loan
or investment permitted to be made by any federal
savings and loan association doing business in this state
on the second day of January, one thousand nine hun-
dred seventy-two: Provided, That all such loans and in-
vestments shall be made upon the same terms and
conditions and subject to the same restrictions and limita-
tions as were at said date prescribed for loans and
investments made by such a federal savings and loan
association doing business in this state under the pro-
visions of the Homeowners Loan Act of one thousand
nine hundred thirty-three, as amended, and the "Rules
and Regulations for the Federal Savings and Loan System," as amended, promulgated by the federal home loan bank board: Provided, however, That (a) whenever and wherever authorization by charter or bylaws of such a federal savings and loan association was at said date required by said law or said rules and regulations as a prerequisite to the making of any such loan or investment, such authorization in the case of a building and loan association may be granted by its charter or constitution and bylaws, as the case may be, or by amendments thereto heretofore or hereafter duly adopted; (b) whenever or wherever authorization of the members of such a federal savings and loan association was at said date required by said law or by said rules and regulations as a prerequisite to the making of any such loan or investment, such authorization may in the case of a building and loan association be granted by its shareholders; and (c) whenever and wherever approval by the board of directors of such a federal savings and loan association was at said date required by said law or by said rules and regulations as a prerequisite to the making of any such loan or investment, such approval may in the case of a building and loan association be granted by the board of directors of such building and loan association.

Building and loan associations are authorized and empowered to amend their charters, constitutions and by-laws to provide for the making of all loans and investments permitted by this section and their shareholders and boards of directors are authorized to take any and all actions required to authorize the making of such loans and investments.

CHAPTER 19

(House Bill No. 1244—By Mr. Seibert)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article fourteen, chapter thirty-one of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to the taxation of business development corporations.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article fourteen, 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:

ARTICLE 14. WEST VIRGINIA BUSINESS DEVELOPMENT CORPORATIONS.

§31-14-13. Exemption from payment of business and occupation taxes; treatment as banking institution for purposes of property taxation.

1 Every corporation organized under the provisions of this article shall be exempt from payment or collection of the business and occupation tax as provided for by chapter eleven, article thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, upon the business done by it. Upon certification by the corporation to the state tax commissioner that it is a corporation organized under and pursuant to the provisions of this article, such corporation shall not be required to file annual or other returns under the requirements of said chapter and article. Every business development corporation organized under the provisions of this article shall be taxed as a banking institution for the purposes of article three, chapter eleven of this code.

CHAPTER 20

(Senate Bill No. 351—By Mr. Brotherton)

[Passed March 6, 1972; in effect from passage. Approved by the Governor.]
poses, the addition of new legislative findings and purposes concerning the desirability of occupancy of some units in residential housing developments for low and moderate income persons and families by persons and families of higher income, the need for federally insured construction loans, uninsured construction loans, and long-term uninsured mortgage loans to sponsors of residential housing for persons and families of low and moderate income and to persons and families of low and moderate income; the definition of certain terms, and the addition of definitions of certain terms; the powers of the fund and the addition of powers respecting the types of investments that the fund may make with funds not required for immediate disbursement, the making and publishing of rules and regulations respecting uninsured mortgage lending by the fund, the making of uninsured construction loans and long-term uninsured mortgage loans, and the acquisition, holding, developing and selling or otherwise disposing of real property, and interests in real property; and the addition of the limitation that no real property shall be purchased or leased by the fund from, or sold, leased or otherwise disposed of by the fund to, any director or officer of the fund.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, nineteen and twenty-one, article eighteen, 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:

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-2. Legislative findings and purpose.
§31-18-6. Corporate powers.
§31-18-21. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

§31-18-2. Legislative findings and purpose.

1 (a) The Legislature hereby finds and declares that as a result of public actions involving highways, public facilities, flood control projects, and urban renewal activities, and as a result of the spread of slum conditions and blight
to formerly sound urban and rural neighborhoods, there
exists in the state of West Virginia a serious shortage of
sanitary, decent and safe residential housing available at
low prices or rentals to persons and families of low and
moderate income. This shortage is severe in certain urban
areas of the state, is especially critical in the rural areas
of West Virginia, and is inimical to the health, welfare
and prosperity of all residents of the state and to the
sound growth of West Virginia communities.

(b) The Legislature hereby finds and declares further
that private enterprise and investment have not been able
to produce, without assistance, the needed construction
of sanitary, decent and safe residential housing at low
prices or rentals which persons and families of low and
moderate income can afford, to provide sufficient long-
term mortgage financing for residential housing for oc-
cupancy by persons and families of low and moderate in-
come, or to achieve the urgently needed rehabilitation
of much of the present low and moderate income housing
stock. It is imperative that the supply of residential
housing for persons and families displaced by public
actions or natural disaster be increased; and that private
enterprise and investment be encouraged both to sponsor
land development for residential housing for such per-
sons and families and to sponsor, build and rehabilitate
residential housing for such persons and families, and
that private financing be supplemented by financing as
in this article provided, to help prevent the recurrence of
slum conditions and blight and assist in their permanent
elimination throughout West Virginia.

(c) The Legislature hereby finds and declares further
that experience has demonstrated that concentration in
residential housing developments of only persons and
families who, without some form of private or public as-
sistance, do not have incomes sufficient to afford sanitary,
decent and safe residential housing, frequently does not
eliminate undesirable social conditions and frequently
does not permanently eliminate slum conditions, and that
in such instances occupancy of some of the residential
housing units in such residential housing developments
by persons and families of higher income is desirable and beneficial in achieving the stated public purposes for enacting this legislation.

(d) The Legislature hereby finds and declares further that its intention by enacting this legislation is to provide for the creation and establishment of the West Virginia housing development fund, the corporate purpose of which is to provide temporary financing for development costs, land development and residential housing construction to public and private sponsors of land development for residential housing or residential housing, new or rehabilitated, for sale or rental to persons and families of low and moderate income; further to provide federally insured construction loans to sponsors of land development for residential housing for occupancy by persons and families of low and moderate income or residential housing for occupancy by persons and families of low and moderate income who are eligible or potentially eligible for federally insured mortgages or federal mortgages; further to provide uninsured construction loans to sponsors of land development for residential housing or residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income who may construct such housing; further to provide long-term federally insured mortgage financing to public and private sponsors of residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income who may purchase such housing; further to provide long-term uninsured mortgage financing to public and private sponsors of residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income who may purchase such housing; further to provide technical, consultative and project assistance service to public and private sponsors of such land development or residential housing; further to increase the construction of low and moderate income housing through the purchase or investment in long-term federal mortgages or federally insured mortgages, or uninsured mortgages, on housing for persons and families of low and moderate income con-
86 structured in this state thereby increasing the supply of
87 long-term mortgage financing and freeing funds avail-
88 able therefor for use in short-term construction financing;
89 and finally to assist in coordinating federal, state, regional
90 and local public and private efforts and resources to
91 otherwise increase the supply of such residential hous-
92 ing.
93 (e) The Legislature hereby finds and declares further
94 that in accomplishing this purpose, the West Virginia
95 housing development fund, created and established by
96 this article, is acting in all respects for the benefit of the
97 people of the state of West Virginia to serve a public pur-
98 pose in improving and otherwise promoting their health,
99 welfare and prosperity, and that the West Virginia hous-
100 ing development fund, so created and established, is em-
101 powered, hereby, to act on behalf of the state of West
102 Virginia and its people in serving this public purpose for
103 the benefit of the general public.


1 As used in this article, unless the context otherwise
2 requires:
3 (1) "Development costs" means the costs approved by
4 the housing development fund as appropriate expendi-
5 tures by the housing development fund, or by sponsors
6 of land development for residential housing or residential
7 housing, within this state, prior to commitment and ini-
8 tial advance of the proceeds of a federally insured con-
9 struction loan, federally insured mortgage or federal
10 mortgage, or other public assistance programs, or unin-
11 sured construction loan, or uninsured mortgage loan and
12 for which temporary loans may be made by the housing
13 development fund, including but not limited to:
14 (a) Payments for options to purchase properties on
15 the proposed residential housing site, deposits on con-
16 tracts of purchase, or, with prior approval of the housing
17 development fund, payments for the purchase of such
18 properties;
19 (b) Legal and organizational expenses, including pay-
20 ments of attorneys' fees, project manager and clerical
21 staff salaries, office rent and other incidental expenses;
(c) Payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees;

(2) "Federally insured construction loan" means a construction loan for land development for residential housing or residential housing which is either secured by a federally insured mortgage or a federal mortgage, or which is insured by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a loan;

(3) "Federally insured mortgage" means a mortgage loan for land development for residential housing or residential housing insured or guaranteed by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a mortgage;

(4) "Federal mortgage" means a mortgage loan for land development for residential housing or residential housing made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan;

(5) "Housing development fund" means the West Virginia housing development fund created and established by section four of this article;

(6) "Land development" means the process of acquiring land for residential housing construction, and of making, installing or constructing nonresidential housing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, whether on or off the site, which the housing development fund deems necessary or desirable to prepare such land for residential housing construction within this state;

(7) "Operating loan fund" means the operating loan fund which may be created and established by the
housing development fund in accordance with section nineteen of this article;

(8) "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the housing development fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis, and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: Provided, That to the extent found and determined by the housing development fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis;

(9) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and
improvements thereto, for residential housing, and such
other nonhousing facilities as may be incidental or appur-
tenant thereto;

(10) "Uninsured construction loan" means a construc-
tion loan for land development for residential housing
or residential housing which is not secured by either a
federally insured mortgage or a federal mortgage, and
which is not insured by the United States or an instru-
mentality thereof, and, as to which there is no commit-
ment by the United States or an instrumentality thereof
to provide insurance;

(11) "Uninsured mortgage" and "uninsured mortgage
loan" means a mortgage loan for land development for
residential housing or residential housing which is not
insured or guaranteed by the United States or an instru-
mentality thereof, and as to which there is no commit-
ment by the United States or an instrumentality thereof
to provide insurance.

§31-18-6. Corporate powers.
1 The housing development fund is hereby granted, has
2 and may exercise all powers necessary or appropriate to
carry out and effectuate its corporate purpose, including
but not limited to the following:

(1) To make or participate in the making of federally
insured construction loans to sponsors of land develop-
ment for residential housing for occupancy by persons
or families of low and moderate income or residential
housing for occupancy by persons or families of low and
moderate income who are eligible or potentially eligible
for federally insured mortgages or federal mortgages.
Such loans shall be made only upon determination by
the housing development fund that construction loans
are not otherwise available, wholly or in part, from
private lenders upon reasonably equivalent terms and
conditions;

(2) To make temporary loans, with or without inter-
est, but with such security for repayment as the housing
development fund determines reasonably necessary and
practicable, from the operating loan fund, if created,
established, organized and operated in accordance with
the provisions of section nineteen of this article, to defray
development costs to sponsors of land development for
residential housing for occupancy by persons and families
of low and moderate income or residential housing con-
struction for occupancy by persons and families of low
and moderate income which is eligible or potentially
eligible for federally insured construction loans, federally
insured mortgages, federal mortgages, or uninsured con-
struction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-
term federally insured mortgage loans to sponsors of
residential housing for occupancy by persons and families
of low and moderate income, or to persons and families
of low and moderate income who may purchase such
residential housing who are eligible or potentially eligible
for federally insured mortgages or federal mortgages.
Such loans shall be made only upon determination by
the housing development fund that long-term mortgage
loans are not otherwise available, wholly or in part,
from private lenders upon reasonably equivalent terms
and conditions;

(4) To accept appropriations, gifts, grants, bequests
and devises, and to utilize or dispose of the same to carry
out its corporate purpose;

(5) To make and execute contracts, releases, com-
promises, compositions and other instruments necessary
or convenient for the exercise of its powers, or to carry
out its corporate purpose;

(6) To collect reasonable fees and charges in connec-
tion with making and servicing its loans, notes, bonds,
obligations, commitments and other evidences of indebted-
ness, and in connection with providing technical, con-
sultative and project assistance services. Such fees and
charges shall be limited to the amounts required to pay
the costs of the housing development fund, including
operating and administrative expenses, and reasonable
allowances for losses which may be incurred;

(7) To invest any funds not required for immediate
disbursement in any of the following securities:
(i) Direct obligations of or obligations guaranteed by the United States of America;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; the Federal National Mortgage Association or the Government National Mortgage Association;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities or preliminary loan notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit secured by obligations of the United States of America;

(v) Direct obligations of or obligations guaranteed by the state of West Virginia;

(vi) Direct and general obligations of any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged: Provided, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency; and

(vii) Any fixed interest bond, note or debenture of any corporation organized and operating within the United States: Provided, That such corporation shall have a minimum net worth of fifteen million dollars and its securities or its parent corporation’s securities are listed on one or more of the national stock exchanges: Provided, however, That (1) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, and (2) such corporation has
not defaulted in the payment of principal or interest
on any of its outstanding funded indebtedness during its
preceding ten fiscal years, and (3) the bonds, notes or
debentures of such corporation to be purchased are rated
"AA" or the equivalent thereof or better than "AA" or
the equivalent thereof by at least two or more nationally
recognized rating services, such as Standard and Poor's,
Dun & Bradstreet or Moody's;

(8) To sue and be sued;
(9) To have a seal and alter the same at will;
(10) To make, and from time to time, amend and
repeal bylaws, rules and regulations not inconsistent with
the provisions of this article;
(11) To appoint such officers, employees and consult-
ants as it deems advisable and to fix their compensation
and prescribe their duties;
(12) To acquire, hold and dispose of personal property
for its corporate purposes;
(13) To enter into agreements or other transactions
with any federal or state agency, any person and any
domestic or foreign partnership, corporation, association
or organization;
(14) To acquire real property, or an interest therein, in
its own name, by purchase or foreclosure, where such
acquisition is necessary or appropriate to protect any
loan in which the housing development fund has an
interest and to sell, transfer and convey any such prop-
erty to a buyer and, in the event such sale, transfer or
conveyance cannot be effected with reasonable promptness
or at a reasonable price, to lease such property to a
tenant;
(15) To sell, at public or private sale, any mortgage
or other negotiable instrument or obligation securing a
construction, land development, mortgage or temporary
loan;
(16) To procure insurance against any loss in connec-
tion with its property in such amounts, and from such
insurers, as may be necessary or desirable;
(17) To consent, whenever it deems it necessary or
desirable in the fulfillment of its corporate purpose, to
the modification of the rate of interest, time of payment
or any installment of principal or interest, or any other
terms, of any mortgage loan, mortgage loan commitment,
construction loan, temporary loan, contract or agreement
of any kind to which the housing development fund is a
party;

(18) To make and publish rules and regulations re-
specting its federally insured mortgage lending, uninsured
mortgage lending, construction lending and temporary
lending to defray development costs and any such other
rules and regulations as are necessary to effectuate its
corporate purpose;

(19) To borrow money to carry out and effectuate its
corporate purpose and to issue its negotiable bonds or
notes as evidence of any such borrowing in such principal
amounts and upon such terms as shall be necessary to
provide sufficient funds for achieving its corporate pur-
pose, except that no negotiable notes shall be issued to
mature more than ten years from date of issuance and
no negotiable bonds shall be issued to mature more than
fifty years from date of issuance;

(20) To issue renewal notes, to issue bonds to pay
notes and, whenever it deems refunding expedient, to
refund any bonds by the issuance of new bonds, whether
the bonds to be refunded have or have not matured except
that no such renewal notes shall be issued to mature
more than ten years from date of issuance of the notes
renewed and no such refunding bonds shall be issued to
mature more than fifty years from the date of issuance;

(21) To apply the proceeds from the sale of renewal
notes or refunding bonds to the purchase, redemption, or
payment of the notes or bonds to be refunded;

(22) To provide technical services to assist in the plan-
ning, processing, design, construction or rehabilitation of
residential housing for occupancy by persons and families
of low and moderate income or land development for
residential housing for occupancy by persons and families
of low and moderate income;
178 (23) To provide consultative project assistance services for residential housing for occupancy by persons and families of low and moderate income and for land development for residential housing for occupancy by persons and families of low and moderate income, and for the residents thereof with respect to management, training and social services;

185 (24) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

188 (25) To participate in the making of or to make loans to qualified federally approved mortgagees and in connection therewith, or independently thereof, to take as collateral security, invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, purchase or refinancing of housing for persons and families of low and moderate income in this state: Provided, That the fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans for low and moderate income housing in this state or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

199 (26) To make or participate in the making of uninsured construction loans to sponsors of land development for residential housing for occupancy by persons and families of low and moderate income or residential housing for occupancy by persons and families of low and moderate income. Such loans shall be made only upon determination by the housing development fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

205 (27) To make or participate in the making of long-term uninsured mortgage loans to sponsors of residential housing for occupancy by persons and families of low
and moderate income, or to persons and families of low and moderate income who may purchase such residential housing. Such loans shall be made only upon determination by the housing development fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions; and

(28) To obtain options to acquire and to acquire real property, or any interest therein, in its own name, by purchase, or lease, or otherwise, which is found by the housing development fund to be suitable, or potentially suitable, as a site, or as part of a site, for the construction of residential housing for occupancy by persons and families of low and moderate income; to hold such real property; to make loans to finance the performance of land development activities on or in connection with any such real property or to perform land development activities on or in connection with any such real property; and to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the housing development fund shall determine, to sponsors of residential housing for occupancy by persons and families of low and moderate income: Provided, That if the housing development fund shall determine that any such real property or any lots, tracts or parcels of such real property are not at any time or times needed for present or future residential housing for occupancy by persons and families of low and moderate income, the housing development fund may sell, transfer and convey, lease or otherwise dispose of the same, to such purchasers or lessees, for such prices, upon such terms, conditions and limitations, and for such uses and purposes as the housing development fund shall determine.


(a) The board of directors of the housing development fund may create and establish a special revolving loan
fund of moneys made available by contribution or loan, to be known as the operating loan fund and to be governed, administered and accounted for by the directors, officers and managerial staff of the housing development fund as a public purpose trust account separate and distinct from any other moneys, fund or funds owned and managed by the housing development fund.

(b) The purpose for organizing and operating the operating loan fund shall be to provide a source from which the housing development fund may make temporary loans, with or without interest, but with such security for repayment as the housing development fund deems reasonably necessary and practicable; such loans to be used to defray development costs to sponsors of land development for residential housing construction for occupancy by persons and families of low and moderate income or residential housing construction for occupancy by persons and families of low and moderate income which is eligible or potentially eligible for federally insured construction loans, federally insured mortgages or federal mortgages or other public assistance programs or uninsured construction loans or uninsured mortgage loans.

(c) No temporary loans shall be made by the housing development fund from the operating loan fund except in accordance with a written loan agreement which shall include, but not be limited to, the following terms and conditions:

(1) The proceeds of all such loans shall be used only to defray the development costs of such proposed residential housing;

(2) All such loans shall be repaid in full, with or without interest as provided in the agreement;

(3) All repayments shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage, as the case may be, or at such other times as the housing development fund deems reasonably necessary or practicable; and

(4) Specification of such security for repayments upon such terms and conditions as the housing development
fund deems reasonably necessary or practicable to ensure all repayments.

(d) No funds from the operating loan fund shall be used to carry on propaganda, or otherwise attempt to influence legislation.

§31-18-21. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

1 No part of the funds of the housing development fund, or of the operating loan fund, shall inure to the benefit of or be distributable to its directors or officers or other private persons except that the housing development fund shall be authorized and empowered to pay reasonable compensation, other than to the directors, including the chairman, vice-chairman and treasurer of the board of directors and the secretary of the board of directors, for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no such loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any director or officer of the housing development fund.

CHAPTER 21

(Com. Sub. for House Bill No. 1202—By Mr. Dinsmore)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]
reenact article seven of said chapter seven, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to county government, county courts and other county officers and their deputies, assistants and employees; the composition, powers and duties of county courts and other county officers; setting forth legislative findings of fact and a declaration of policy with respect to such compensation, powers and duties; establishing county in-service training programs; classifying counties on the basis of assessed valuations for the purpose of determining compensation of elected county officials; the compensation of county commissioners and the compensation of other elected county officials, county deputies, assistants and employees; the county budget; assistant prosecuting attorneys, and their appointment and compensation; the appointment of an attorney to prosecute cases; the procedure for the payment of compensation of county officials, deputies, assistants and employees; affidavits as to compensation; illegal orders for compensation; providing prohibitions; the allowance for the expenses of sheriffs and prosecuting attorneys; the training of sheriffs and their deputies; the payment of training expenses by the county court; the mileage allowance for county officials and their deputies, assistants and employees and reports in connection therewith; annual reports by county officers; the source of compensation paid judges of courts of limited jurisdiction; providing criminal penalties; providing a severability clause; and relating to the deputies, assistants and employees of assessors.

Be it enacted by the Legislature of West Virginia:

That sections five-(one) through five-(fifty-four), inclusive, article one, chapter seven be repealed; that sections five, five-(one) through five-(fifty-five), inclusive, article two, chapter eleven be repealed; that section five, article one, chapter seven be amended and reenacted; that said article one be further amended by adding thereto four new sections, designated sections three-q, three-r, four and five-a; and that article seven of said chapter seven be amended and reenacted, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all to read as follows:
Article

1. County Courts Generally.
7. Training Programs for County Employees, etc.; Compensation of Elected County Officials; County Assistants, Deputies and Employees. Their Number and Compensation.

ARTICLE 1. COUNTY COURTS GENERALLY.

§7-1-3q. County commissions on intergovernmental relations created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

§7-1-3r. Purposes of section; county commissions on crime, delinquency and correction created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

§7-1-4. Compensation of commissioners for services in court.

§7-1-5. Duties of county commissioners; payment for services other than services in court.

§7-1-5a. Salaries of county commissioners.

§7-1-3q. County commissions on intergovernmental relations created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

There is hereby established in each county a commission on intergovernmental relations. The commission shall be composed of the members of the county court and such other members as may be designated by the county court. Members other than the county court members shall serve at the will and pleasure of a majority of the county court members.

This commission shall assemble and disseminate information concerning federal programs which provide financial assistance to the residents of their county. Such programs shall include but not be limited to,

3. Health Insurance for the aged under Public Law 89-97, as amended.
4. Supplementary medical insurance for the aged under Public Law 89-97, as amended.
5. Housing and Urban Development Act of 1968, as amended, as it pertains to interest reduction payments
and rental and cooperative housing for lower income families.


8. Job opportunity programs and on the job training under various federal acts.

9. Neighborhood improvement and development programs under various federal acts.

10. Library and other public facility improvement programs under various federal programs.

The commission shall cooperate with municipalities, other county agencies, state and federal agencies to effect the purposes of this section. Appropriate state agencies are authorized to give such technical assistance as may be requested by the commission.

The clerk of the county court of each county shall be the executive secretary to the commission and as such shall attend all meetings, keep a record of all proceedings, assemble and disseminate such information as may be required by the commission and to perform such other duties as may reasonably be required by the commission to effectuate the purposes of this section.

§7-1-3r. Purposes of section; county commissions on crime, delinquency and correction created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

1 The enactment of the Omnibus Crime Control and Safe City Streets Act of 1968 and subsequent amendments thereto with millions of federal dollars available to local units of government in the fiscal year one thousand nine hundred seventy-two—one thousand nine hundred seventy-three, and the probability that this program will be continued and expanded in future years makes the establishment of a county agency to insure that the county may make the best use of the benefits of this act.
There is hereby established in each county a county commission on crime, delinquency and correction. The commission shall consist of the members of the county court and such other members as may be designated by the county court. Members other than the county court members shall serve at the will and pleasure of the county court.

This commission shall collect and compile all data and other information with respect to police agencies, courts of record and justice of peace courts, prosecution of crimes, probation, jails, juvenile detention facilities, and such other matters as might be concerned with the total criminal justice system.

The commission shall work closely with the governor's committee on crime, delinquency and correction established by Executive Order 7-A66 dated September one, one thousand nine hundred sixty-six.

The commission shall analyze the data and information herein required, shall determine federal funds available under the provisions of the state plan developed by the aforesaid governor's committee on crime, delinquency and correction, and shall make recommendations to the governing body with respect to priorities in the expenditure of funds.

The commission may make recommendations with respect to steps to be taken in the county designed to improve the criminal justice system.

The clerk of the circuit court of each county shall be the executive secretary to the commission and as such shall attend all meetings, keep a record of all proceedings, shall collect and compile such data and information as may be required by the commission and perform such other duties as reasonably may be required by the commission to effectuate the purposes of this section.

§7-1-4. Compensation of commissioners for services in court.

Each commissioner who attends the session of said court shall receive for his services two dollars per day for every day he shall so attend, to be paid out of the county treasury.
§7-1-5. Duties of county commissioners; payment for services other than services in court.

It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to arrange for the feeding and care of the prisoners therein, and to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any; 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; 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 and 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 pur-
chase, 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 civil defense buildings on sites approved by state office of civil 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; to establish and participate in regional planning and development councils; to establish and participate in county commissions on intergovernmental relations as required by section three-q of this article; to establish and participate in county commissions on crime, delinquency and correction as required by section three-r of this article.

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 and 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; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining and erecting public parks, playgrounds and recreational facilities, and the purchasing, leasing or renting the equipment therefor, and employing qualified recreational directors and personnel therefor; for constructing new Four-H camps on county property; operating stone quarries and sand deposits on county-owned or leased property, constructing buildings for or aiding in construction and/or equipping civil defense buildings on sites approved by state office of civil defense; operating 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; for constructing fallout shelters and aiding individuals to construct fallout shelters through furnishing available information; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining and/or erecting county mental health clinics and/or engaging in programs for the betterment of the mental and/or physical well-being of the residents of their county; for conducting a survey of all abandoned and dilapidated buildings or
structures within the county and to prepare an inventory thereof which inventory shall be made available to any agency of state or federal government or to local governmental agencies upon request; for establishing and participating in regional planning and development councils; for establishing and participating in county commissions on intergovernmental relations as required by section three-q of this article; for establishing and participating in county commissions on crime, delinquency and correction as required by section three-r of this article; and for supervising the general management of the fiscal affairs and business of each county, within their counties, and other business by such commissioners, in addition to compensation for services in court, the sums of money provided in section five-a of this article.

§7-1-5a. Salaries of county commissioners.

1 In addition to the payment for services in court as described in section four of this article, all county commissioners shall be paid compensation out of the county treasury in amounts hereafter set forth for each class of county as determined by the provisions of section three, article seven, chapter seven: Provided, That as to any county having a tribunal in lieu of a county court, the county commissioners of such county may be paid less than the minimum compensation limits of the county court for the particular class of such county.

<table>
<thead>
<tr>
<th>Class</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$12,600</td>
</tr>
<tr>
<td>II</td>
<td>$9,000</td>
</tr>
<tr>
<td>III</td>
<td>$7,500</td>
</tr>
<tr>
<td>IV</td>
<td>$5,400</td>
</tr>
<tr>
<td>V</td>
<td>$3,600</td>
</tr>
<tr>
<td>VI</td>
<td>$2,100</td>
</tr>
<tr>
<td>VII</td>
<td>$900</td>
</tr>
</tbody>
</table>

The compensation hereinafore provided shall be paid on and after January one, one thousand nine hundred seventy-three.

ARTICLE 7. TRAINING PROGRAMS FOR COUNTY EMPLOYEES, ETC.; COMPENSATION OF ELECTED COUNTY OFFICIALS; COUNTY ASSISTANTS, DEPUTIES AND
EMPLOYEES, THEIR NUMBER AND COMPENSATION.

§7-7-1. Legislative findings and purpose.
§7-7-2. Establishment of county in-service training programs; further additional duties for prosecuting attorney in any county in excess of two hundred thousand.
§7-7-3. Classification of counties for purpose of determining compensation of elected county officials.
§7-7-4. Compensation of elected county officials other than county commissioners for each class of county; effective date.
§7-7-5. Additional compensation for county clerks.
§7-7-6. Additional compensation for circuit clerks.
§7-7-7. County assistants, deputies and employees; their number and compensation; county budget.
§7-7-8. Assistant prosecuting attorneys; appointment and compensation; when court may appoint attorney to prosecute.
§7-7-9. Procedure for payment of compensation.
§7-7-10. Affidavits acknowledging receipt of compensation.
§7-7-11. Illegal orders for compensation.
§7-7-12. Sharing compensation prohibited.
§7-7-13. Allowance for expenses of sheriff.
§7-7-14. Training of sheriffs and deputies; payment of expenses thereof by county court.
§7-7-15. Allowance for expenses of prosecuting attorney.
§7-7-16. Mileage allowance for county officials, their assistants, deputies and employees.
§7-7-17. Annual reports by county officers of expenditures for assistants, deputies and employees.
§7-7-18. Source of compensation paid judges of courts of limited jurisdiction.
§7-7-20. Penalties.
§7-7-21. Severability.

§7-7-1. Legislative findings and purpose.

The Legislature hereby takes cognizance of the provisions of chapter twenty-three, acts of the Legislature, regular session, one thousand nine hundred seventy-one, as partially amended by chapter thirteen, acts of the Legislature, first extraordinary session, one thousand nine hundred seventy-one, and the decision of the supreme court of appeals, Case No. 13156, decided by the supreme court on February twenty-two, one thousand nine hundred seventy-two, and the conclusions set forth in the opinion of the court in said proceeding.

The Legislature hereby finds as a fact that the Legislature did impose upon the county commissioners in each county broad new and additional duties by the enact-
ment of committee substitute for house bill number three, passed in special session November three, one thousand nine hundred seventy-one, and that the new and additional duties of county commissioners under said act will begin with the organizational meetings of the various regional planning and development councils during the month of May, one thousand nine hundred seventy-two. The Legislature hereby finds as a fact that the new and additional duties imposed under the provisions of the aforementioned house bill number three, are such that they would justify the increase in compensation as provided in section five-a, article one of this chapter without being in violation of the provisions of section thirty-eight, article six of the constitution of West Virginia.

The Legislature hereby further finds, as a fact, that the duties required by sections three-q and three-r, article one, chapter seven as herein provided, constitute new and additional duties for county commissioners and as such justify the increased compensation provided by section five-a, article one, chapter seven without violating the provisions of section thirty-eight, article six of the constitution of West Virginia.

The Legislature hereby further finds as a fact that the duties imposed upon county clerks by the provisions of section three-q, article one, chapter seven, as herein provided, constitute new and additional duties for county clerks and as such justify the additional compensation provided by section five of this article without violating the provisions of section thirty-eight, article six of the constitution of West Virginia.

The Legislature hereby further finds as a fact that the duties imposed upon circuit clerks by the provisions of section three-r, article one, chapter seven, as herein provided, constitute new and additional duties for circuit clerks and as such justify the additional compensation provided by section six of this article without violating the provisions of section thirty-eight, article six of the constitution of West Virginia.
The Legislature hereby further finds and declares that the amendments made by this act to this article are intended to modify the provisions of this article so as to cause the same to be in full compliance with the provisions of the constitution of West Virginia, and to be in full compliance with the decisions of the supreme court of appeals of West Virginia.

§7-7-2. Establishment of county in-service training programs; further additional duties for prosecuting attorney in any county in excess of two hundred thousand.

There is hereby established county in-service training programs as hereinafter set forth.

The attorney general is hereby authorized and directed to establish such in-service training programs as in his opinion will do most to assist the prosecuting attorneys in the performance of their duties. The attorney general is authorized to accept any federal aid which may be made available or any financial assistance which may be available from any private nonprofit organization for the purposes of this section. The prosecuting attorney in any county having a population in excess of two hundred thousand shall also discharge the additional duties imposed upon him by the provisions of section thirteen-a, article five, chapter forty-nine of this code.

The state tax commissioner is hereby authorized and directed to establish such in-service training programs for county commissioners, county clerks, circuit clerks, assessors, sheriffs and their assistants and employees as in his opinion will do most to modernize and improve the services of their respective offices. The state tax commissioner is authorized to accept any federal aid which may be made available or any financial assistance which may be available from any private nonprofit organization for the purpose of this article.

Each of the county officials mentioned in this section, and, at his option, one or more of his assistants, deputies and employees, shall participate in the programs established under this section.

The county court is authorized and directed to expend funds for the purpose of reimbursing such officials and
employees for the actual amount expended by them for food, lodging and registration while in attendance at meetings called by the attorney general or the tax commissioner for the purpose of this section, not to exceed thirty-five dollars per day, with mileage not to exceed the rate of ten cents per mile to be computed according to the distance by the nearest practicable route for travel to and from such meetings.

§7-7-3. Classification of counties for purpose of determining compensation of elected county officials.

For the purpose of determining the compensation of elected county officials, the counties of the state of West Virginia are hereby grouped into seven classes based on their assessed valuation of property, all classes. These seven classes and the minimum and maximum valuation of property, all classes, established to determine the classification of each county are as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Minimum Assessed Valuation of Property, All Classes</th>
<th>Maximum Assessed Valuation of Property, All Classes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$600,000,000</td>
<td>No limit</td>
</tr>
<tr>
<td>Class II</td>
<td>$450,000,000</td>
<td>$599,999,999</td>
</tr>
<tr>
<td>Class III</td>
<td>$200,000,000</td>
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<tr>
<td>Class IV</td>
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<td>Class V</td>
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<td>Class VI</td>
<td>$15,000,000</td>
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</tr>
<tr>
<td>Class VII</td>
<td>0</td>
<td>$14,999,999</td>
</tr>
</tbody>
</table>

The assessed valuation of property, all classes, that shall be used as the base to determine the class of a county shall be the assessed valuation of property, all classes, of the county as certified by the county assessor, state auditor and county clerk prior to March twenty-nine, one thousand nine hundred seventy-two.

Prior to March twenty-nine, one thousand nine hundred seventy-six and each fourth year thereafter, the county court of each county shall determine if the assessed valuation of property, all classes, of the county, as certified by the county assessor, state auditor and county clerk, is within the minimum and maximum limits of a
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class above or below the class in which the county then
is. If the county court so determines, it shall record the
new classification of the county with the state auditor
and state tax commissioner and record its action on its
county court record.

The classification of each county shall be subject to re-
view by the state tax commissioner. He shall determine
if the classification of each county is correct based on the
final assessed valuation of property, all classes, certified
to him by the county assessor, state auditor and county
clerk. If he finds that a county is incorrectly classified
he shall notify the county court of that county promptly
of his finding and in any case shall notify the county
court prior to June thirtieth of that current fiscal year.

Any county court so notified shall correct its classification
immediately and make any necessary corrections in the
salaries of its elected county officials for the next fiscal
year.

§7-7-4. Compensation of elected county officials other than
county commissioners for each class of county; ef­
fective date.

For the purpose of determining the compensation to be
paid to the elected county officials of each county, the
following compensations for each county office by class
are hereby established and shall be used by each county
court in determining the compensation of each of their
county officials other than compensation of members of
the county court:

<table>
<thead>
<tr>
<th>Class</th>
<th>Sheriff</th>
<th>County Clerk</th>
<th>Circuit Clerk</th>
<th>Assessor</th>
<th>Prosecuting Attorney</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$12,000</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$12,000</td>
<td>$22,000</td>
</tr>
<tr>
<td>II</td>
<td>8,400</td>
<td>12,000</td>
<td>12,000</td>
<td>8,400</td>
<td>13,500</td>
</tr>
<tr>
<td>III</td>
<td>10,000</td>
<td>13,000</td>
<td>13,000</td>
<td>12,000</td>
<td>14,000</td>
</tr>
<tr>
<td>IV</td>
<td>10,000</td>
<td>10,800</td>
<td>10,800</td>
<td>10,000</td>
<td>13,500</td>
</tr>
<tr>
<td>V</td>
<td>9,000</td>
<td>9,600</td>
<td>9,600</td>
<td>9,000</td>
<td>9,600</td>
</tr>
<tr>
<td>VI</td>
<td>6,900</td>
<td>6,900</td>
<td>6,900</td>
<td>6,900</td>
<td>6,900</td>
</tr>
<tr>
<td>VII</td>
<td>4,200</td>
<td>3,000</td>
<td>2,400</td>
<td>3,600</td>
<td>2,100</td>
</tr>
</tbody>
</table>

Any county clerk, circuit clerk, joint clerk of the county
and circuit court, if any, county assessor, sheriff and
prosecuting attorney of a Class I county shall devote full
time to his public duties to the exclusion of any other em-
ployment. Notwithstanding the effective date of this act,
the compensation provided in this section for sheriffs,
assessors and prosecuting attorneys shall become effec-
tive January one, one thousand nine hundred seventy-
three, and the compensation provided in this section for
county clerks, circuit clerks and joint clerks of county and
circuit courts shall become effective January one, one
thousand nine hundred seventy-five.

In the case of a county that has a joint clerk of the
county and circuit court, the compensation of the joint
clerk shall be fixed in an amount twenty-five percent
higher than the compensation would be fixed for the
county clerk if it had separate offices of county clerk and
circuit clerk.

§7-7-5. Additional compensation for county clerks.

In addition to the salary provided for the county
clerks in section four of this article, the county court of
each county shall pay additional compensation in the
amounts hereinafter set forth in this section to each
clerk for the performance of the new and additional duties
required of the clerk by the provisions of section three-q,
article one, chapter seven. Such additional compensation
shall be paid for by the calendar years ending December
thirty-first, one thousand nine hundred seventy-three and
December thirty-first, one thousand nine hundred seventy-
four, in the following amounts:

<table>
<thead>
<tr>
<th>Class</th>
<th>Calendar year ending Dec. 31, 1973</th>
<th>Calendar year ending Dec. 31, 1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$3,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>Class II</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Class III</td>
<td>$2,400</td>
<td>$2,400</td>
</tr>
<tr>
<td>Class IV</td>
<td>$2,100</td>
<td>$2,100</td>
</tr>
<tr>
<td>Class V</td>
<td>$1,500</td>
<td>$1,500</td>
</tr>
<tr>
<td>Class VI</td>
<td>$1,200</td>
<td>$1,200</td>
</tr>
<tr>
<td>Class VII</td>
<td>$600</td>
<td>$600</td>
</tr>
</tbody>
</table>
There shall be no additional compensation paid for these duties after the calendar year ending December thirty-first, one thousand nine hundred seventy-four.

§7-7-6. Additional compensation for circuit clerks.

In addition to the salary provided for the circuit clerks in section four of this article, the county court of each county shall pay additional compensation in the amounts hereinafter set forth in this section to each clerk for the performance of the new and additional duties required of the clerk by the provisions of section three-r, article one, chapter seven. Such additional compensation shall be paid for by the calendar years ending December thirty-first, one thousand nine hundred seventy-three, and December thirty-first, one thousand nine hundred seventy-four, in the following amounts:

<table>
<thead>
<tr>
<th>Class</th>
<th>Calendar year ending Dec. 31, 1973</th>
<th>Calendar year ending Dec. 31, 1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$3,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>Class II</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Class III</td>
<td>$2,400</td>
<td>$2,400</td>
</tr>
<tr>
<td>Class IV</td>
<td>$2,100</td>
<td>$2,100</td>
</tr>
<tr>
<td>Class V</td>
<td>$1,500</td>
<td>$1,500</td>
</tr>
<tr>
<td>Class VI</td>
<td>$1,200</td>
<td>$1,200</td>
</tr>
<tr>
<td>Class VII</td>
<td>$ 600</td>
<td>$ 600</td>
</tr>
</tbody>
</table>

There shall be no additional compensation paid for these duties after the calendar year ending December thirty-first, one thousand nine hundred seventy-four.

§7-7-7. County assistants, deputies and employees; their number and compensation; county budget.

The county clerk, circuit clerk, joint clerk of the county and circuit court, if any, sheriff, county assessor and prosecuting attorney, by and with the advice and consent of the county court, may appoint and employ, to assist them in the discharge of their official duties for and during their respective terms of office, assistants, deputies and employees.
The county clerk, circuit clerk, joint clerk of the county and circuit court, if any, sheriff, county assessor and prosecuting attorney shall, prior to March second of each year, file with the county court a detailed request for appropriations for anticipated or expected expenditures for their respective offices, including the compensation for their assistants, deputies and employees, for the ensuing fiscal year.

The county court shall, prior to March twenty-ninth of each year by order fix the total amount of money to be expended by the county for the ensuing fiscal year, which amount shall include the compensation of county assistants, deputies and employees. Each county court shall enter its order upon its county court record.

The county clerk, circuit clerk, joint clerk of the county and circuit court, if any, sheriff, county assessor and prosecuting attorney shall then fix the compensation of their assistants, deputies and employees based on the total amount of money designated for expenditure by their respective offices by the county court, and the amount so expended shall not exceed the total expenditure designated by the county court for each office.

The county officials, in fixing the individual compensation of their assistants, deputies and employees, and the county court in fixing the total amount of money to be expended by the county, shall give due consideration to the duties, responsibilities and work required of the assistants, deputies and employees and their compensation shall be reasonable and proper.

After the county court has fixed the total amount of money to be expended by the county for the ensuing fiscal year and after each county official has fixed the compensation of each of his assistants, deputies and employees, as provided in this section, each county official shall file prior to June thirtieth, with the clerk of the county court a budget statement for the ensuing fiscal year setting forth the name, or the position designation if then vacant, of each of his assistants, deputies and employees, the period of time for which each is em-
ployed, or to be employed if the position is then vacant, and his monthly or semimonthly compensation.

All budget statements required to be filed by this section shall be verified by an affidavit by the county official making them. Among other things contained in the affidavit shall be the statement that the amounts shown therein are the amounts actually paid or intended to be paid to the assistants, deputies and employees without rebate, and without any agreement, understanding or expectation that any part thereof shall be repaid to him, and that, prior to the time the affidavit is made, nothing has 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 statements required by this section have been filed, no allowance or payments shall be made to any county official or their assistants, deputies and employees.

Each county official named in this section shall have the authority to discharge any of his assistants, deputies or employees by filing with the clerk of the county court a discharge statement specifying the discharge action.

§7-7-8. Assistant prosecuting attorneys; appointment and compensation; when court may appoint attorney to prosecute.

The prosecuting attorney of each county may, in accordance with and limited by the provisions of section seven of this article, appoint practicing attorneys to assist him in the discharge of his official duties during his term of office. Any attorney so appointed shall be classified as an assistant prosecuting attorney and shall take the same oath and may perform the same duties as his principal. Each assistant shall serve at the will and pleasure of his principal and may be removed from office by the circuit court of the county in which he is appointed for any cause for which his principal might be removed.

If, in any case, the prosecuting attorney and his assistants are unable to act, or if in the opinion of the court it would be improper for him or his assistants
to act, the court shall appoint some competent practicing
attorney to act in that case. The court shall certify
to the county court the performance of that service when
completed and recommend to the county court a reason-
able compensation for the attorney for his service, and
the compensation, when allowed by the county court,
shall be paid out of the county treasury. No provision
of this section shall be construed to prohibit the employ-
ment by any person of a practicing attorney to assist in
the prosecution of any person or corporation charged
with a crime.

The compensation to be paid to an assistant prosecut-
ing attorney shall include compensation provided by law
for any services he renders as attorney for any adminis-
trative board or officer of his county. No assistant prose-
cut ing attorney shall serve as attorney for any other
political subdivision of this state.

§7-7-9. Procedure for payment of compensation.

1 The compensation of the county clerk, circuit clerk,
2 joint clerk of the county and circuit court, if any, sheriff,
3 county assessor, prosecuting attorney, and their assistants,
4 deputies and employees shall be paid monthly or semi-
5 monthly by the county court, which compensation shall
6 be paid out of the county treasury in the manner pre-
7 scribed by law.

8 The county court, after the filing of the budget state-
9 ment specified in section seven of this article, may, by
10 order of record, authorize and order a draft on the county
11 treasurer, payable out of the general county fund, to be
drawn in favor of the county official, assistant, deputy
12 or employee named in this statement, in payment of the
13 compensation to which the person is entitled.
14
15 The draft shall not be issued to the county official,
16 assistant, deputy or employee until the proper county
17 official has filed a detailed monthly or semimonthly state-
18 ment with the county treasurer and has filed with the
19 county clerk a duplicate copy of the monthly or semi-
20 monthly statement, together with a receipt from the
21 county treasurer, showing that the person to be paid
22 has paid into the county treasury all moneys belonging
to the county that have been collected by him during that pay period as shown by the monthly or semimonthly statement.

When the order for the draft has been entered of record, the president and clerk of the county court shall be authorized to issue and approve by their signature the draft.

§7-7-10. Affidavits acknowledging receipt of compensation.

At the end of each fiscal year, each county official, assistant, deputy and employee shall sign and submit to the clerk of the county court an affidavit which shall be in the following form:

No. ______________________________, 19____
Name ________________________________
Position or job title _____________________ County ______

Description of services rendered:
(Describe service and specify period [dates] of service)

I hereby certify that I have rendered the services herein stated, that I have received the full compensation to which I was entitled for those services rendered for my own use and benefit, and that I have not paid, deposited, assigned, or contracted to pay, deposit or assign, any part of my full compensation for the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give, any reward or compensation for my position or job or the emoluments thereof to any other person.

(Signed) ________________________________

If the services to the county of a county official, assistant, deputy or employee terminate before the end of a fiscal year, the official, assistant, deputy or employee shall, at the time his services end, sign and submit the above affidavit to the clerk of the county court.

All affidavits submitted shall be filed and preserved by the clerk of the county court.
§7-7-11. Illegal orders for compensation.

If any clerk shall issue and deliver a draft to any county clerk, circuit clerk, joint clerk of the county and circuit court, if any, sheriff, county assessor, prosecuting attorney, or any of their assistants, deputies or employees, in payment of their compensation, without all the applicable requirements of this article being complied with, the draft so issued and delivered shall be illegal and invalid. The clerk and the sureties on his bond shall be liable to the county court of his county for the payment thereof.

§7-7-12. Sharing compensation prohibited.

No county official shall receive or be paid, directly or indirectly, any part of the compensation of any assistant, deputy or employee, or any fee or reward for appointing him to his position. No member of a county court shall receive or be paid, directly or indirectly, any part of the compensation of any other county officer named in this article, or of any county assistant, deputy or employee. If any county commissioner or county official violates the provisions of this section, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned. Any county commissioner or county official so convicted shall forfeit his office.

§7-7-13. Allowance for expenses of sheriff.

The county court of every county having a population of thirty thousand or less as determined by the latest official census available which, as provided in section two-a, article eight of this chapter, has directed the sheriff as jailer to feed prisoners shall, in addition to his compensation, allow to the sheriff for keeping and feeding each prisoner, other than federal prisoners or prisoners held under civil process as provided by law, one dollar and twenty-five cents per day for each prisoner.

The limitation per day shall not include cost of personal service, bed or bedding, soaps and disinfectants and items of like kind, the cost of all of which shall be
paid out of the allowance fixed by the county court under the provisions of present law.

All supplies of whatever kind for keeping and feeding prisoners shall be purchased upon the requisition of the sheriff under rules and regulations prescribed by the county court. At the end of each month the sheriff shall file with the county court a detailed statement showing the name of each prisoner, date of commitment and date of discharge, the number of days in jail, and shall also file an itemized statement showing each purchase and the cost thereof for keeping and feeding prisoners.

The county court of every county shall allow the actual and necessary expenses incurred or expended by the sheriff in the discharge of his duties, including, but not limited to those incurred in arresting, pursuing or transporting persons accused or convicted of crimes and offenses; in the cost of law enforcement and safety equipment; in conveying or transporting a prisoner from and to jail to participate in court proceedings, and in conveying or transferring any person to or from any state institution where he may be committed from his county, where by law the sheriff is authorized to convey or transfer the person. The county court shall allow the actual and necessary expenses incurred or expended in serving summonses, notices or other official papers in connection with the sheriff's office.

Every sheriff shall file monthly, under oath, a full and accurate account of all the actual and necessary expenses incurred by him, his deputies, assistants and employees in the performance and discharge of their official duties supported by verified accounts before reimbursement thereof shall be allowed by the county court. Reimbursement, properly allowed, shall be made from the general county fund.

§7-7-14. Training of sheriffs and deputies; payment of expenses thereof by county court.

The county court of each county is authorized, at its discretion, to expend from the general county fund, upon request and requisition by the sheriff of the county, the necessary and proper travel expenses, per diem allowance
of not less than three dollars fifty cents per day and tuition expenses for the training of the sheriff and his deputies of the county in the performance of their duties, as sheriff and deputy, at any training school or academy available therefor located in this state.

§7-7-15. Allowance for expenses of prosecuting attorney.

In addition to his compensation, the prosecuting attorney and his assistants shall be reimbursed for actual traveling expenses within the state in the performance of their official duties, and when out of the state for the purpose of taking depositions in cases in which other counsel is not employed by the court under section one, article three, chapter sixty-two of this code, which expenses shall be duly itemized and verified, and shall, if found correct, be allowed by the county court and be paid monthly out of the general county fund.

§7-7-16. Mileage allowance for county officials, their assistants, deputies and employees.

The county court of each county shall allow to each county official and to their deputies, assistants and employees, when they are required to drive their personally owned car in the actual performance and discharge of their official duties, reimbursement at the rate of ten cents for each mile traveled in their personally owned car.

Every county official shall file monthly, under oath, a full and accurate account of all the actual mileage driven by him, his deputies, assistants and employees, in the performance and discharge of their official duties supported by verified accounts before reimbursement thereof shall be allowed by the county court. Reimbursement, properly allowed, shall be made from the general county fund.

§7-7-17. Annual reports by county officers of expenditures for assistants, deputies and employees.

Every county official named in this article shall, on the first day of June of each year, file with the county court and with the state tax commissioner, an itemized sworn
§7-7-18. Source of compensation paid judges of courts of limited jurisdiction.

1 The compensation of every judge of a court of record of limited jurisdiction established by the Legislature under section nineteen, article eight of the constitution, and the compensation of every person who serves as judge of any of those courts when the judge of the court cannot act, shall be paid out of the treasury of the county and not out of the treasury of the state.


1 Nothing herein contained shall be construed to permit the compensation of the judge of any statutory court, officer or employee to be in excess of the amount (taking into consideration the compensation he now receives as supplemental compensation from any county, county court, or other political subdivision) which can be paid under the rules and regulations of the pay board established by the president of the United States by virtue of the authority vested in him by the Economic Stabilization Act of 1970, as from time to time amended; nor shall this section be construed to permit the annual salary of such judge, officer or employee to be reduced to a sum below that which he was being paid by the state of West Virginia and any county, county court, or other political subdivision on June thirty, one thousand nine hundred seventy-two.

§7-7-20. Penalties.

1 If any county clerk, circuit clerk, joint clerk of any county and circuit court, sheriff, county assessor or prosecuting attorney fail to file the detailed request for appropriations or the budget statement as provided in section seven of this article or fail to file the monthly or semimonthly statement as provided in section nine of
this article or fail to file the statement of expenditures as
provided for in section seventeen of this article, or if any
county clerk, circuit clerk, joint clerk of any county and
circuit court, sheriff, county assessor, prosecuting at-
torney, their assistants, deputies or employees, fail to
comply with any of the requirements provided in this
article, he shall, except where another penalty is pre-
scribed, be guilty of a misdemeanor, and, upon conviction
thereof, shall be fined not less than fifty dollars nor more
than one hundred dollars, or imprisoned in the county
jail not less than thirty days nor more than six months, or
both fined and imprisoned.

§7-7-21. Severability.

If any provision of this article or the application thereof
to any person or circumstance is held invalid, such in-
validity shall not affect other provisions or applications
of the article, and to this end the provisions of this article
are declared to be severable.

CHAPTER 22

(House Bill No. 737—By Mr. Perry)

[Passed March 11, 1972; in effect ninety days from passage. 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 a new section, designated
section three-p, authorizing and empowering the county
court of any county to require permits for the occupancy
of any mobile home or house trailer; providing for the
issuance of such permits by the assessor of any such county;
authorizing the assessor to prescribe forms; authorizing
fees for such permits; specifying that such fees shall be-
come a part of the county treasury; and providing criminal
offenses and penalties.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. COUNTY COURTS GENERALLY.

§7-1-3p. Authority to require permits for mobile homes or house trailers; penalty.

The county court of any county is hereby authorized and empowered to require by order entered of record that no person shall locate, place or maintain for residency purposes a mobile home or house trailer, excluding motor homes, travel trailers and camper vehicles, in such county for more than thirty days until the owner of such mobile home or house trailer shall have first obtained a permit to do so from the assessor of such county. Such permit shall be for information purposes and an application for any such permit shall be made upon such forms as may be prescribed by the assessor. A fee not exceeding two dollars, to be fixed by the county court by order entered of record, may be charged by the assessor for the issuance of any such permit. All fees so collected shall become a part of the county treasury.

Any person violating any such county court order shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars. Justices of the peace shall have concurrent jurisdiction with courts of record with criminal jurisdiction of any offense under this section.

CHAPTER 23
(House Bill No. 1121—By Mr. Fantasia and Mr. Shingleton)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty, article five, chapter seven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to authorizing a county court to pay the entire premium for employees group insurance policies.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. FISCAL AFFAIRS.

§7-5-20. Group insurance programs authorized.

Every county through its county court shall have plenary power and authority to negotiate for, secure and adopt for the officers and regular employees thereof, other than provisional, temporary, emergency and intermittent employees, who are in officer or employee status with such county on and after the effective date of this section, a policy or policies of group insurance written by a carrier or carriers chartered under the laws of any 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 of policies of group insurance which in the discretion of the county court bear a reasonable relationship to the foregoing coverages. The provisions and terms of any such group plan or plans of insurance shall be approved in writing by the insurance commissioner of this state as to form, rate and benefits.

The county court is hereby authorized and empowered to pay the entire premium cost, or any portion thereof of said group policy or policies. Whenever the above described officers or regular employees shall indicate in writing that they have subscribed to any of the aforesaid insurance plans on a group basis and the entire cost thereof is not paid by the county court, the county court is hereby authorized and empowered to make periodic premium deductions of the amount of the contribution each such subscribing officer or employee is required to make for such participation from the salary or wage pay-
ments due each such subscribing officer or employee as specified in a written assignment furnished to the county clerk by each such subscribing officer or employee.

When a participating officer or employee shall retire from his office or employment, he may, if he so elects and the insurance carrier or carriers agree, remain a member of the group plan by paying the entire premium for coverage involved.

CHAPTER 24

(House Bill No. 967—By Mr. Beneke)

[Passed March 10, 1972; 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 deposit at interest of excess county funds.

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.

§7-6-5. Interest on deposits.

1 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 any of the various fiscal bodies of the county that funds on deposit in its 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, the treasurer shall, 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 and such shall not be done except at the direction of a fiscal body.

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 25
(House Bill No. 1159—By Mr. Potter)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article eleven; and sections seven and eight, article twelve, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county parks and recreation commissions; relating to the general powers and authority of county parks and recreation commissions; authorizing county parks and recreation commissions to
borrow money and execute and deliver evidences of indebtedness and give security therefor and to issue and sell revenue bonds; incorporating the provisions of article sixteen, chapter eight of the code with respect to the powers and authority of county parks and recreation commissions; authorizing county parks and recreation commissions to establish, charge and collect reasonable fees and charges; providing that no indebtedness or obligation incurred by any county parks and recreation commission shall give any right against the county or any member of the county court or any member of any such commission; providing that no indebtedness of any nature of any such commission shall constitute an indebtedness of the county or of the county court or be a charge against any property of the county, the rights of creditors of any such commission to be solely against any such commission as a corporate body; authorizing any such county parks and recreation commission to enter into any agreement; exempting any such county parks and recreation commission from the payment of any taxes or fees; exempting the property of any such county parks and recreation commission from all municipal and county taxes; providing that bonds, notes, debentures and other evidences of indebtedness of any such commission, together with the interest and income thereon shall be exempt from taxation; relating to development authorities generally; relating to and expanding the powers and authority of development authorities; incorporating the provisions of article sixteen, chapter eight of the code with respect to the powers and authority of development authorities; setting forth certain legislative findings with respect to the powers and authority of development authorities; and relating to the incurring of indebtedness by development authorities.

Be it enacted by the Legislature of West Virginia:

That section two, article eleven; and sections seven and eight, article twelve, 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
11. County Parks and Recreation Commissions.
12. County Development Authorities.
ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-2. Commission a body corporate; perpetual existence; name; power and authority; authority of county court; indebtedness of commission; agreements; tax exemption.

1 Any parks and recreation commission created by a county court pursuant to the authority of this article shall be a public corporate body with perpetual existence and a corporate seal. It shall be known as the (name of county) county parks and recreation commission. Any board of park and recreation commissioners heretofore created under the former provisions of this article shall hereafter be known as the (name of county) county parks and recreation commission, and such commission shall succeed to all of the properties, interest and assets of any such board of park and recreation commissioners. The commission shall have the power and authority to receive and control any gift, federal grant, other grant, donation and bequest or devise; to exercise the right of eminent domain if an order of the county court authorizing exercise of the right as to any proposed acquisition is first made and entered; to take and hold title to any real or personal property; to receive all operating and capital funds appropriated by the county court to the commission; to receive all income and other funds, whether in cash or check, received by the county court and derived from properties and facilities devoted to park and recreational uses and under the control of said commission; to receive all receipts from income producing park and recreational properties and facilities under the control of the commission; to deposit, invest, manage and disburse, all such funds, income or receipts, including the interest or income earned thereon or therefrom; 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 the properties or facilities under the control of the commission or assigning or pledging the gross or net revenues therefrom; to raise funds by the issuance and sale of revenue bonds in the manner provided by the applicable
provisions of article sixteen, chapter eight of this code, it being hereby expressly provided that for the purpose of the issuance and sale of revenue bonds, the commission is a "governing body" as that term is used in said article sixteen; to establish, charge and collect reasonable fees and charges for services or for the use of any part of the properties or facilities under its control, or for both services and such use; to sue and be sued; to contract and be contracted with; to obtain one or more insurance policies affording coverage for loss of or damage to the properties and facilities under its control and affording public liability coverage for the legal liability of the commission, its officers, agents and employees; to adopt bylaws governing the operation of the commission and specifying the powers and duties of its officers; and to do any and all things which may be necessary or convenient to carry out and effectuate the purposes and provisions of this article.

Any such county court is hereby empowered and authorized to transfer to any such commission all such funds or income, as provided for in the preceding paragraph of this section, and such county court may require a blanket surety bond covering those individuals authorized to sign checks on behalf of the commission in a penal sum not in excess of twenty-five thousand dollars.

The commission may incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary and advisable in connection with carrying out any of its purposes. No indebtedness or obligation incurred by the commission shall give any right against the county or any member of the county court or any member of the commission. No indebtedness of any nature of the commission shall constitute an indebtedness of the county or the county court or be a charge against any property of the county. The rights of creditors of the commission shall be solely against the commission as a corporate body and shall be satisfied only out of property held by it in its corporate capacity.

Without in any way limiting the generality of any of the other provisions of this article, the commission may, in
connection with obtaining moneys or property for its purposes, enter into any agreement with any person, including the federal government, or any department, agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the commission may deem advisable.

The commission shall be exempt from the payment of any taxes or fees to the state or any subdivision thereof or any municipality or to any officer or employee of the state or of any subdivision thereof or of any municipality. The property of the commission shall be exempt from all municipal and county taxes. Bonds, notes, debentures and other evidences of indebtedness of the commission are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest and income thereon, shall be exempt from taxation.

ARTICLE 12. COUNTY DEVELOPMENT AUTHORITIES.

§7-12-7. Powers generally.

§7-12-8. Incurring indebtedness; rights of creditors.

§7-12-7. Powers generally.

The development authority is hereby given power and authority as follows: (1) To make and adopt all necessary bylaws, 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 person, 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 the county in which it is intended to operate, its citizens and industrial complex, including, without limiting any of the foregoing, the construction of any building or structure for lease to the federal government or any of its agencies or departments, and in connection therewith to prepare and submit bids and negotiate with the federal government or such agencies or departments in accordance with plans and specifications and in the manner
21 and on the terms and conditions and subject to any re-
22 quirements, regulations, rules and laws of the United
23 States of America for the construction of said buildings
24 or structures and the leasing thereof to the federal gov-
25 ernment or such agencies or departments; (4) to amend
26 or supplement any contracts or leases or to enter into
27 new, additional or further contracts or leases upon such
28 terms and conditions, for such consideration and for such
29 term of duration, with or without option of renewal, as
30 may be agreed upon by the authority and such person,
31 agency, governmental department, firm or corporation;
32 (5) unless otherwise provided for in, and subject to the
33 provisions of, such contracts, or leases, to operate, repair,
34 manage, and maintain such buildings and structures and
35 provide adequate insurance of all types, and in connec-
36 tion with the primary use thereof and incidental thereto
37 to provide such services, such as barber shops, news-
38 stands, drugstores and restaurants, and to effectuate such
39 incidental purposes, grant leases, permits, concessions or
40 other authorizations to any person or persons, upon such
41 terms and conditions, for such consideration and for such
42 term of duration as may be agreed upon by the author-
43 ity and such person, agency, governmental department,
44 firm or corporation; (6) to delegate any authority given
45 to it by law to any of its officers, committees, agents or
46 employees; (7) to apply for, receive and use grants-in-
47 aid, donations and contributions from any source or
48 sources, and to accept and use bequests, devises, gifts
49 and donations from any person, firm or corporation; (8)
50 to acquire lands and other real property by gift, purchase,
51 or construction, or in any other lawful manner, and hold
52 title thereto in its own name; (9) to purchase or other-
53 wise acquire, own, hold, sell and dispose of personal prop-
54 erty and real estate, and to own, hold, sell, lease or other-
55 wise dispose of all or part of such personal property and
56 any real property which it may own; (10) pursuant to a
57 determination by the board that there exists a continuing
58 need for programs to alleviate and prevent unemploy-
59 ment within the county in which the authority is intended
60 to operate or aid in the rehabilitation of areas in said
61 county which are underdeveloped, decaying or otherwise
economically depressed, and that moneys or funds of the
authority are necessary therefor, to borrow money and
execute and deliver the authority's negotiable notes,
mortgage bonds, other bonds, debentures, and other evi-
dences of indebtedness therefor, on such terms as the
authority shall determine, and give such security there-
for as shall be requisite, including giving a mortgage or
deed of trust on its real or personal property and facili-
ties in connection with the issuance of mortgage bonds;
(11) to raise funds by the issuance and sale of revenue
bonds in the manner provided by the applicable pro-
visions of article sixteen, chapter eight of this code, it
being hereby expressly provided that a development
authority created under this article is a "governing body"
within the definition of that term as used in said article
sixteen, chapter eight of this code; and (12) to expend its
funds in the execution of the powers and authority here-
in given, which expenditures, by the means authorized
herein, are hereby determined and declared as a matter
of legislative finding to be for a public purpose and use,
in the public interest, and for the general welfare of the
people of West Virginia, to alleviate and prevent eco-
monic deterioration and to relieve the existing critical
condition of unemployment existing within the state.

§7-12-8. Incurring indebtedness; rights of creditors.

1. 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,
interest rate or duration 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 indebt-
edness of the county court of the county in which the
commission is intended to operate or any municipality
situated therein, or a charge against any property of said
county court, municipalities, or other appointing agen-
cies. The rights of creditors of the authority shall be
solely against the authority as a corporate body and shall
16 be satisfied only out of property held by it in its cor-
17 porate capacity.

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CHAPTER 26
(House Bill No. 517—By Mr. Scott)

[Passed March 6, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections eight, nine and seven-
teen, article fourteen, chapter seven of the code of West
Virginia, one thousand nine hundred thirty-one, as amend-
ed, relating to civil service coverage for certain deputy
sheriffs in certain counties; increasing from sixty to sixty-
five years of age the maximum age of one who may be
reinstated as a deputy sheriff in a county having civil
service for deputy sheriffs; increasing from sixty to sixty-
five years of age the maximum age of any person serving
as a deputy sheriff in any such county who may be con-
sidered as having been appointed under said article; and
increasing from sixty to sixty-five years of age the maxi-
mum age of any deputy sheriff in any such county.

Be it enacted by the Legislature of West Virginia:

That sections eight, nine and seventeen, article fourteen,
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 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§7-14-8. Form of application; age requirements; exceptions.

§7-14-9. Character and notice of competitive examinations; qualifica-
tions of applicants; competitive examinations to be pre-
scribed by state civil service commission; press representa-
tives; posting eligible list; medical examinations; excep-
tions as to and training of deputies serving on effective
date of article.

§7-14-17. Removal, discharge, suspension or reduction in rank or pay;
appeal; reduction in number of deputies; no person subject
to article may serve as deputy after age sixty-five.

§7-14-8. Form of application; age requirements; exceptions.

1 The civil service commission in each such county shall
2 require persons applying for admission to any competitive
examination provided for under this article or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed competitive examination, a formal application in which the applicant shall state under oath or affirmation:

(1) His full name, residence and post-office address;
(2) His United States citizenship, age and the place and date of his birth;
(3) His health and his physical capacity for the position of deputy sheriff;
(4) His business, employments and residences for at least three previous years; and
(5) Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of deputy sheriff.

Blank forms for such applications shall be furnished by the commission, without charge, to all persons requesting the same. The commission may require, in connection with the application, such certificates of citizens, physicians or others, having pertinent knowledge concerning the applicant, as the good of the service may require.

No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than twenty-one years of age or more than forty-five years of age at the date of his application: Provided, That in the event any applicant formerly served as a deputy sheriff for a period of more than six months in the county to which he makes application, and resigned as a deputy sheriff at a time when there were no charges of misconduct or other misfeasance pending against him, within a period of two years next preceding the date of his application, and at the time of his application resides within the county in which he seeks appointment by reinstatement, then such applicant shall be eligible for appointment by reinstatement in the discretion of the civil service commission, even though such applicant shall be over the age of forty-five years, provided he is not sixty-five years of age or over, and such applicant, providing his former term of service
as deputy sheriff so justifies, may be reappointed by rein-
statement without a competitive examination, but such
applicant shall undergo a medical examination; and if
such applicant shall be so appointed by reinstatement as
aforesaid, he shall be the lowest in rank in the sheriff's
office next above the probationers of the office.

§7-14-9. Character and notice of competitive examinations;
qualifications of applicants; competitive examinations
to be prescribed by state civil service com-
mission; press representatives; posting eligible list;
medical examinations; exceptions as to and train-
ing of deputies serving on effective date of article.

All competitive examinations for appointments or pro-
motions to all positions of deputy sheriff shall be prac-
tical in their character, and shall relate to such matters,
and include such inquiries, as will fairly and fully test
the comparative merit and fitness of the person or persons
examined to discharge the duties of the position sought
by him or them. The state civil service commission shall
prepare and prescribe, from time to time, the competitive
examination to be given by the civil service commission
of each such county. All competitive examinations shall
be open to all applicants who have fulfilled the prelimi-
nary requirements specified in other sections of this ar-
ticle.

Adequate public notice of the date, time and place of
every competitive examination held under the provisions
of this article, together with information as to the position
to be filled, shall be given at least two weeks prior to such
competitive examination. The commission shall adopt
reasonable rules and regulations for permitting the pres-
ence of representatives of the press at any such com-
petitive examination. The commission shall post, in a
public place at its office, the eligible list, containing the
names and grades of those who have passed such com-
petitive examinations for positions as deputy sheriffs,
under this article, and shall indicate thereon such ap-
pointments as may be made from said list.

All applicants for appointment or promotion to any
position as a deputy sheriff in any such county who have
passed the competitive examination specified above shall, before being appointed or promoted, undergo a medical examination which shall be conducted under the supervision of a board composed of two doctors of medicine appointed for such purpose by the sheriff of the county. Such board must certify that an applicant is free from any bodily or mental defects, deformity or diseases which might incapacitate him from the performance of the duties of the position desired and is physically fit to perform such duties before said applicant shall be appointed or promoted to any position. Notwithstanding the first sentence of this paragraph, in the event the commission deems it expedient, the medical examination may be given prior to the competitive examination, and if the medical examination is not passed as aforesaid, the applicant shall not be admitted to the competitive examination.

All deputies who are employed as deputies on the effective date of this article shall be considered to have been appointed under the provisions of this article, without regard to their age, provided they are not on said date sixty-five years of age or older, and without competitive examination or medical examination, and shall hold their positions in accordance therewith for one year from the effective date of this article. The civil service commission shall, however, establish or prescribe a training program for deputies who are employed as such on the effective date of this article, giving due consideration to available training personnel and programs. Such deputies must complete such training program and must score a minimum of sixty points on a written examination in which one hundred points would be the highest possible score. The examination shall be given in accordance with rules and regulations to be promulgated by the civil service commission of the county. A deputy failing to qualify under the provisions of this paragraph may be continued in his position at the discretion of the sheriff but in no event for a period of more than one year. Such person may be reexamined at the discretion of the civil service commission of the county and may qualify as provided in this paragraph.
§7-14-17. Removal, discharge, suspension or reduction in rank or pay; appeal; reduction in number of deputies; no person subject to article may serve as deputy after age sixty-five.

(a) On and after the effective date of this article, no deputy sheriff of any county subject to the provisions of this article shall be removed, discharged, suspended or reduced in rank or pay except for just cause, which shall not be religious or political, except as provided in section fifteen of this article; and no such deputy shall on and after the effective date of this article, be removed, discharged, suspended or reduced except as provided in this article and in no event until he shall have been furnished with a written statement of the reasons for such action.

For the purpose of the remainder of this subsection and subsections (b) and (c) of this section, the term "suspension" shall mean only (1) a suspension in excess of fifteen days, or (2) a suspension in any calendar year which when added to any previous suspension or suspensions within the same calendar year results in a total period of suspension in excess of fifteen days within such same calendar year, and for the purpose of the remainder of this subsection and said subsections (b) and (c), a member shall not be considered to be suspended or sought to be suspended unless his suspension meets the foregoing definition of said term. In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the deputy sought to be removed, discharged, suspended or reduced desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the deputy sought to be removed, discharged, suspended or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At such hearing the burden shall be upon the removing, discharging, suspending or reducing sheriff, hereinafter in this section referred to as "removing sheriff," to justify his action, and in the event the removing sheriff fails
to justify his action before the commission, then the deputy removed, discharged, suspended or reduced shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection, if no appeal be taken from the action of the commission.

(b) In the event that the civil service commission shall sustain the action of the removing sheriff, the deputy removed, discharged, suspended or reduced on or after the effective date of this article, shall have an immediate right of appeal to the circuit court of the county. In the event that the commission shall reinstate the deputy removed, discharged, suspended or reduced, the removing sheriff shall have an immediate right of appeal to said circuit court. Any appeal must be taken within ninety days from the date of entry by the civil service commission of its final order. Upon an appeal being taken and docketed with the clerk of the circuit court of said county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, but against whom the decision of the circuit court is rendered shall have the right to petition the supreme court of appeals for a review of the circuit court's decision as in other civil cases. Such deputy or removing sheriff shall also have the right, where appropriate, to seek in lieu of an appeal, a writ of mandamus.

(c) The removing sheriff and the deputy sought to be removed, discharged, suspended or reduced shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent them.

(d) If for reasons of economy or other reasons it shall, on and after the effective date of this article, be deemed
necessary by any appointing sheriff to reduce the number of his deputies, he shall follow the procedure set forth in this subsection (d). The reduction in the numbers of the deputy sheriffs of the county shall be effected by suspending the last man or men, including probationers, who have been appointed as deputies. Such removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, That in the event the number of deputies shall again be increased in numbers to the strength existing prior to such reduction of deputies, the deputies suspended under the terms of this subsection (d) shall be reinstated in the inverse order of their suspension before any new appointments of deputy sheriffs in the county shall be made.

(e) Notwithstanding any other provision of this article, no deputy sheriff in any county subject to the provisions of this article shall, on or after the effective date of this article, serve as a deputy sheriff in any county subject to the provisions of this article after he attains the age of sixty-five.

CHAPTER 27

(Senate Bill No. 308—By Mr. McCourt, Mr. President, and Mr. McKown)

[Passed March 8, 1972; in effect July 1, 1972. Approved by the Governor.]

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

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:
ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-4. Salaries of judges of circuit courts; manner of computing amount thereof; limitation on such salaries and on salaries of judges of statutory courts of record.

The salaries of the judges of the various circuit courts shall be paid solely out of the state treasury. No county, county court, board of commissioners or other political subdivision shall supplement or add to such salaries.

The annual salary of all circuit judges shall be twenty-six thousand dollars per year, except as follows:

(1) For each circuit in which the circuit court serves as an appellate court for a statutory court of record the salary of the circuit judge shall be twenty-six thousand five hundred dollars per year.

(2) For each circuit in which the circuit court serves as appellate court for two statutory courts of record the salary of the circuit judge shall be twenty-seven thousand dollars per year.

(3) For each circuit in which the circuit court serves as appellate court for three statutory courts of record the salary shall be twenty-seven thousand five hundred dollars per year.

(4) For each circuit in which the circuit court serves as appellate court for four statutory courts of record the salary shall be twenty-eight thousand dollars per year.

(5) For each circuit in which the circuit court serves as appellate court for five or more statutory courts of record the salary shall be twenty-eight thousand five hundred dollars per year.

For the purpose of this section, county courts, justice of the peace courts and administrative boards and agencies exercising limited judicial functions shall not be considered courts of record.

When any statutory court of record has more than one judge or one division, each such judge or division shall be treated, considered and counted, for the purpose of this section only, as a separate statutory court of record.

For the purpose of this section, in those circuits where there is more than one circuit judge and one or more
statutory court of record, the number of statutory courts of record shall be divided among the circuit judges and their annual salary paid accordingly.

No circuit judge shall be paid an annual salary that exceeds the annual salary paid to any one of the judges of the supreme court of appeals.

No judge of a statutory court of record in West Virginia shall be paid a salary by the county court of the county in which the statutory court exists in excess of the minimum annual salary paid to a circuit judge as herein provided.

Nothing herein contained shall be construed to permit the compensation of any judge in excess of the amount (taking into consideration the compensation he now receives as supplemental compensation from any county, county court, or other political subdivision) which can be paid under the rules and regulations of the pay board established by the President of the United States by virtue of the authority vested in him by the Economic Stabilization Act of 1970, as from time to time amended; nor shall this section be construed to permit the annual salary of a circuit judge to be reduced to a sum below that which he was being paid by the state of West Virginia and any county, county court, or other political subdivision on June thirty, one thousand nine hundred seventy-two.

CHAPTER 28

(Com. Sub. for House Bill No. 979—By Mr. Steptoe and Mr. Albright)

[Passed March 7, 1972; in effect ninety days from passage. Approved by the Governor.]

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 five-a, relating to the creation of a statewide juvenile court referee system; allowing referee to hold detention hearing;
authorizing the department of welfare to provide juvenile facilities; and review by judge.

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 five-a, to read as follows:

ARTICLE 5A. JUVENILE COURT REFEREE SYSTEM.
§49-5A-1. Juvenile court referee; qualifications; compensation; authority; “child,” etc., defined.

§49-5A-2. Investigation and release of child taken into custody; detention hearings.

§49-5A-3. Orders of juvenile court referee or judge following detention hearing; force and effect and finality of such orders.

§49-5A-4. Review of order following detention hearing.

§49-5A-5. Detention in other counties.

§49-5A-6. Assistance of department of welfare.

§49-5A-1. Juvenile court referee; qualifications; compensation; authority; “child,” etc., defined.

In each county, the judge of the court exercising original juvenile jurisdiction in cases or proceedings relating to dependent and neglected or delinquent children may appoint one person who is qualified by education and experience to serve as juvenile court referee on a full-time or part-time basis who shall serve at the will and pleasure of the appointing judge. The salary of such referee shall be fixed by the appointing judge, by and with the consent of the county court, and shall be paid out of the county treasury. It shall be the duty of the referee to hold any detention hearing determined necessary pursuant to the provisions of section two of this article. Each referee shall also perform such other duties as are assigned to him by the appointing judge to carry out the purposes of this article. Referees shall not be permitted to conduct hearings on the merits of any case.

As used in this article, the terms “child” or “children” shall have the meaning ascribed to those terms elsewhere in this chapter.

§49-5A-2. Investigation and release of child taken into custody; detention hearings.

A child who has been arrested or who under color
of law is taken into the custody of any officer or employee of the state or any political subdivision thereof shall be forthwith afforded a hearing to ascertain if such child shall be further detained. In connection with any such hearing, the provisions of section thirteen, article five of this chapter shall apply. It shall be the duty of the judge or referee to avoid incarceration of such child in any jail. Unless the circumstances of the case otherwise require, taking into account the welfare of such child as well as the interest of society, such child shall be forthwith released into the custody of his parent or parents, relative, guardian or other responsible adult or agency. A hearing on the merits may be held at the same time as the detention hearing, as may be required by law or as may be deemed suitable.

§49-5A-3. Orders of juvenile court referee or judge following detention hearing; force and effect and finality of such orders.

After a detention hearing conducted by a judge or referee an order shall be forthwith entered setting forth the findings of fact and conclusions of law with respect to further detention pending hearing and disposition of the child proceedings involving such juvenile. A copy of such order shall be furnished to the juvenile court judge, if entered by a referee, and to the child and his attorney, if any, and to the parent or parents or guardian of the child. A detention order of a judge or referee shall become effective immediately, subject to the right of review provided for in section four of this article, and shall continue in effect until modified or vacated by the judge. In the event any referee under this article shall order further detention, the judge shall within two days of the entry of the referee's order afford to the child a new hearing upon the issue of further detention, to which hearing the provisions of this and the preceding sections shall apply.

§49-5A-4. Review of order following detention hearing.

Upon the application of any person in interest or on his own motion, a judge may modify or vacate any order entered in his court after a detention hearing and enter such
§49-5A-5. Detention in other counties.

If further detention is ordered, the court or referee, with the consent of the child or his counsel may order such child to be detained in a facility other than a jail in a county other than the county in which such court sits if no facility other than a jail exists in the county wherein the court sits.

§49-5A-6. Assistance of department of welfare.

With the approval of the commissioner of welfare the department of welfare is authorized to assign the necessary personnel and provide adequate space for the support and operation of any facility not a jail providing for the detention of children as provided in this article, subject to and not inconsistent with the appropriation and availability of funds.

CHAPTER 29

(Com. Sub. for Senate Bill No. 189—By Mr. McKown and Mr. Hubbard)

[Passed March 8, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact sections six, seven and eight, article nine, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eligibility for and payment of pay or benefits under the retirement system for judges of courts of record; authorizing retirement after twenty-four years of service regardless of age; authorizing a judge with not less than ten years judicial service to receive credit for service as a prosecuting attorney; relating to the ineligibility of judges who are receiving pay or benefits from such retirement system to practice law or hold any public office or trust; and authorizing retirement under such system of judges because of disability after ten years of service.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

§51-9-6. Eligibility for and payment of benefits.

§51-9-7. Ineligibility to receive pay or benefits.


§51-9-6. Eligibility for and payment of benefits.

Except as otherwise provided in sections five, twelve and thirteen of this article, any person who is now serving, or who shall hereafter serve, as a judge of any court of record of this state and shall have served as such judge for a period of not less than sixteen full years and shall have reached the age of sixty-five years, or who has served as judge of such court or of that court and other courts of record of the state for a period of sixteen full years or more (whether continuously or not and whether said service be entirely before or after this article became effective, or partly before and partly after said date, and whether or not said judge shall be in office on the date he shall become eligible to benefits hereunder) and shall have reached the age of sixty-five years, or who is now serving, or who shall hereafter serve, as a judge of any court of record of this state and shall have served as such judge for a period of not less than twenty-four full years, regardless of age, shall, upon a determination and certification of his eligibility as provided in section nine hereof, be paid from the fund annual retirement benefits, so long as he shall live, in an amount equal to seventy-five percent of the annual salary of the office from which he has retired based upon such salary of such office as such salary may be changed from time to time during the period of his retirement and the amount of his retirement benefits shall be based upon and be equal to seventy-five percent of the highest annual salary of such office for any one calendar year during the period of his retirement, and shall be payable in monthly in-
stallments: Provided, That such retirement benefits shall be paid only after said judge has resigned as such or, for any reason other than his impeachment, his service as such has ended: Provided, however, That the provisions of this article shall apply to those judges who were in office at the time it originally became effective, those who have since become judges, those who have retired under the provisions thereof, and those who shall here-after serve as judges of the courts of record of this state.

In determining eligibility for the benefits provided by this section, any portion of the term of office of any judge of a court of record which shall have elapsed while such judge was on active duty (including leaves, furloughs, and time consumed going to his place of duty and returning to his place of residence after discharge or release from active duty) in the armed forces of the United States shall be considered as served: Provided further, That any judge who enters active duty in the armed forces of the United States during his term of office and after the effective date of this article shall during, or within one year after such military service, pay into the state treasury all contributions required by section four of this article, and, by reason of such military service not deducted from his salary: Provided further, That if a judge of a court of record has served for a period of not less than ten full years and has made payments into the judges retirement fund as provided in this article for each month during which he served as judge, following the effective date of this section, any portion of time which he had served as prosecuting attorney in any county in this state shall qualify as years of service.

§51-9-7. Ineligibility to receive pay or benefits.

A judge who retires under the provisions of any section of this article and accepts the pay or benefits payable under this article shall not, while receiving said pay or benefits, be permitted to hold any public office or trust for which he receives compensation. If, after retirement under the provisions of this article and while receiving pay or benefits payable under said article, he
shall be elected or appointed to any public office or trust for which he receives any salary or other compensation, his pay or benefits under this article shall be suspended for such time only as he shall occupy such office or trust.

A judge who retires because of disability and accepts the pay or benefits payable under this article because of his disability shall not, while receiving said pay or benefits because of his disability, be permitted to practice law. If, after disability retirement under the provisions of this article and while receiving pay or benefits payable under said article because of his disability, he shall enter the practice of law, his pay or benefits under this article because of his disability shall be suspended for such time only as he shall be engaged in the practice of law.


Whenever a judge of a court of record of this state, who is not disqualified from participation herein as provided in section five of this article, who shall have served for ten full years, shall become physically or mentally incapacitated to perform the duties of his office as judge during the remainder of his term and shall make a written application to the governor for his retirement, setting forth the nature and extent of his disability and tendering his resignation as such judge upon condition that upon its acceptance he be retired with pay under the provisions of this article, the governor shall make such investigation as he shall deem advisable and, if he shall determine that such disability exists and that the public service is suffering and will continue to suffer by reason of such disability, he shall thereupon accept the resignation and, by written order filed in the office of the secretary of state, direct the retirement of the judge for the unexpired portion of the term for which such judge was elected or appointed. The secretary of state shall thereupon file a certified copy of said order with the state auditor. When so accepted, said resignation shall create a vacancy in said office of judge, which shall be filled by
appointment or election as provided by law. The retired judge shall thereupon be paid annual retirement pay during the remainder of his unexpired term in an amount equal to the annual salary he was receiving at the time of his retirement, which annual retirement pay, so long as it shall be paid to him, shall be in lieu of any and all retirement benefits such judge may otherwise have received under the provisions of this article:

Provided, That when the payment of said retirement pay shall have terminated, such judge, even though he shall not have arrived at the age of sixty-five years, shall, so long as the disability determined by the governor continues to exist, be paid the retirement benefits for which provision is made in section six of this article.

CHAPTER 30

(House Bill No. 762—By Mr. Daugherty and Mr. White, of Cabell)

[Passed February 21, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections two and twenty-four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred seventy, relating to the jurisdiction, and the judge's salary of the common pleas court of Cabell county.

Be it enacted by the Legislature of West Virginia:

That sections two and twenty-four, chapter twenty-eight, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred seventy, be amended and reenacted to read as follows:

COMMON PLEAS COURT OF CABELL COUNTY.

§2. Jurisdiction.

§2. Jurisdiction.

1 That said common pleas court of Cabell county shall have original jurisdiction within said county of all crimes, felonies, misdemeanors, criminal proceedings, and all matters in anywise relating thereto, and all civil actions, civil matters and proceedings in anywise relating thereto.

7 Such jurisdiction of said common pleas court shall be general, common and concurrent with the jurisdiction of the circuit court of such county in all and every respect as the same is constituted and set forth in section twelve, article eight of the constitution of West Virginia, and by the laws and statutes of the state of West Virginia, except where the matters in controversy in civil suits or proceedings shall exceed the sum of two hundred thousand dollars, including appellate jurisdiction in all matters of probate arising in the county court wherein an appeal or writ of error may be allowed, which appellate jurisdiction shall be concurrent with that of the circuit court.


1 The judge of the common pleas court of Cabell county shall receive for his services twenty-four thousand five hundred dollars annually, payable monthly in installments beginning on the first day of July, one thousand nine hundred seventy-two, 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 seventy-two.

10 All acts or parts of acts inconsistent or in conflict here- with are hereby repealed.

CHAPTER 31

(House Bill No. 759—By Mr. White, of Cabell, and Mr. Romine)

[Passed February 21, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section two, chapter one hundred sixty-eight, acts of the Legislature, regular session,
one thousand nine hundred twenty-one, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred seventy-one; and to amend and reenact section four, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred seventy, relating to the jurisdiction of the domestic relations court of Cabell county; relating to such court generally; relating to the salary of the chief probation officer; providing for an additional probation officer; and relating to the salaries of probation officers and of the judge of the court.

Be it enacted by the Legislature of West Virginia:

1. That section two, chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred twenty-one, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand ninety twenty-one, be amended and re-enacted to read as follows:

DOMESTIC RELATIONS COURT OF CABELL COUNTY.

§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 marriages, 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 of all other 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 concerning domestic relations, habeas corpus proceedings; 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 enacted 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, commonly 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 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 adoption 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 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 all amendments and reenactments thereof, commonly known as the maintenance of illegitimate children law; and of all matters and causes coming within the purview of chapter forty-four, article ten, section fourteen of the code of West Virginia, one thousand nine hundred thirty-one, and of all amendments and reenactments 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, commonly 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 fifty-five, article seven-a
of the code of West Virginia, one thousand nine hundred thirty-one, and of all amendments and reenactments thereof, commonly known as the liability of parents; 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 reenactments 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 chapter sixty-one, article seven, section two, commonly known as license to carry weapons; how obtained; and shall have concurrent with the circuit court of Cabell county, supervision and control of proceedings before justices and other inferior tribunals by mandamus, prohibition and certiorari, and of all matters and causes coming within the purview of all other or future acts of the Legislature touching the subject 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, excepting in cases involving the enforcement of criminal laws and labor disputes, and excepting cases where it shall appear from the pleadings that the matter or thing in controversy exceeds in value the sum of three 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.

The court is authorized and empowered to appoint and discharge one chief probation officer at a yearly salary of ten thousand five hundred dollars and two probation officers at a yearly salary of ten thousand two hundred fifty dollars each, which said salaries shall be paid by the county court in monthly installments, and in addition
93 thereto the said county court shall reimburse the said
94 probation officers of their necessary expenses actually in-
95 curred monthly in the performance of official duties in-
96 cluding an allowance of ten cents per mile for their auto-
97 mobile driven in the performance of official duties. The
98 court is further authorized and empowered to appoint and
99 discharge such medical, clerical and secretarial assistance
100 as shall enable it to discharge all of the duties required of
101 it under the provisions of this section and the general laws
102 of the state and such person or persons shall be paid
103 by the county court monthly upon the written approval
104 of the judge of the said court.

§4. Salary of judge.

1 The judge of the domestic relations court of Cabell
2 county shall receive for his services twenty-four thousand
3 five hundred dollars, annually, payable monthly in install-
4 ments beginning on the first day of July, one thousand
5 nine hundred seventy-two, which amount shall be pro-
6 vided for and paid by the county court, out of the treasury
7 of said county, which provision as to salary shall not re-
8 peal the existing provision until the said first day of July,
9 one thousand nine hundred seventy-two.

10 All acts or parts of acts inconsistent or in conflict
11 herewith are hereby repealed.

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CHAPTER 32

(Senate Bill No. 306—By Mr. Neeley)

[Passed February 25, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections one, five, six, seven,
nine, ten, eleven, twelve, thirteen, fourteen, fifteen, six-
teen, seventeen, eighteen, nineteen, twenty-one, twenty-
two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-
one, chapter twenty-seven, acts of the Legislature, regular
session, one thousand nine hundred nine; to amend and reenact sections two and four of said chapter twenty-seven, as last amended and reenacted by chapter two hundred twelve, acts of the Legislature, regular session, one thousand nine hundred sixty-seven; to amend and reenact section three of said chapter twenty-seven, as last amended and reenacted by chapter two hundred four, acts of the Legislature, regular session, one thousand nine hundred fifty-one; and to further amend said chapter twenty-seven by adding thereto six new sections, designated sections eleven-a, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six, all relating to the change of the name of the criminal court of Harrison county to the "intermediate" court of Harrison county, the jurisdiction and salary of the judge of said court.

Be it enacted by the Legislature of West Virginia:

That sections one, five, six, seven, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one, chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, be amended and reenacted; that sections two and four of said chapter twenty-seven, as last amended and reenacted by chapter two hundred twelve, acts of the Legislature, regular session, one thousand nine hundred sixty-seven, be amended and reenacted; that section three of said chapter twenty-seven, as last amended and reenacted by chapter two hundred four, acts of the Legislature, regular session, one thousand nine hundred fifty-one, be amended and reenacted; and that said chapter twenty-seven be further amended by adding thereto six new sections, designated sections eleven-a, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six, all to read as follows:

INTERMEDIATE COURT OF HARRISON COUNTY.

§1. Court of limited jurisdiction established; name of court.

§2. Jurisdiction concurrent with circuit court; in what cases and proceedings.

§3. Election, qualifications and term of judge.

§4. Salary of judge.

§5. What powers and jurisdiction conferred on court, etc.; power of judge in vacation as to felonies, etc.
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§6. Jurisdiction is presumed, unless contrary appears.
§7. May punish for contempt.
§9. Grand jury for each term.
§10. Clerk of circuit court is clerk of intermediate court.
§11. Sheriff or deputies to execute all processes in same manner as provided by law as issuing from circuit courts.
§11a. Petit jurors impaneled in same manner as for circuit court.
§12. Indictments found or pending in circuit court may be certified to intermediate court; recognizance.
§13. Change of venue.
§14. County court to provide supplies.
§15. Cause certified to circuit court; special judge.
§16. Cases where appeals allowed to intermediate court concurrent with circuit court.
§17. Appeals may be allowed, etc.
§18. Appeal, writ of error or supersedeas, how obtained; what law to govern proceedings; no appeal allowed in certain cases, unless, etc.
§19. Appeal, writ of error or supersedeas to be docketed in circuit court; how proceeded in.
§22. Writ of habeas corpus, power to grant concurrent with that of supreme or circuit court; provisions of law governing.
§23. Prosecuting attorney or his assistant to attend terms of court; what duties to perform and for what compensation.
§24. Certain sections of article eight, chapter seven made applicable.
§25. Court stenographer appointed; compensation.
§27. How contested election determined.
§29. Removal of judge from office.
§30. Chapter sixty-two of the code made applicable.
§31. Chapter fifty-one of the code made applicable.
§32. In taxation of costs clerk governed by same rules as in circuit court.
§33. West Virginia reports and bound acts to be furnished court.
§34. Rules to be held in clerk's office in same manner as circuit courts.
§35. Upon judgments of court, creditors entitled to liens, etc., to secure or recover same as in circuit court.
§36. Attachments may be issued by clerk under same regulations as in circuit court.

§1. Court of limited jurisdiction established; name of court.

1 The court of limited jurisdiction heretofore established
2 in the county of Harrison, designated "The Criminal
3 Court of Harrison County" is hereby continued in and
4 for said county, to be held and presided over by a judge
5 elected or to be elected or appointed as provided by this
6 act, which court shall be designated and known as "The
7 Intermediate Court of Harrison County."
§2. Jurisdiction concurrent with circuit court; in what cases and proceedings.

The said court, which is the same court originally established by chapter twenty-seven, acts of the Legislature, regular session, one thousand nine hundred nine, but with its name and jurisdiction changed as in this act provided, shall continue to have jurisdiction within the said county of Harrison concurrent with the circuit court of all felonies and misdemeanors committed within said county of Harrison. Said court shall also have jurisdiction concurrent with the circuit court of said county, and shall have the supervision and control of criminal proceedings before justices of said county, the mayor of any incorporated city, town or village therein, by appeal, mandamus, prohibition and certiorari, and shall have concurrent jurisdiction with said circuit court of bastardy proceedings, actions for the maintenance of illegitimate children, adoption proceedings and all juvenile and other matters of which the aforesaid circuit court of Harrison county was given jurisdiction by the general laws of West Virginia or of which the court hereby established may be given jurisdiction by such general laws. It shall also have jurisdiction concurrent with said circuit court for the collection of all recognizances taken by said intermediate court and for the collection of all bonds taken by said intermediate court, or by the clerk thereof in vacation, to secure the payment of judgments for fines and costs rendered by said court, and for the collection of all recognizances and bonds taken by the justices of said county or the mayor of any incorporated city, town or village in said county in relation to criminal proceedings before said justices or mayor. The said court shall also have jurisdiction concurrent with the circuit court of said county in all matters set forth in articles one, two, three, four, five, seven, eight and nine, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

The said court shall likewise have jurisdiction within said county of Harrison, concurrent with the circuit court of said county, in all actions of ejectment, and in all civil actions or proceedings, except where it shall appear from
the pleadings that the matter or thing in controversy in any such proceeding or action, exclusive of interests and costs, exceeds in value the sum of seventy-five 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 judgments 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 approval of compromise by fiduciaries of liabilities where acting as guardian for an infant in accordance with the provisions of section seven, article five, chapter forty-four of the code of West Virginia; concerning the transfer of securities the property of an infant in the name of a fiduciary in accordance with the provisions of section eight, article five, chapter forty-four of the code of West Virginia; direction to fiduciaries concerning moneys belonging to a minor in accordance with the provisions of section one, article six, chapter forty-four of the code of West Virginia; authority for investment by a fiduciary when the beneficiary of trust funds is the property of a minor in accordance with the provisions of section three, article six, chapter forty-four of the code of West Virginia; instruction of fiduciaries where minor is beneficiary of an estate or trust as provided in section four, article six, chapter forty-four of the code of West Virginia; authorization of disbursements by guardians from income and corpus of the estate of infant wards as provided in section eight, article ten, chapter forty-four of the code of West Virginia; sale of personal estate by guardian in accordance with the provisions of section nine, article ten, chapter forty-four of the code of West Virginia; proceedings between guardians and wards in accordance with the provisions of section thirteen, article ten, chapter forty-four of the code of West Virginia; the approval of compromising an infant's claim for damages in accordance with the provisions of section fourteen, article ten, chapter forty-four of the code of West Virginia; the transfer of property of nonresident infant to foreign guardian in accordance with the provisions of
section three, article eleven, chapter forty-four of the code of West Virginia; the transfer of proceeds of sale belonging to nonresident infant to foreign guardian in accordance with section four, article eleven, chapter forty-four of the code of West Virginia; the approval of the sale, lease, mortgage or deeding in trust of infants' lands in accordance with the provisions of article one, chapter thirty-seven of the code of West Virginia; re-

lease of dower of an infant in accordance with the pro-
visions of section nine, article one, chapter thirty-seven of the code of West Virginia; all matters and causes coming within the purview of section two, article seven, chapter sixty-one of the code of West Virginia, commonly known as "license to carry weapons."

Said court shall have general equity jurisdiction in actions, causes, matters and proceedings before it within its jurisdiction with power to grant injunctions and to require and take recognizances.

The proceedings, modes of procedures, powers and juris-
diction conferred by law upon the circuit court of Harri-
son county in any and all said actions, causes, matters and proceedings, 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 and proceedings that are conferred upon the judge of the circuit court of said county.

§3. Election, qualifications and term of judge.

The judge of the aforesaid criminal court of Harrison county elected at the general election held in this state on the Tuesday after the first Monday in November, one thousand nine hundred sixty-eight, shall hold his office as judge of said court and of the court hereby established for the term of eight years from the first day of January, one thousand nine hundred sixty-nine, and until his suc-

cessor is duly elected and qualified; and at the general election in this state to be held on the Tuesday after the first Monday in November, one thousand nine hundred seventy-six, and every eight years thereafter, there shall be elected by the legal voters of said county a judge of
the intermediate court of Harrison county. He shall be
disqualified from practicing law in all courts of this state
during his continuance in office, and preside over said
court for the term of eight years from the first day of
January succeeding said election, and shall be, except as
to jurisdiction, subject to the laws in force governing
circuit judges.

§4. Salary of judge.
1 The judge of the intermediate court of Harrison county,
2 West Virginia, shall receive for his services a salary of
3 twenty thousand dollars per year; said amount to be paid
4 in twelve equal monthly installments from year to year
5 by the county court of said county, out of funds of said
6 county, in the manner provided by statute.

§5. What powers and jurisdiction conferred on court, etc.;
1 power of judge in vacation as to felonies, etc.
2 The powers and jurisdiction conferred upon the circuit
3 courts in the trial of criminal and civil cases and pro-
4 ceedings and modes of procedure authorized therein,
5 within the county of Harrison, are hereby conferred upon,
6 and shall be exercised by said intermediate court of
7 Harrison county. And the judge of said intermediate
court shall have the same powers in vacation as to
8 felonies, misdemeanors and other offenses committed in
9 the said county of Harrison that are conferred upon the
10 judge of the circuit court of said county.

§6. Jurisdiction is presumed, unless contrary appears.
1 It shall not be necessary for any cause or proceeding in
2 said intermediate court that the facts authorizing it to
3 take jurisdiction of the case or proceeding shall be set
4 forth upon the record, but jurisdiction shall be presumed
5 unless the contrary plainly appears from the record.

§7. May punish for contempt.
1 The said intermediate court shall have the same powers
2 to punish for contempt as are conferred upon the circuit
3 court by law.

§9. Grand jury for each term.
1 The said intermediate court shall impanel a grand jury
at each term thereof, and said court, or the judge thereof
may, in his discretion, order a grand jury to be drawn or
summoned to attend at any special or adjourned term of
said court. Such grand jury may consider any offense
against the laws committed within said county of Har-
rison, whether the same shall have been committed be-
fore the next preceding term of the court or not, and
whether the accused shall have been held for trial or not,
prior to the next preceding regular term, and all the pro-
visions of chapter fifty-two of the code of West Virginia,
in regard to grand juries in the circuit court, shall apply,
so far as applicable, to the grand juries in said inter-
mediate court. The grand and petit juries serving in said
court shall be chosen and impaneled in the same manner
as they are chosen and impaneled by law in the circuit
court, and shall receive the same compensation as said
jurors in the circuit court.

§10. Clerk of circuit court is clerk of intermediate court.
The clerk of the circuit court of Harrison county shall
be ex officio clerk of said intermediate court and perform
the duties thereof, and shall receive the same fees as are
allowed by law, for similar services, to the clerk of the
circuit court; and, in the discharge of his duties as clerk
of the intermediate court, he shall be subject to all
statutes relating to the clerk of the circuit court. All
processes, rules and orders of said court in the exercise of
its jurisdiction shall be signed by the clerk thereof, and
be directed to the sheriffs of the proper counties, wherein
the same are to be executed, and they shall be executed
in like manner and with the same effect as processes is-
suing from the circuit court of said county. And the county
court of said county shall allow said clerk a compensa-
tion for his services of four hundred dollars per year in
addition to the compensation that may be allowed the
clerk of the circuit court of said county.

§11. Sheriff or deputies to execute all processes in same manner
as provided by law as issuing from circuit courts.
The sheriff of Harrison county, and the sheriffs of the
several counties in the state, shall, by themselves or their
3 deputies, execute all processes of said court, or issued by
4 the clerks thereof, directed to them respectively and all
5 processes issued by the clerk thereof shall be directed to
6 and executed by them in the same manner as is provided
7 by law as processes issuing from the circuit court or the
8 clerk thereof. And the sheriff of Harrison county shall
9 perform the same duties and services for the intermedi-
10 ate court of Harrison county, as he is now by law re-
11 quired to perform for the circuit court of said county.
12 And in the execution of the processes, rules and orders
13 of said court, said officers shall have the same powers and
14 likewise be subject to the same liabilities, govern them-
15 selves by the same rules and principles of law and the
16 statutes of the state, and be entitled to the same fees as
17 though process issued from the circuit court of said
18 county. And the county court of said county shall allow
19 the sheriff of said county for his services hereunder an
20 additional compensation of two hundred dollars per year.

§11a. Petit jurors impaneled in same manner as for circuit
court.
1 The petit juries for said court shall be chosen and im-
2 paneled in the same manner as they are chosen and im-
3 paneled in the circuit court, and shall receive the same
4 compensation.

§12. Indictments found or pending in circuit court may be
certified to intermediate court; recognizance.
1 The circuit court of said county may in its discretion
2 certify to said intermediate court for trial all indictments
3 and prosecutions for felonies, misdemeanors and offenses
4 now pending in said circuit court or that may hereafter
5 be found by the grand juries impaneled in said circuit
6 court; and the said circuit court may in its discretion
7 take proper recognizances from the defendant in bailable
8 cases, and also from witnesses for the state, for their ap-
9 pearance before the said intermediate court.

§13. Change of venue.
1 A change of venue in any case pending in said court
2 may be ordered as provided in chapter sixty-two of the
3 code of West Virginia.
§14. County court to provide supplies.

1 It shall be the duty of the county court of Harrison county to provide all record books and other stationery that may be necessary for said intermediate court, and likewise a seal for the said court; but full faith and credit shall be given to the record of said court and certificates of its judge and clerk whether the seal of the court be affixed thereto or not, in like manner, and with the same effect as if the same were records of the circuit court similarly authenticated.

§15. Cause certified to circuit court; special judge.

1 If the judge of said court in his judgment cannot properly preside at the hearing of any cause pending therein, said cause may be, in his discretion, certified to, and the original papers, together with a copy of the orders of the court, filed in the circuit court of said county, and the cause shall be docketed therein and proceeded with as though the cause had originally been brought and proceeded therein in the circuit court. When for any cause the judge of said intermediate court is incapable of acting, or is absent, a special judge may be elected in the same manner as a special judge of the circuit court, and be governed in all respects so far as applicable by the laws governing special judges of the circuit court, and he shall be allowed twenty-five dollars a day to be paid out of the county treasury.

§16. Cases where appeals allowed to intermediate court concurrent with circuit court.

1 Every person sentenced to imprisonment by the judgment of a justice, or the judgment of the mayor of any incorporated city, town or village, in said county, or to the payment of a fine of ten dollars or more, shall be allowed an appeal, as provided in section ten, article eighteen, chapter fifty of the code of West Virginia, to the intermediate court of said county, concurrent with the circuit court of said county, and all the provisions of said section shall apply to said appeal and govern the proceedings thereon, and the same shall be proceeded in, heard and determined, and with like effect, as is provided
§17. Appeals may be allowed, etc.

Appeals may be allowed and writs of error and supersedeas awarded to the judgments, decrees and orders of said court, by the circuit court of said county, or the judge thereof in vacation, in the following cases:

1. In all civil cases where the matter in controversy exclusive of costs, is of greater value or amount than one hundred dollars, wherein there is a final judgment or order.

2. In controversies concerning the title or boundaries of land, the probate of a will, or the appointment of a personal representative, guardian, committee or curator.

3. Concerning a mill, road, way, ferry or landing.

4. Concerning the right of a corporation, county or district to levy tolls or taxes.

5. In any case of quo warranto, habeas corpus, mandamus or prohibition.

6. In any case involving freedom or the constitutionality of a law.

7. In any case wherein there is a decree or order dissolving or refusing to dissolve an injunction, or requiring money to be paid, or real estate to be sold, or the possession or title of the property to be changed, or adjudicating the principles of the cause.

8. In any case where there is a judgment or order quashing or abating, or refusing to quash or abate on attachment.

9. In any case where there is an order granting a new trial or rehearing; and in such cases an appeal may be taken from the order without waiting for the new trial or rehearing to be had.

10. In any case when judgment is rendered against a defendant in case of a felony or misdemeanor.

11. In cases relating to the public revenue, the right of appeal shall belong to the state as well as to the defendant.
§18. Appeal, writ of error or supersedeas, how obtained; what law to govern proceedings; no appeal allowed in certain cases, unless, etc.

Any person who is a party to any such controversy wishing to obtain an appeal, writ of error or supersedeas, in the cases named in the seventeenth section of this act, may present to the circuit court of Harrison county, or the judge thereof in vacation, a petition therefor, and chapter fifty-eight of the code of West Virginia concerning appeals to the supreme court of appeals shall, so far as applicable, govern the proceedings on such appeal, writ of error or supersedeas, as to the duties of the petitioner, the said court and the clerk thereof: Provided, That no such appeal, writ of error or supersedeas to said court shall be allowed unless the petition therefor be presented in six months from the date of such judgment or order.

§19. Appeal, writ of error or supersedeas to be docketed in circuit court; how proceeded in.

Every appeal, writ of error or supersedeas from said intermediate court shall be docketed in the circuit court of said county, and shall be proceeded with in the same manner as appeals, writs of error or supersedeas are proceeded in when heard and determined in the supreme court of appeals.


The said circuit court, where an appeal, writ of error or supersedeas has been allowed by the said court or the judge thereof in vacation shall, upon the hearing thereof, affirm said judgment or order if there be no error therein prejudicial to the appellant, or reverse the same in whole or in part if erroneous, and the circuit court may retain the case for trial or remand the same back to said intermediate court to be further proceeded in and finally determined. The clerk of said circuit court shall, as soon as practicable, transmit the decision of said circuit court to the clerk of said intermediate court.
§22. Writ of habeas corpus, power to grant concurrent with that of supreme or circuit court; provisions of law governing.

1 The intermediate court of Harrison county and the judge thereof in vacation shall, concurrent with the supreme court of appeals or the circuit court of said county, or any judge of any circuit court in vacation, grant the writ of habeas corpus ad subjiciendum as provided in article four, chapter fifty-three of the code of West Virginia. All provisions of said article and chapter shall be applicable thereto. The same shall be governed as therein provided. But in no case shall the same be issued by the said intermediate court or the judge thereof in vacation on the application of any person unless he shall by himself, or by someone in his behalf, apply for the same by petition showing by affidavit or other evidence probable cause to believe that he is detained in the county of Harrison without lawful authority.

§23. Prosecuting attorney or his assistant to attend terms of court; what duties to perform and for what compensation.

1 The prosecuting attorney of Harrison county shall attend the terms of said intermediate court either by himself or his assistant, and shall perform the duties of his office as required by section one, article four, chapter seven of the code, and for the compensation therein stated and provided, and in addition thereto the county court of said county shall allow the said prosecuting attorney four hundred dollars per year, in addition to the amount allowed by law to the said prosecuting attorney.

§24. Certain sections of article eight, chapter seven made applicable.

1 Sections three and four, article eight, chapter seven of the code of West Virginia shall apply to the intermediate court of Harrison county and the judge thereof in the same manner and to the same extent as they do to the circuit court of Harrison county and the judge thereof.
§25. Court stenographer appointed; compensation.

1 The judge of said intermediate court shall appoint a
court stenographer for said court, who shall attend the
terms of said intermediate court and take the evidence
and transcribe the same when required so to do. For his
services he shall receive the same compensation and be
paid in the same manner as stenographers in the circuit
courts of this state are paid.


1 From and after the first term of said intermediate
court held under this act, no grand juries shall be im-
paneled in the circuit court, unless the judge of said
circuit court directs a grand jury to be summoned and
impaneled at a regular or special term of said court or
by order entered of record.

§27. How contested election determined.

1 If the office of judge of said intermediate
court be con-
tested the said contest shall be heard and determined in
the same manner as the election of judges of the circuit
courts are determined.


1 If from any cause the office of judge of said intermediate
court shall become vacant, the vacancy shall be filled in
the same manner as in the case of a vacancy in the
office of judge of the circuit court.

§29. Removal of judge from office.

1 The judge of said intermediate court may be removed
from office for the same reasons and in the same manner
as judges of the circuit courts.

§30. Chapter sixty-two of the code made applicable.

1 Chapter sixty-two of the code of West Virginia shall
apply to the intermediate court of Harrison county and
to the judge thereof in vacation, in the same manner and
to the same extent that it does to the circuit court of
Harrison county, or to the judge thereof in vacation, and
the same powers may be exercised within the county
7 of Harrison by said intermediate court, and the judge
8 thereof in vacation, concurrent with the circuit court
9 of said county, as provided for in said chapter. All
10 examinations, recognizances, warrants of commitment
11 and certificates of other proceedings, made returnable to
12 the circuit court of Harrison county under the provisions
13 of said chapter sixty-two may be made returnable like-
14 wise to said intermediate court of Harrison county, con-
15 current with the circuit court of said county.

§31. Chapter fifty-one of the code made applicable.
1 Chapter fifty-one of the code of West Virginia shall
2 apply to the intermediate court of Harrison county in
3 the same manner and to the same extent that it does to
4 the circuit courts of the state.

§32. In taxation of costs clerk governed by same rules as in
circuit court.
1 In the taxation of costs in said court the clerk and
2 court shall be governed by the same rules and pro-
3 visions of law as are provided in the circuit court.

§33. West Virginia reports and bound acts to be furnished
court.
1 The West Virginia reports and bound acts of the Legis-
2 lature are to be delivered to the said judge of the said
3 court in the same manner as they are required to be de-
4 livered to the circuit courts of the state.

§34. Rules to be held in clerk's office in same manner as cir-
cuit courts.
1 Rules shall be held for said court in the clerk's office
2 thereof in the same manner with like effect and under the
3 regulations provided by law in respect to circuit courts.

§35. Upon judgments of court, creditors entitled to liens, etc.,
to secure or recover same as in circuit court.
1 Upon every judgment of said court the judgment credi-
2 tors shall be entitled to all liens, executions and remedies
3 to secure or recover the same to which they would be en-
4 titled if the same were a judgment of the circuit court of
said Harrison county; judgments rendered in said inter-
mediate court may be docketed in the judgment lien
docket kept in the county clerk's office of any county in
like manner and with like effect as other judgments, and
executions on said judgments may likewise be docketed
the same as executions from the circuit court.

§36. Attachments may be issued by clerk under same regula-
tions as in circuit court.

Attachments may be issued by the clerk of said inter-
mediate court under the same regulations and in the same
cases as attachments are now issued by the clerks of the
circuit courts, whenever applicable, and be served in the
same manner and with like effect.

CHAPTER 33

(Senate Bill No. 238—By Mr. Brotherton and Mr. Poffenbarger)

[Passed February 25, 1972; in effect July 1, 1972. Approved by the Governor.]
3 receive twenty-five thousand dollars per annum, to be
4 paid in monthly installments out of the county treasury
5 of Kanawha county, out of funds of said treasury, in
6 the manner provided by statute.

CHAPTER 34
(Senate Bill No. 239—By Mr. Brotherton and Mr. Poffenbarger)

[Passed February 25, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section four, chapter one hun-
dred seventy-two, acts of the Legislature, regular session,
one thousand nine hundred forty-seven, as last amended
and reenacted by chapter thirty-seven, acts of the Legis-
lature, regular session, one thousand nine hundred seventy,
relating to the domestic relations court of Kanawha county
and to the salary of the judge thereof.

Be it enacted by the Legislature of West Virginia:

That section four, chapter one hundred seventy-two, acts of
the Legislature, regular session, one thousand nine hundred
forty-seven, as last amended and reenacted by chapter thirty-
seven, acts of the Legislature, regular session, one thousand
nine hundred seventy, be amended and reenacted to read as
follows:

DOMESTIC RELATIONS COURT OF KANAWHA COUNTY.

1 The judge of the domestic relations court of Kanawha
2 county, West Virginia, shall, from and after the first day
3 of July, one thousand nine hundred seventy-two, receive
4 for his services a salary in the amount of twenty-five
5 thousand dollars per annum, to be paid in monthly in-
stallments out of the county treasury of Kanawha county,
6 out of the funds of said treasury, in the manner provided
7 by statute.
CHAPTER 35

(House Bill No. 1189—By Mr. Neely)

[Passed March 10, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred seventy, relating to the salary of the judge of the criminal court of Marion county.

Be it enacted by the Legislature of West Virginia:

That section four, chapter sixty-nine, acts of the Legislature, regular session, one thousand nine hundred nineteen, as last amended by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred seventy, be amended and reenacted to read as follows:

CRIMINAL COURT OF MARION COUNTY.

§4. Salary of Marion county criminal court judge.

1 The judge of said criminal court shall receive for his services a salary of twenty thousand dollars per year, said amount to be fixed and paid from year to year, in equal monthly installments, by the county court of said county, out of the funds of said county, as provided by statute.

CHAPTER 36

(House Bill No. 956—By Mr. Rogerson and Mr. Polen)

[Passed March 11, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections two and five, chapter forty, acts of the Legislature, regular session, one thousand
nine hundred seventy, relating to the jurisdiction and salary of the judge of the common pleas court of Marshall county.

Be it enacted by the Legislature of West Virginia:

That sections two and five, chapter forty, acts of the Legislature, regular session, one thousand nine hundred seventy, be amended and reenacted, all to read as follows:

COMMON PLEAS COURT OF MARSHALL COUNTY.

§2. Jurisdiction.

§5. Salary of judge.

§2. Jurisdiction.

1 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 care, custody, maintenance and education of children of litigants and the adjudication of property rights arising out of same, and all other causes and matters arising within the provisions of chapter forty-eight, article two of the official code of West Virginia, commonly known as "the divorce law," and of all amendments and reenactments thereof; (b) adoption proceedings arising out of article four of the chapter last aforesaid, and of all amendments and reenactments thereof; (c) proceedings for a change of name arising out of article five of the chapter last aforesaid, and of all amendments and reenactments thereof; (d) the enforcement of support of dependents arising out of article nine of the chapter last aforesaid, and of all amendments and reenactments thereof; (e) 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 two hundred twenty-five thousand dollars; (f) of all cases arising under chapter forty-nine, articles five, six and seven of the official code of West Virginia, and all amendments and reenactments thereof; (g) appellate jurisdiction in all cases, civil and criminal, from judgments of justices of the peace in said county, police judges or may-
ors 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; (h) all proceedings under article one, chapter thirty-seven of the official code of West Virginia, and all amendments and reenactments thereof; (i) all proceedings by prohibition, mandamus, quo warranto, habeas corpus or certiorari; (j) proceedings under section six-c, article one, chapter forty-eight of the official code of West Virginia, as amended; (k) all proceedings under article seven, chapter forty-eight of the official code of West Virginia, as amended; (l) all proceedings under section four, article ten, chapter fifty-six and sections eight through fifteen, inclusive, article ten, chapter forty-four of the official code of West Virginia, as amended; (m) 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; (n) the release of persons from jail, as provided by chapter sixty-two, article ten, section four of the official code of West Virginia, and of all amendments and reenactments thereof; (o) all matters and causes coming within the purview of section two, article seven, chapter sixty-one of the official code of West Virginia, commonly known as the "license to carry weapons statute," and of all amendments and reenactments thereof; (p) 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 interest 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 require and take recognizance.

The proceedings, modes of procedures, power and jurisdiction conferred by law upon the circuit court of Marshall county in any and all said causes, matters, proceed-
ings 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, proceedings and suits that are conferred upon the judge of the circuit court of said county.

It shall not be necessary in such causes or proceedings to set forth upon the record the facts authorizing said court to take jurisdiction thereof, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

§5. Salary of judge.

The judge of said court shall, for his services, receive the sum of twenty thousand dollars per annum, to be paid in monthly installments out of the treasury of Marshall county, from and after the first day of July, one thousand nine hundred seventy-two. The salary of said judge shall continue, as provided in chapter forty, acts of the Legislature, regular session, one thousand nine hundred seventy, until the first day of July, one thousand nine hundred seventy-two. The county court shall annually make provision by appropriate levy and appropriation for the payment of said salary.

CHAPTER 37

(House Bill No. 1045—By Mr. Pauley and Mr. Scott)

[Passed February 28, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, chapter thirty-six, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, relating to the term of office of the intermediate court of McDowell
county, providing for a four-year term following the one thousand nine hundred seventy-two general election and an eight-year term thereafter.

Be it enacted by the Legislature of West Virginia:

That section three, chapter thirty-six, acts of the Legislature, regular session, one thousand eight hundred ninety-three, as last amended and reenacted by chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, be amended and reenacted to read as follows:

THE INTERMEDIATE COURT OF McDOWELL COUNTY.

§3. Judge; election; term; qualifications; removal from office; filling vacancy.

The judge of the intermediate court of McDowell county elected at the general election held in this state on the Tuesday after the first Monday in November, one thousand nine hundred seventy-two, shall hold said office for the term of four years from the first day of January, one thousand nine hundred seventy-three, and until his successor is duly elected and qualified; and at the general election in this state to be held on the Tuesday after the first Monday in November, one thousand nine hundred seventy-six, and every eight years thereafter, there shall be elected by the legal voters of the county a judge of the intermediate court of McDowell county, who shall be a resident member of the bar of the county, and shall be disqualified from practicing law in all the courts of this state during his continuance in office, who shall preside over the court for the term of four years from the first day of January, one thousand nine hundred seventy-three, and thereafter for terms of eight years beginning January one, one thousand nine hundred seventy-seven and shall be, except as to jurisdiction, subject to the laws in force governing circuit judges. The judge of the court may be removed from office for the same reasons, and in the same manner, as judges of circuit courts. And if from any cause the office shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of the judge of the circuit court.
AN ACT to amend and reenact chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred seven, relating to abolition of the criminal court of Raleigh county as heretofore established; creation of a new intermediate court of Raleigh county; jurisdiction; the judges qualifications, term and salary; clerk; duties of sheriff; transfer of pending cases; miscellaneous provisions.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred seven, be amended and reenacted to read as follows:

INTERMEDIATE COURT OF RALEIGH COUNTY.

§1. Criminal court abolished; intermediate court created.

§2. Intermediate court generally.

§3. Jurisdiction.

§4. Judge; qualifications, term, appointment and election.

§5. Salary.

§6. Clerk; his powers, duties and compensation.

§7. Power and duties of sheriff.

§8. Transfer of pending causes.

§9. Terms of court; maturity of causes; procedure; appointment of probation staff, clerical, and secretarial assistants and fixing salaries.

§10. Supplies; finances; seal; courtrooms.

§11. Contempt.

§12. Appeals; limitations thereon.

§13. Effective date.

§14. Separability; repeal.

§1. Criminal court abolished; intermediate court created.

1 The criminal court of Raleigh county heretofore created
2 is hereby abolished and there is hereby created a new
3 court to be known and designated as the intermediate
4 court of Raleigh county. For the sole purpose of per-
5 petuity of retirement benefits for retired judges of the
6 criminal court, the intermediate court shall be deemed
§2. Intermediate court generally.

The intermediate court of Raleigh county shall be a court of limited jurisdiction for the county of Raleigh, to be held and presided over by a judge to be appointed or elected as provided in this chapter. Whenever and wherever the word "court" is hereafter used in this chapter, it shall be taken to mean and refer to the intermediate court of Raleigh county, unless the context clearly indicates otherwise.

§3. Jurisdiction.

The court shall have jurisdiction within Raleigh 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 article one, chapter forty-eight of the 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 article and chapter; (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 article two, chapter forty-eight of the 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 of-
fenders arising out of articles five, six and seven, chapter forty-nine of the code of West Virginia and of all amendments and reenactments thereof; (g) all proceedings arising out of article eight, chapter forty-nine of the 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 article eight, chapter eighteen of the 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 compromise by fiduciaries of liabilities where acting as guardian for an infant in accordance with the provisions of section seven, article five, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (l) concerning the transfer of securities the property of an infant in the name of a fiduciary in accordance with the provisions of section eight, article five, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (m) direction to fiduciaries concerning moneys belonging to a minor in accordance with the provisions of section one, article six, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (n) authority for investment by a fiduciary when the beneficiary of trust funds is the property of a minor in accordance with the provisions of section three, article six, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof, and authority for investment or disbursement by a guardian or committee for a person receiving veteran's benefits, in accordance with the provisions of article fifteen, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (o) instruction of fiduciaries where minor is beneficiary of an estate or trust as provided in section four, article six, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (p) authorization of disbursements by guardians from in-
come and corpus of the estate of infant wards as provided in section eight, article ten, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (q) sale of personal estate by guardian in accordance with the provisions of section nine, article ten, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (r) proceedings between guardians and wards in accordance with the provisions of section thirteen, article ten, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (s) the approval of compromising an infant's claim for damages in accordance with the provisions of section fourteen, article ten, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (t) the transfer of property of non-resident infant or nonresident insane person to foreign guardian in accordance with the provisions of section three, article eleven, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (u) the transfer of proceeds of sale belonging to nonresident infant to foreign guardian in accordance with section four, article eleven, chapter forty-four of the code of West Virginia and of all amendments and reenactments thereof; (v) the approval of the sale, lease, mortgage or deeding in trust of infants' lands or insane persons' lands in accordance with the provisions of article one, chapter thirty-seven of the code of West Virginia and of all amendments and reenactments thereof; (w) release of dower of an infant in accordance with the provisions of section nine, article one, chapter thirty-seven of the code of West Virginia and of all amendments and reenactments thereof; (x) all matters coming within the purview of section one, article one, chapter forty-eight of the code of West Virginia, relating to the age of consent and of all amendments and reenactments thereof;

Said court shall have jurisdiction in actions, causes, matters, proceedings and suits which would have been matters in equity prior to the adoption of the West Virginia rules of civil procedure, which are before it within its jurisdiction with power to grant injunctions and to require and take recognizances.
The proceedings, modes of procedures, power and jurisdiction conferred by law upon the circuit court of Raleigh county in any and all said actions, causes, matters, proceedings and suits, are hereby conferred upon and shall be exercised by said court.

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 thereof, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

§4. Judge; qualifications, term, appointment and election.

The principal presiding officer of the court shall be a judge whose qualifications, term, appointment, election and tenure shall be as follows: The person elected or appointed to said office of judge shall be a member of the West Virginia State Bar and a resident of Raleigh county. At the general election to be held on the Tuesday after the first Monday in November, one thousand nine hundred seventy-four, and at the general election to be held at intervals of eight years thereafter, some attorney, qualified as aforesaid, shall be elected, in the manner provided by law for the election of circuit judges, to be judge of said court for the next ensuing term of eight years, beginning on January first next following such election. Candidates for the office of judge of the court shall be nominated in the same manner as are candidates for the office of judge of the circuit court. The judge of the court may be removed from office for the same reasons and in the same manner as a judge of the circuit court. If from any cause the office of judge of the court shall become vacant including the vacancy to occur when the provisions of this act become effective, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of the judge of the circuit court. Any judge so elected or appointed shall continue in said office until his successor is elected and qualified.

§5. Salary.

The judge of the intermediate court of Raleigh county shall for his services receive the sum of twenty thousand five hundred dollars per annum to be paid in monthly in-
stallments out of the county treasury of Raleigh county. The county court of Raleigh county shall annually make provisions by appropriate levy and appropriation for the payment of said salary.

§6. Clerk; his powers, duties and compensation.
1 The clerk of the circuit court of Raleigh county shall, ex officio, be, act as and perform the duties of clerk of the intermediate court of Raleigh county and shall exercise the same powers and duties arising within the jurisdiction of the 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 Raleigh county.

1 The sheriff of Raleigh county and the sheriffs of the several counties in the state shall by themselves or their deputies execute all processes of said court, issued by the clerk thereof, directed to them respectively, and all processes emanating from said court shall be directed to and be executed by them in the same manner as is provided by law as to processes issuing from the circuit court by said clerk. The sheriff of Raleigh county shall perform the same duties and services for said court as he is now by law required to perform for the circuit court of Raleigh county. In the execution of processes, rules and orders of the court, the sheriff shall have the same powers and rights, be subject to the same liabilities, govern himself by the same rules and principles of law and the statutes of the state, as though said processes issued from the circuit court of Raleigh county.

§8. Transfer of pending causes.
1 The judge of the circuit court of Raleigh county may, in his discretion, on and after the first day of July, one thousand nine hundred seventy-two, certify to the intermediate court of Raleigh county any portion or all of the divorce proceedings, suits for annulment of mar-
riage and any and all other matters pending in said courts and properly coming within the jurisdiction of this court as defined in section three hereof, and all such matters, suits, actions, petitions and proceedings so certified to the intermediate court of Raleigh county shall be docketed and thereafter proceeded with therein according to law. The judge of the said circuit court, in his discretion, may also direct the clerk of his court to certify to and to docket all such matters, suits, actions, petitions, and proceedings properly within the jurisdiction of the intermediate court of Raleigh county as may be instituted on and after the first day of July, one thousand nine hundred seventy-two, in the circuit court in the intermediate court of Raleigh county. In the event of the absence or disqualification of the judge of the circuit court, any matter coming within the purview of this act, pending in said court, may be certified by the judge of the intermediate court of Raleigh county to the intermediate court of Raleigh county, docketed therein and proceeded with according to law.

The judge of the intermediate court of Raleigh county shall not exercise any criminal jurisdiction except criminal juvenile jurisdiction as provided by law, nor hold any jury trials.

In any action or proceeding where a party is entitled to a jury trial, and demands the same, or the court orders a jury trial, the said action or proceeding shall be transferred by the judge of the intermediate court of Raleigh county in its entirety to the circuit court for disposition as though the same had been originally instituted in the circuit court. For the purpose of effecting such transfer, the intermediate court of Raleigh county shall have jurisdiction in all matters brought before it.

§9. Terms of court; maturity of causes; procedure; appointment of probation staff, clerical, and secretarial assistants and fixing salaries.

For the purpose of maturing, docketing, hearing and determining all matters, suits, petitions and other proceedings properly determinable in the intermediate court of Raleigh county there shall be regularly con-
tinued and held three terms of court each year, beginning
on the third Monday in the months of March, June and
November of each year. Special terms of said court may
be called and held whenever, in the discretion of the
judge of the court, public interest requires such special
terms. The judge of the court shall have like jurisdiction
and authority, in vacation of the court, to make and enter
such proper orders in any matter, suit, action, petition or
proceeding pending in the court as the judges of the cir-
cuit courts have under the laws of the state. All matters
arising under the jurisdiction of the court, other than suits
for divorce, separation, annulment of marriages and af-
firmation of marriages, may be heard and determined
either in term time or in vacation: Provided, That proper
notice of any such proceedings be given as provided by
law for the particular case.

The mode of procedure in cases instituted in this court
shall be the same as that prescribed for the circuit court
in similar causes. The court is authorized and empowered
to appoint such additional officers, commissioners and
probation officers, and clerical and secretarial assistance
as may be authorized by law and as shall enable the court
to discharge all the duties required of it under the pro-
visions of this chapter, and the general laws of the state,
which appointments shall be entered of record in the
office of the circuit clerk, with a copy to be filed with the
county court. Such personnel or staff of the judge shall be
paid such salaries, fees and expenses as may be deter-
mined by the court and authorized by law from any
available source, including federal grant money or by
the county court: Provided, That for all such sums
as shall be paid by the county court, the judge shall
first obtain the approval of the county court of Raleigh
county of the expenses to be incurred and the salary or
salaries to be paid. The county court shall at its next
meeting, regular or special, approve or disapprove in
whole or in part, said appointments, in writing, and shall
notify the judge of said court of its action. If the county
court fails or refuses to act on said appointments as here-
in provided, said appointments shall be deemed to have
been approved. If the county court disapproves any ap-
pointment, such appointment shall be nullified to the
extent that the county court shall not be obligated to
pay any expenses or salary for such disapproved appoint-
ment. Such appointments shall be made by the judge
and the appointees shall serve during the pleasure of the
judge.

The appointment of the probation officer and secretarial
and other assistants, when made by the judge, shall be
entered on the law order book of the court. A copy of the
order of appointment shall be transmitted to the clerk
of the county court. Thereupon, the county court shall
make provision for payment and shall pay the salaries
of the probation officer, clerical and secretarial assistants
as shown by the order of appointment. The annual sal-
aries provided for in said order of appointment shall be
paid in equal monthly installments. Expenses and mileage
accounts of the probation officer shall be itemized and
verified and presented to and paid by the county court, if
such accounts are approved by the judge. The county
court shall provide such office space, equipment and
supplies for the probation staff, clerical and secretarial
assistants as the judge shall deem necessary and adequate.

§10. Supplies; finances; seal; courtrooms.

It shall be the duty of the county court of Raleigh
county to provide a current West Virginia code and all
record and other books and stationery that may be neces-
sary for the court. Likewise, a seal for the court shall be
provided, but full faith and credit shall be given to the
records of the court and certificates of its judge or clerk,
whether the seal of the court be affixed thereto or not,
in like manner and with the same effect as if the same
were records of the circuit court similarly authenticated.
The county court of Raleigh county shall likewise fur-
nish such rooms, furniture and equipment for the proper
conduct and administration of the court and shall, through
annual levy and appropriations, make provision for the
payment for all such rooms, supplies and equipment and
as well for such clerical, secretarial and other official help
and expenses as may be required by the court.
§11. Contempt.
1 The court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

§12. Appeals; limitations thereon.
1 Appeals may be allowed and writs of error and supersedeas awarded to judgments, decrees, rulings and orders of the court, or the judge thereof, by the circuit court of Raleigh county, or the judge thereof, in all matters arising within the jurisdiction of this court for which matters appeals may be allowed and writs of error and supersedeas awarded by the supreme court of appeals if such matters had originally arisen in the circuit court of Raleigh county. In the event the circuit court of Raleigh county or the judge thereof refuses an application for writ of error and supersedeas or an appeal, application therefor may be made direct to the supreme court of appeals of the state or to any judge thereof. In all such cases such application shall be made within four months next following the date of the entry of the final order, judgment, or decree of this court or the circuit court as the case may be.

§13. Effective date.
1 This chapter shall become effective on the first day of July, one thousand nine hundred seventy-two.

§14. Separability; repeal.
1 The provisions of this chapter shall be construed as separable and severable and, should any provision or part hereof be held unconstitutional or for any reason invalid, the remaining provisions or parts shall not be thereby affected.

CHAPTER 39
(Com. Sub. for Senate Bill No. 114—By Mr. McCourt, Mr. President)
(Passed March 8, 1972; in effect ninety days from passage. Approved by the Governor.)

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 eight, setting forth various prohibitions as to a
molotov cocktail; defining the term “molotov cocktail”; estab-
lishing criminal offenses; and providing criminal
penalties.

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
eight, to read as follows:

§61-3-8. Prohibitions as to molotov cocktails; penalty.
1 It shall be unlawful for any person to make, carry,
2 possess, sell, give or use any type of incendiary device,
3 commonly known as a molotov cocktail, which is hereby
declared to mean a makeshift incendiary bomb made of a
breakable container filled with flammable liquid and pro-
vided with a wick composed of any substance capable of
bringing a flame into contact with the liquid, but is not
intended to mean a device commercially manufactured
primarily for the purpose of illumination, or other such
use.
11 Any person who shall violate any provision of this sec-
tion shall be guilty of a felony, and, upon conviction
thereof, shall be confined in the penitentiary not less than
one year nor more than five years.
15 The possession, sale or control by a person or persons of
any such device or container containing flammable liquid
is prima facie evidence of a violation of this section.

CHAPTER 40
(Senate Bill No. 73—By Mr. Brotherton)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend chapter sixty-two of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, designated article eleven-a, relating to the release of certain prisoners by courts of record having criminal jurisdiction for purposes of employment and other reasons; authorizing petitions for such release; relating to suitable employment for prisoners; relating to the duty of probation officers and the division of correction with respect to suitable employment for such prisoners; relating to wages or salary earned by such prisoners while on release; providing for trust accounts therefor; relating to attachment or execution on earnings and priorities with respect thereto; providing for lack of liability on part of employer when earnings are paid to clerk; relating to disposition of earnings paid to clerk; relating to reduction of term for good behavior and faithful performance of duties; and requiring adequate facilities for administration of release privilege.

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 eleven-a, to read as follows:

ARTICLE 11A. RELEASE FOR WORK AND OTHER PURPOSES.


1 (1) When a defendant is sentenced or committed for a term of one year or less by a court of record having criminal jurisdiction, such court may in its order grant to such defendant the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

2 (a) To work at his employment;

3 (b) To seek employment;

4 (c) To conduct his own business or to engage in other self-employment, including, in the case of a woman, housekeeping and attending to the needs of her family;

5 (d) To attend an educational institution;

6 (e) To obtain medical treatment;

7 (f) To devote time to any other purpose approved by the court.
(2) Whenever an inmate who has been granted the privilege of leaving the jail under this section is not engaged in the activity for which such leave is granted, he shall be confined in jail.

(3) An inmate sentenced to ordinary confinement may petition the court at any time after sentence for the privilege of leaving jail under this section and may renew his petition in the discretion of the court. The court may withdraw the privilege at any time by order entered with or without notice.

(4) If the inmate has been granted permission to leave the jail to seek or take employment, the court's probation officers, or if none, the state's division of correction shall assist him in obtaining suitable employment and in making certain that employment already obtained is suitable. Employment shall not be deemed suitable if the wages or working conditions or other circumstances present a danger of exploitation or of interference in a labor dispute in the establishment in which the inmate would be employed.

(5) If an inmate is employed for wages or salary, the clerk of the court shall collect the same, or shall require the inmate to turn over his wages or salary in full when received, and shall deposit the same in a trust account and shall keep a ledger showing the status of the account of each inmate. Earnings levied upon pursuant to writ of attachment or execution or in other lawful manner shall be collected from the employer and shall not be collected hereunder, but when the clerk has requested transmittal of earnings prior to levy, such request shall have priority. When an employer transmits such earnings to the clerk pursuant to this subsection he shall have no liability to the inmate for such earnings. From such earnings the clerk shall pay the inmate's board and personal expenses both inside and outside the jail and shall deduct installments on fines, if any, and, to the extent directed by the court, shall pay the support of the inmate's dependents: Provided, That at least twenty-five percent of the earnings collected by the clerk on behalf of an inmate shall be paid for the support of such inmate's
dependent, if any. If sufficient funds are available after
making the foregoing payments, the clerk may, with the
consent of the inmate, pay, in whole or in part, any un-
paid debts of the inmate. Any balance shall be retained,
and shall be paid to the inmate at the time of his dis-
charge.

(6) An inmate who is serving his sentence pursuant
to this section shall be eligible for a reduction of his
term for good behavior and faithful performance of
duties in the same manner as if he had served his term
in ordinary confinement.

(7) The court shall not make an order granting the
privilege of leaving the institution under this section
unless it is satisfied that there are adequate facilities
for the administration of such privilege in the jail or
other institution in which the defendant will be confined.

CHAPTER 41

(Com. Sub. for House Bill No. 970—By Mr. Queen)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article twelve,
chapter sixty-two of the code of West Virginia, one
thousand nine hundred thirty-one, as amended; and to
further amend said article twelve by adding thereto a new
section, designated section seven-a, relating to the suspen-
sion of sentence and release on probation by the court for
persons convicted of crimes; the time during which the
court may suspend such sentence and grant probation; the
remanding of persons who have been found guilty or
pleaded guilty to felonies to the custody of the commis-
sioner of public institutions for diagnosis and classification
prior to the pronouncing of sentence; the time period
during which such person may be so remanded; requiring
the commissioner to report his findings to the court; credit
for time served while in custody of such commissioner and
penalty for escape while in such custody.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. PROBATION AND PAROLE.

§62-12-3. Suspension of sentence and release on probation.

§62-12-7a. Presentence diagnosis and classification; power of court; custody of convicted person; penalty for escape.

§62-12-3. Suspension of sentence and release on probation.

1 Whenever, upon the conviction of any person eligible
2 for probation under the preceding section, it shall appear
3 to the satisfaction of the court that the character of the
4 offender and the circumstances of the case indicate that
5 he is not likely again to commit crime and that the public
6 good does not require that he be fined or imprisoned, the
7 court, upon application or of its own motion, may suspend
8 the imposition or execution of sentence and release the
9 offender on probation for such period and upon such
10 conditions as are provided by this article; but in no case,
11 except as provided by the following section, shall the
12 court have authority to suspend the execution of a sen-
13 tence after the convicted person has been imprisoned for
14 thirty days under the sentence.

§62-12-7a. Presentence diagnosis and classification; power of court; custody of convicted person; penalty for escape.

1 Notwithstanding any other provision of law, when any
2 person has been found guilty of, or pleads guilty to, a
3 felony, the court may, prior to pronouncing of sentence,
4 direct that such person be delivered into the custody of
5 the commissioner of public institutions who shall cause
6 such person to be forthwith transferred to the diagnostic
7 and classification division of the Huttonsville correctional
8 center for a period not to exceed sixty days. During such
9 period such person shall undergo examination, diagnosis
10 and classification and he shall then be remanded and de-
11 livered to the custody of the sheriff of the county wherein
12 he was found guilty or entered such plea. Within ten days
following the termination of such examination, diagnosis
and classification, the commissioner of public institutions
shall make or cause to be made a report to the court
wherein the person was found guilty, or entered his plea
of guilty, containing the results, findings, conclusions and
recommendations of the commissioner with respect to such
person.

Whenever any person is remanded into the custody of
the commissioner of public institutions pursuant to this
section, such person shall be given credit on any sentence
subsequently imposed by the court equal to the time
spent in such custody.

Any person who has been delivered into the custody of
the commissioner under the provisions of this section and
who escapes from such custody, shall be guilty of a felony,
and, upon conviction thereof, shall be confined in the
penitentiary for one year. The term of confinement under
this section shall commence at the expiration of any
sentence such person would be subject to for the offense
for which such person had been found guilty or to which
he had entered his plea of guilty, as the case may be.

CHAPTER 42

(Senate Bill No. 268—By Mr. Gilligan and Mr. Hedrick)

[Passed March 11, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section five, article twelve,
chapter sixty-two of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to court
and county probation officers and assistants; salaries.

Be it enacted by the Legislature of West Virginia:

That section five, article twelve, chapter sixty-two of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:
ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Court and county probation officers and assistants.

The judge of any court actively exercising jurisdiction in criminal cases and having authority to place offenders on probation is authorized to appoint a court or county probation officer and a clerical assistant to serve during the pleasure of the appointing judge, and in addition in counties having a population of more than one hundred thousand, such judge is authorized to appoint an assistant court or county probation officer: Provided, That the appointing judge shall first obtain the approval of the county court or the county courts in his judicial circuit of the expenses to be incurred and the salary or salaries to be paid the court or county probation officer and clerical assistants, which approval shall be discretionary with said county court or courts and shall be required before any appointment made hereunder becomes effective.

The appointment of a court or county probation officer, assistant court or county probation officer and clerical assistant shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of said order of appointment shall be delivered to the county court of the county in which said court or county probation officer, assistant court or county probation officer and clerical assistant shall serve. The said order of appointment shall state the monthly salary fixed by said judge, to be paid the court or county probation officer, assistant court or county probation officer or clerical assistant so appointed. A court or county probation officer shall receive for his services a monthly salary of not less than three hundred nor more than nine hundred dollars per month; an assistant court or county probation officer shall receive for his services a monthly salary of not less than three hundred and not more than seven hundred dollars per month. A clerical assistant shall receive for his services a salary not to exceed three hundred dollars per month. The county court shall make provisions for payment and pay monthly the salary of the court or county probation officer, assistant court or
county probation officer and clerical assistant as designated in the order of appointment. The county court shall provide adequate office space, equipment and supplies for the court or county probation officer, assistant court or county probation officer and clerical assistant, to be approved by the appointing judge. The county court shall reimburse a court or county probation officer and an assistant court or county probation officer for all expenses actually and necessarily incurred in line of duty in the field.

No judge shall appoint any court or county probation officer, assistant court or county probation officer or clerical assistant who is related to him either by consanguinity or affinity.

A judge of a circuit court whose circuit comprises more than one county, having authority to appoint a court or county probation officer, may appoint a court or county probation officer and a clerical assistant in each county of such circuit, or may appoint the same person as a court or county probation officer and also the same person as a clerical assistant in two or more of such counties.

When a judge has appointed a court or county probation officer and a clerical assistant to serve in a judicial circuit including more than one county, the salary and expenses of such appointees shall be contributed by each county sharing in the services of such appointees in the proportion agreed upon by such counties, if they agree, otherwise in the proportion of the populations in the counties derived from the last United States census.

In lieu of, or in addition to, the court or county probation officers, assistant court or county probation officers and clerical assistant provided for in this section, the judge may avail himself of the services of state probation and parole officers; and any such services which may be provided to the court or judge by said state probation and parole officers, shall be rendered at no additional cost to any court or judge so using them. The board of probation and parole may assist any court or county probation officer, upon request, with information relative to procedure, printed forms, and technique applicable to probation methods.
Nothing contained in this section shall in any manner alter, modify, affect or supersede the appointment, tenure or salary of any probation officer appointed by any court under any special act of the Legislature heretofore or hereafter enacted.

CHAPTER 43
(Senate Bill No. 61—By Mr. Brotherton)

[Passed February 25, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections two and five, article one; and sections four, ten, twelve, thirteen, fourteen and fourteen-a, article three, all of chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seven, article eleven, chapter forty-seven of said code, relating to the department of finance and administration and the commissioner thereof; abolishing the office of director of the purchasing division of such department and creating a new office of director of the purchasing division of such department; relating to the director of the purchasing division of such department and the qualifications for the office of such director and the salary of such director; relating to the bond of the commissioner; requiring the director of the purchasing division to be bonded; setting forth detailed provisions as to the bonds of the commissioner and the director of the purchasing division; relating to the cost of all such bonds; relating to rules and regulations which the director of the purchasing division must promulgate with respect to the giving of notice to vendors who pay an annual fee therefor and to the insertion of provisions in all state contracts as to damages in the event of vendor default and the qualifications of state buyers; specifying certain qualifications to be met for employment as a state buyer; requiring state buyers to be bonded separately or by a blanket bond; setting forth detailed provisions as to such bonds; relating to the cost of any such
bond or bonds; expressly providing civil service coverage for the office of director of each division of said department and for state buyers; relating to the testing or evaluation of commodities and to the preparation, custody and maintenance of reports with respect to deficiencies in vendor performance; relating to the purchase of commodities or printing without advertising for sealed bids or on the open market; specifying that bids shall not be altered or withdrawn after the appointed hour for the opening of such bids; relating to bids and duplicate bids submitted by vendors and the preservation thereof with notations thereon; relating to any deviation with respect to such duplicate bids; relating to the prequalification of a vendor to do business with the state; specifying additional information to be furnished incident to the prequalification of a vendor to do business with the state; providing exceptions to the prequalification requirements; providing criminal penalties; and providing certain exemptions under the fair trade act.

Be it enacted by the Legislature of West Virginia:

That sections two and five, article one, and sections four, ten, twelve, thirteen, fourteen and fourteen-a, article three, all of chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section seven, article eleven, chapter forty-seven of said code be amended and reenacted, all to read as follows:

Chapter

5A. Department of Finance and Administration.

47. Regulation of Trade.

CHAPTER 5A.

DEPARTMENT OF FINANCE AND ADMINISTRATION.

Article

1. Department of Finance and Administration.

3. Purchasing Division.

ARTICLE 1. DEPARTMENT OF FINANCE AND ADMINISTRATION.

§5A-1-2. Department of finance and administration and office of commissioner continued; commissioner; divisions; directors.

§5A-1-5. Oath and bond of commissioner; bond required for director of the purchasing division; bonds for other directors and employees; cost of bonds.
§5A-1-2. Department of finance and administration and office of commissioner continued; commissioner; divisions; directors.

1 The department of finance and administration and the office of commissioner of finance and administration are hereby continued in the executive branch of state government. The commissioner shall be the chief executive officer of the department and director of the budget and shall be appointed by the governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the governor. The commissioner shall serve at the will and pleasure of the governor. The annual compensation of the commissioner shall be twenty thousand dollars. There shall be in the department of finance and administration a budget division, a purchasing division and a general services division. Each division shall be headed by a director who shall be appointed by the commissioner. The office of director of the purchasing division is hereby abolished, and a new office of director of the purchasing division is hereby created. No person shall be appointed director of the purchasing division unless such person is at the time of appointment a graduate of an accredited college or university and shall have spent a minimum of ten of the fifteen years immediately preceding his appointment employed in an executive capacity in purchasing for any unit of government or for any business, commercial or industrial enterprise. The director of the purchasing division shall receive an annual salary of eighteen thousand dollars. Any person appointed as director of any division shall after such appointment be subject to the provisions of article six, chapter twenty-nine of this code.

§5A-1-5. Oath and bond of commissioner; bond required for director of the purchasing division; bonds for other directors and employees; cost of bonds.

1 The commissioner, before entering upon the duties of his office, shall take and subscribe to the oath prescribed by section five, article four of the constitution of West Virginia. He shall execute a bond in the penalty of one
hundred thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, approved by the governor, in form prescribed by the attorney general and conditioned upon the faithful performance of his duties and the accounting for all money and property coming into his hands by virtue of his office. The oath and bond shall be filed with the secretary of state.

The director of the purchasing division shall also execute a bond in the penalty of one hundred thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, approved by the governor, in form prescribed by the attorney general and conditioned upon the faithful performance of his duties under the provisions of this chapter and all rules and regulations promulgated pursuant to such chapter and the accounting for all money and property coming into his hands by virtue of his office. The bond shall be filed with the secretary of state. The other division directors and all other employees shall be covered by bonds in cases where the commissioner thinks it necessary, which bonds shall be in the penalty prescribed by the commissioner and shall be filed with the secretary of state.

The cost of all such surety bonds shall be paid from funds appropriated to the department of finance and administration.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-4. Rules and regulations of director.
§5A-3-10. Examination and testing of purchases; report required.
§5A-3-12. Publication of solicitations for sealed bids; purchase of products of nonprofit workshops.
§5A-3-13. Purchasing in open market on competitive bids.
§5A-3-14. Bids to be based on standard specifications; period for alteration or withdrawal of bids; awards to lowest responsible bidder; uniform bids; record of bids.
§5A-3-14a. Prequalification disclosure by vendors required; form and contents; register of vendors; false affidavits, etc.; penalties.
§5A-3-4. Rules and regulations of director.

(a) The director shall adopt and amend rules and regulations to:

1. Authorize a department to purchase specified commodities directly and prescribe the manner in which such purchases shall be made;

2. Authorize, in writing, a department to purchase commodities in the open market for immediate delivery in emergencies, define such emergencies and prescribe the manner in which such purchases shall be made and reported to the director; and for the purposes mentioned in subdivision (1) and this subdivision (2), the head of any department, or the financial governing board of any institution, may, with the approval of the director, make requisitions upon the auditor for a sum to be known as an advance allowance account, in no case to exceed five percent of the total of the appropriations for any such department, and the auditor shall draw his warrant upon the treasurer for such accounts; and all such advance allowance accounts shall be accounted for by the head of the department or institution once every thirty days or oftener if required by the state auditor or director;

3. Prescribe the manner in which commodities shall be purchased, delivered, stored and distributed;

4. Prescribe the time for making requisitions and estimates of commodities, the future period which they are to cover, the form in which they shall be submitted and the manner of their authentication;

5. Prescribe the manner of inspecting all deliveries of commodities, and making chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

6. Prescribe the amount of deposit or bond to be submitted with a bid or contract and the amount of deposit or bond to be given for the faithful performance of a contract;

7. Prescribe a system whereby the director shall be required upon the payment by a vendor of an annual fee
established by the director, to give notice to such vendor
of all bid solicitations for commodities of the type with
respect to which such vendor specified notice was to be
given, but no such fee shall exceed the cost of giving the
notice to such vendor;

(8) Prescribe that each state contract entered into by
the purchasing division shall contain provisions for
liquidated damages, or provisions for the determination
of the amount or amounts which the vendor shall owe
as damages, in the event of default under such contract
by such vendor; and

(9) Provide for such other matters as may be neces-
sary to give effect to the foregoing rules and regulations
and the provisions of this article.

(b) The director shall also adopt and amend rules and
regulations to prescribe qualifications to be met by any
person who, on and after the effective date of this sec-
tion, is to be employed in the purchasing division as a
state buyer. Such rules and regulations shall provide
that no person shall be so employed as a state buyer
unless such person at the time of employment either
is (1) a graduate of an accredited college or univ-
versity or (2) has at least four years’ experience in
purchasing for any unit of government or for any busi-
ness, commercial or industrial enterprise. Any person
employed as a state buyer on the effective date of this
section and any person employed on and after the effec-
tive date of this section as a state buyer shall execute
a bond in the penalty of fifty thousand dollars, payable
to the state of West Virginia, with a corporate bonding
or surety company authorized to do business in this
state as surety thereon, in form prescribed by the attorney
general and conditioned upon the faithful performance
of his duties under the provisions of this chapter and
the rules and regulations of the director. In lieu of
separate bonds for such state buyers, a blanket surety
bond may be obtained. Any such bond or bonds shall
be filed with the secretary of state. The cost of any
such bond or bonds shall be paid from funds appropriated
to the department of finance and administration. Those
persons now serving as state buyers shall remain subject to the provisions of article six, chapter twenty-nine of this code, and those persons employed as state buyers on and after the effective date of this section shall be subject to the provisions of said article six.

§5A-3-10. Examination and testing of purchases; report required.

Within the limit of funds available for the purpose, the director, or some person appointed by him for that purpose, shall examine and test upon delivery commodities purchased by the state to determine whether such commodities conform to the standard specifications promulgated and adopted pursuant to section five of this article, and whether the commodities delivered conform with the purchase orders and contracts therefor. If such test discloses or the spending unit determines that the commodities fail to so conform, the director, or the person appointed by him to perform such test as aforesaid, or the spending unit, as the case may be, shall prepare a report, which shall name the commodities and the vendor who or which supplied them and shall enumerate the reasons why such commodities failed to conform to the standard specifications or with the purchase contracts. One copy of such report shall be delivered to the chief officer of the spending unit for which the commodities were purchased, one copy shall be furnished to the vendor and one copy shall be preserved by the director as a public record.

§5A-3-12. Publication of solicitations for sealed bids; purchase of products of nonprofit workshops.

The director shall solicit sealed bids for the purchase of commodities and printing which 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 published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the department or
agency making the requisition is located. Such notice shall be so published within the fourteen days next preceding the final date of submitting bids. The notice may also be published 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, That the director shall, without competitive bidding, purchase commodities and printing produced and offered for sale by nonprofit workshops, as defined in section one, article one of this chapter, which are located in this state: Provided, however, That such commodities and printing shall be of a price and quality comparable to other commodities and printing otherwise available.

§5A-3-13. Purchasing in open market on competitive bids.

The director may make a purchase of commodities and printing of two thousand dollars or less in amount in the open market, but such purchase shall, wherever possible, be based on at least three competitive bids.

§5A-3-14. Bids to be based on standard specifications; period for alteration or withdrawal of bids; awards to lowest responsible bidder; uniform bids; record of bids.

Bids shall be based on the standard specifications promulgated and adopted in accordance with the provisions of section five of this article, and shall not be altered or withdrawn after the appointed hour for the opening of such bids. All open market orders, purchases based on advertised bid requests, or contracts made by the director or by a state department shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the state government and the delivery terms. Any or all bids may be rejected. If all bids received on a pending contract are for the same unit price or total amount, the director shall have authority to reject
all bids, and to purchase the required commodities and
printing in the open market, if the price paid in the open
market does not exceed the bid prices.

All bidders submitting bid proposals to the purchasing
division are required to submit an exact or duplicate copy
to the state auditor. Both copies must be received at the
respective offices prior to the specified date and time of
the bid openings. The failure to deliver or the nonreceipt
of these bid forms at either of these offices prior to the
appointed date and hour are grounds for rejection of the
bids. In the event of any deviation between the copies
submitted to the purchasing division and the state auditor,
such bids as to which there is such deviation shall be
rejected, if the deviation relates to the quantity, quality
or specifications of the commodities or printing to be
furnished or to the price therefor or to the date of de-
delivery or performance. After the award of the order or
contract, the director, or someone appointed by him for
that purpose, shall indicate upon the successful bid and its
copy in the office of the state auditor that it was the
successful bid. Thereafter, the copy of each bid in the
possession of the director and the state auditor shall be
maintained as a public record by both of them, shall be
open to public inspection in the offices of both the director
and the state auditor and shall not be destroyed by either
of them without the written consent of the legislative
auditor.

§5A-3-14a. 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 resi-
dence 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 at least ten percent 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; and the names and residence addresses of each stockholder of the corporation owning or holding at least ten percent of the capital stock thereof;

(5) A list of other states with which the vendor is qualified to do business and a statement of whether any state has disqualified the vendor to do business with it, and if so, a statement of the particulars pertaining to the disqualification;

(6) A statement of whether the vendor in submitting a bid is acting as agent for some other individual, firm or corporation, and if so, a statement of the principal authorizing such representation shall be attached to the affidavit;

(7) A statement of the vendor's net worth;

(8) The vendor's latest Dun & Bradstreet rating, if there be any such rating as to such vendor;

(9) A list of one or more banking institutions to serve as references for such vendor;

(10) A statement of whether or not those owning a controlling interest of such vendor or serving as the managers or officers of such vendor have done business within the preceding ten years under a different name or under a form of business organization (that is, as an individual, firm or corporation) different from the form of business organization of the vendor at the time of
the making of such affidavit, and if so, the names or forms
of business organization, or both such names and forms,
under which such business was conducted; and
(11) The name and state of incorporation of each cor-
poration in which at least ten percent of the capital stock
is cumulatively owned by those owning a controlling
interest of such vendor or those serving as the managers
or officers of such vendor.
Whenever a change occurs in the information hereto-
fore submitted as required, such change shall be reported
immediately in the same manner as required in the origi-
nal 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 any corporation listed on any nationally recog-
nized stock exchange and in the case of any vendor who
or which is the sole source for the commodity in question.
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
misdemeanor, 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, an individual so convicted shall be ad-
judged forever incapable of holding any office of honor,
trust or profit in this state, or of serving as a juror.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 11. FAIR TRADE ACT.

§47-11-7. Exemptions.
1 This article shall not apply to any contract or agree-
ment between or among producers, except as provided in
subdivision (c) of section two of this article, or between
or among wholesalers or between or among retailers as
to sale or resale prices. This article shall not apply to any sale to or any contract or purchase made by the state of West Virginia or any of its departments or agencies or any political subdivision of or municipality within said state or any of their departments or agencies.

CHAPTER 44
(House Bill No. 894—By Mr. Speaker, Mr. McManus, and Mr. Lohr)

[Passed February 24, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections twenty-eight, twenty-eight-f and twenty-eight-h, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to retirement awards and benefits for members of the department of public safety and widows and dependents thereof.

Be it enacted by the Legislature of West Virginia:

That sections twenty-eight, twenty-eight-f 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 to read as follows:

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-28f. Awards and benefits to dependents of member—When member dies in performance of duty, etc.
§15-2-28h. Same—When member dies after retirement or after serving twenty years.


1 (a) The retirement board shall retire any member of the department of public safety when such member
2 (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
3 (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 percent 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) The sum of two thousand four 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.
§15-2-28f. Awards and benefits to dependents of member—
When member dies in performance of duty, etc.

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 one or the other of two amounts, whichever shall be the greater, namely:

1. An amount equal to two and one-half percent 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.

2. The sum of one thousand two hundred dollars.

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.
§15-2-28h. Same—When member dies after retirement or after serving twenty years.

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 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. If such widow 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.
CHAPTER 45
(Senate Bill No. 170—By Mr. Brotherton)

[Passed March 8, 1972; in effect ninety days from passage. Approved by the Governor.]

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 the criminal identification bureau of the department of public safety; requiring the various courts, clerks thereof, justices, mayors and prosecutors to furnish certain information to such bureau; and providing for offenses and penalties therefor.

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.

§15-2-29. Criminal identification bureau; establishment; officer in charge; purpose; fingerprints, photographs, records and other information; reports by courts and prosecuting attorneys; offenses and penalties.

(a) The superintendent of the department of public safety shall establish, equip and maintain at the departmental headquarters a criminal identification bureau, for the purpose of receiving and filing fingerprints, photographs, records and other information 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 superintendent for the affairs of the bureau. Members of the department assigned to the criminal identification bureau shall carry out their duties and assignments in accordance with internal management rules and
regulations pertaining thereto promulgated by the super-
intendent.

(b) The criminal identification bureau shall cooperate with identification bureaus of other states and of the United States to develop and carry on a complete inter-
state, national and international system of criminal identification.

(c) The criminal identification bureau may furnish fingerprints, photographs, records or other information to authorized law-enforcement and governmental agencies of the United States and its territories, of foreign countries duly authorized to receive the same, of other states within the United States and of the state of West Virginia upon proper request stating that the finger-
prints, photographs, records or other information requested are necessary in the interest of and will be used solely in the administration of official duties and the criminal laws.

(d) The criminal identification bureau may furnish, with the approval of the superintendent, fingerprints, photographs, records or other information to any private or public agency, person, firm, association, corporation or other organization, other than a law-enforcement or governmental agency as to which the provisions of sub-
section (c) of this section shall govern and control, but all requests under the provisions of this subsection (d) for such fingerprints, photographs, records or other in-
formation must be accompanied by a written authoriza-
tion signed and acknowledged by the person whose finger-
prints, photographs, records or other information is to be released.

(e) The criminal identification bureau may furnish fingerprints, photographs, records and other information of persons arrested or sought to be arrested in this state to the identification bureau of the United States govern-
ment and to other states for the purpose of aiding law enforcement.

(f) Persons in charge of any penal or correctional in-
stitution, including any city or county jail, 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. Such fingerprints shall be taken on forms approved
by the superintendent 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.

(g) Members of the department of public safety, and all
other state law-enforcement officials, sheriffs, deputy sher-
iffs, constables, and each and every peace officer 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 fugitive from justice or an habitual
criminal, and furnish the same in duplicate to the criminal
identification bureau, department of public safety, 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 identifica-
tion bureau, photographs of such persons so fingerprinted.

For the purpose of obtaining data for the preparation and
submission to the governor and the Legislature by the de-
partment of public safety of an annual statistical report
on crime conditions in the state, the clerk of any court
of record, the justice of any justice court and the mayor
or clerk of any municipal court before which a person
appears on any criminal charge shall report to the criminal
identification bureau the sentence of the court or other
disposition of the charge and the prosecuting attorney of
every county shall report to the criminal identification
bureau such additional information as the bureau may
require for such purpose, and all such reports shall be
on forms prepared and distributed by the department
of public safety, shall be submitted monthly and shall
cover the period of the preceding month.
(h) 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.

(i) All state, county and municipal law-enforcement agencies shall submit to the bureau uniform crime reports setting forth their activities in connection with law enforcement. It shall be the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general content, time and manner of submission of such uniform crime reports. Willful or repeated failure by any state, county or municipal law-enforcement official to submit the uniform crime reports required by this article shall constitute neglect of duty in public office. The bureau shall correlate the reports submitted to it and shall compile and submit to the governor and the Legislature semiannual reports based on such reports. A copy of such reports shall be furnished to all prosecuting attorneys and law-enforcement agencies.

(j) 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 willfully removes, destroys, or mutilates any of the fingerprints, photographs, records or other information 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
AN ACT to amend and reenact article nine, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revised uniform reciprocal enforcement of support act.

Be it enacted by the Legislature of West Virginia:

That article nine, 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:

ARTICLE 9. REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT.

§48-9-1. Purposes.
§48-9-4. Extent of duties of support.
§48-9-5. Interstate rendition.
§48-9-7. Law governing duty of support; presumption as to presence of obligor.
§48-9-8. Remedies of state or political subdivision furnishing support.
§48-9-10. Jurisdiction.
§48-9-11. Contents and filing of petition for support; venue.
§48-9-12. Prosecuting attorney to represent obligee.
§48-9-17. State information agency.
§48-9-18. Duty of court and officials of this state as responding state.
§48-9-20. Hearing and continuance.
§48-9-23. Order of support.
§48-9-24. Responding court to transmit copies to initiating court.

§48-9-29. Proceedings not to be stayed because of pending or prior action; support order pendente lite.

§48-9-30. Effect of support order made under another law or by court of another state.


§48-9-32. Application of article where obligee and obligor are in different counties in this state.

§48-9-33. Appeals.

§48-9-34. Additional remedies for enforcement of foreign support order.

§48-9-35. Registration of foreign support order.

§48-9-36. Clerk to maintain registry of foreign support order.

§48-9-37. Prosecuting attorney to represent obligee.

§48-9-38. Registration procedure; notice; prosecuting attorney to enforce order.


§48-9-41. Short title.

§48-9-42. Severability.

§48-9-1. Purposes.

1 The purposes of this article are to improve and extend by reciprocal legislation the enforcement of duties of support.


1 As used in this article unless the context requires otherwise:

2 (1) “Court” means the criminal, intermediate or circuit court, or any other court of record having jurisdiction in this state and, when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

3 (2) “Duty of support” means a duty of support whether imposed or imposable by law or by order, decree or judgment of any court, whether interlocutory or final, or whether incidental to an action for divorce, separation, separate maintenance or otherwise and includes the duty to pay arrearages of support past due and unpaid.

4 (3) “Governor” includes any person performing the functions of governor or the executive authority of any state covered by this article.

5 (4) “Initiating state” means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. “Initiating court” means the court in which a proceeding is commenced.

6 (5) “Law” includes both common and statutory law.
(6) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(7) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(8) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(9) "Register" means to record in the registry of foreign support orders.

(10) "Registering court" means any court of this state in which a support order of a rendering state is registered.

(11) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(12) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(13) "State" includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(14) "Support order" means any judgment, decree or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation or remission, regardless of the kind of action or proceeding in which it is entered.


The remedies herein provided are in addition to and not in substitution for any other remedies.
§48-9-4. Extent of duties of support.
1 Duties of support arising under the law of this state, when applicable under section seven, bind the obligor present in this state regardless of the presence or residence of the obligee.

§48-9-5. Interstate rendition.
1 The governor of this state may:
2 (1) Demand of the governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person; or
3 (2) Surrender on demand by the governor of another state a person found in this state who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this article apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

1 (a) Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prosecuting attorney of this state to satisfy him that at least sixty days prior thereto the obligee initiated proceedings for support under this article or that any proceeding would be of no avail.
2 (b) If, under a substantially similar reciprocal law, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor may require any prosecuting attorney to investigate the demand and to report to him whether proceedings for support have
been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If proceedings have been initiated and the person demanded has prevailed therein the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

§48-9-7. Law governing duty of support; presumption as to presence of obligor.

Duties of support applicable under this article are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

§48-9-8. Remedies of state or political subdivision furnishing support.

If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this article as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.


All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this article including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

§48-9-10. Jurisdiction.

Jurisdiction of any proceeding under this article is vested in courts of record.

§48-9-11. Contents and filing of petition for support; venue.

(a) The petition or complaint shall be verified and shall state the name and, so far as known to the obligee,
the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. The obligee may include in or attach to the petition or complaint any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints and his social security number.

(b) The petition or complaint may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the petition or complaint on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

§48-9-12. Prosecuting attorney to represent obligee.

If this state is acting as an initiating state the prosecuting attorney, upon the request of the court or the state department of welfare, shall represent the obligee in any proceeding under this article.


A petition or complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.


If the initiating court finds that the petition or complaint sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause three copies of the petition or complaint and its certificate and one copy of this article to be sent to the responding court. Certification shall be in accordance with the requirements
of the initiating state. If the name and address of the re-
responding court is unknown and the responding state has
an information agency comparable to that established
in the initiating state it shall cause the copies to be sent
to the state information agency or other proper official
of the responding state, with a request that the agency
or official forward them to the proper court and that the
court of the responding state acknowledge their receipt
to the initiating court.

1 An initiating court shall not require payment of either
2 a filing fee or other costs from the obligee, but may re-
3 quest the responding court to collect fees and costs from
4 the obligor. A responding court shall not require pay-
5 ment of a filing fee or other costs from the obligee, but it
6 may direct that all fees and costs requested by the
7 initiating court and incurred in this state when acting
8 as a responding state, including fees for filing of pleadings,
9 service of process, seizure of property, stenographic or
10 duplication service or other service supplied to the obligor,
11 be paid in whole or in part by the obligor. These costs
12 or fees do not have priority over amounts due to the
13 obligee.

1 If the court of this state believes that the obligor may
2 flee it may:
3 (1) As an initiating court, request in its certificate that
4 the responding court obtain the body of the obligor by
5 appropriate process; or
6 (2) As a responding court, obtain the body of the
7 obligor by appropriate process. Thereupon it may release
8 him upon his own recognizance or upon his giving a bond
9 in an amount set by the court to assure his appearance
10 at the hearing.

§48-9-17. State information agency.
1 (a) The office of the attorney general is designated as
2 the state information agency under this article. It shall:
3 (1) Compile a list of the courts and their addresses
4 in this state having jurisdiction under this article and
transmit it to the state information agency of every other state which has adopted this or a substantially similar law. Upon the adjournment of each session of the Legislature, the agency shall distribute copies of any amendments to this article and a statement of their effective date to all other state information agencies;

(2) Maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this article;

and

(3) Forward to the court in this state which has jurisdiction over the obligor or his property petitions, certificates and copies of the act it receives from courts or information agencies of other states.

(b) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices, both state and federal, where such offices are able to cooperate, and requests made to the social security administration as permitted by the social security act, as amended.

§48-9-18. Duty of court and officials of this state as responding state.

(a) After the responding court receives copies of the petition or complaint, certificate and act from the initiating court the clerk of the court shall docket the case and notify the prosecuting attorney of his action.

(b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hear-

(a) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the petition or complaint or otherwise the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition or complaint from the initiating court.

(b) If the obligor or his property is not found in the county, and the prosecuting attorney discovers that the obligor or his property may be found in another county of this state or in another state, he shall so inform the court. Thereupon, the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this article apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court, he shall forthwith notify the initiating court.

(c) If the prosecuting attorney has no information as to the location of the obligor or his property, he shall so inform the initiating court.

§48-9-20. Hearing and continuance.

If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court shall upon request of either party, continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this article. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.


In any hearing for the civil enforcement of this article, the court is governed by the rules of evidence applicable in a civil action in a court of record. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

§48-9-23. Order of support.

If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this article shall require that payments be made to the clerk of the court of the responding state. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.
§48-9-24. Responding court to transmit copies to initiating court.

The responding court shall cause a copy of all support orders to be sent to the initiating court.


In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

1. Require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;
2. Require the obligor to report personally and to make payments at specified intervals to the clerk of the court;
3. Punish under the power of contempt the obligor who violates any order of the court.


If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjourn the hearing until the paternity issue is adjourned pursuant to the court's order. Otherwise the court may make the changes necessary to determine the paternity issue.


A responding court has the following duties which may be carried out through the clerk of the court:

1. To transmit to the initiating court any payment made by the obligor;
2. To furnish to the initiating court upon request a certified statement of all payments made by the obligor; and
3. To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise.


An initiating court shall receive and disburse forthwith any payments made by the obligor.
§48-9-29. Proceedings not to be stayed because of pending or prior action; support order pendente lite.

A responding court shall not stay the proceeding or refuse a hearing under this article because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition or complaint being heard the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

§48-9-30. Effect of support order made under another law or by court of another state.

A support order made by a court of this state pursuant to this article does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar law or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against amounts accruing or accrued for the same period under any support order made by the court of this state.


Participation in any proceeding under this article does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.
§48-9-32. Application of article where obligee and obligor are in different counties in this state.

1. This article applies if both the obligee and the obligor are in this state but in different counties. If the court of the county in which the petition or complaint is filed finds that the petition or complaint sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this state may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the petition or complaint and a certification of the findings to the court of the county in which the obligor or his property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county in which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this state as a responding state.

§48-9-33. Appeals.

1. If the attorney general is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may:
   (a) Perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or
   (b) If the support order was issued in another state, cause the appeal to be taken in the other state. In either case expenses of appeal may be paid on his order from funds appropriated for his office.

§48-9-34. Additional remedies for enforcement of foreign support order.

1. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in sections thirty-five through thirty-nine of this article.

§48-9-35. Registration of foreign support order.

1. The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes herein provided.
§48-9-36. Clerk to maintain registry of foreign support order.

The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders.

§48-9-37. Prosecuting attorney to represent obligee.

If this state is acting either as a rendering or a registering state the prosecuting attorney upon the request of the court or the state department of welfare shall represent the obligee in proceedings under sections thirty-four through thirty-nine of this article.

§48-9-38. Registration procedure; notice; prosecuting attorney to enforce order.

(a) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support law of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post-office address of the obligee, the last known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this article.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post-office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.


(a) Upon registration, the registered foreign support
order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a support order of this state and may be enforced and satisfied in like manner.

(b) The obligor has twenty days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.


This article shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact a substantially similar law.

§48-9-41. Short title.

This article may be cited as the “Revised Uniform Reciprocal Enforcement of Support Act.”

§48-9-42. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article, and to this end the provisions of this article are severable.
CHAPTER 47

(House Bill No. 509—By Mr. Steptoe)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article one, chapter forty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to proceedings by a civil action for release of dower in real estate which the owner has contracted to sell.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE I. DOWER.

§43-1-6. Proceedings for release of dower in real estate which owner has contracted to sell.

1. If the owner of real estate contracts to sell the same, and
2. the spouse of such owner refuses to release his or her
3. dower interest therein, such owner, or the person con-
4. tracting to purchase, may institute a civil action for the
5. purpose of having the dower interest released and the
6. contract consummated. The court on the hearing may, in
7. its discretion, and if satisfied that the contract of sale was
8. made in good faith and without design to force such
9. spouse to part with his or her dower interest, approve
10. the sale and price, and cause to be paid to such spouse
11. such gross sum, computed according to the method provid-
12. ed in article two of this chapter, as shall represent the
13. present value of his or her inchoate dower right. Upon
14. such payment as aforesaid the court shall order a release
15. of the dower interest, by such spouse, or if he or she re-
16. fuses to execute the release, then such release shall be
17. executed by a special commissioner to be appointed by
18. the court for the purpose, which release shall be effectual
19. to pass the property to the purchaser free of such right
20. of dower.
AN ACT to amend and reenact section three, article five, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the educational broadcasting authority, powers of the authority and the right to enter into royalty agreements or receive moneys for the use of programs by stations outside this state.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.


1 The authority shall have the power:
2   (1) To act as advisor and consultant to television and radio stations concerning noncommercial educational programs supported by federal, state, county, city or private funds.
3   (2) To cooperate with and assist all local and state educational institutions in planning and development of the use of educational radio, television and related media.
4   (3) To promote and coordinate the use of these media for noncommercial educational purposes.
5   (4) To construct, maintain and operate educational broadcasting, closed circuit or related facilities located at a suitable site or sites within this state including, without limitation thereby, production centers, broadcasting stations and a broadcasting network connecting such communities or stations as may be designated by the authority.
(5) To acquire in the name of the state for the use and benefit of the authority by purchase, lease or agreement, any property, both real and personal, and any interest in such property necessary to carry out the provisions of this article.

(6) To apply for and receive any license from the appropriate federal agency necessary to operate any educational broadcasting, closed circuit or related facility.

(7) To supervise and approve the origination and transmission of all noncommercial educational radio, television and related media programs in this state which would be carried through the facilities of a state network.

(8) To employ such personnel as may be necessary to operate and maintain any facility created under the provisions of this article.

(9) To lease from communications common carriers and use such transmission channels as may be necessary or, if it determines it could more economically construct and maintain such transmission channels, it may design, construct, maintain and operate the same, including a television microwave network.

(10) To sue and be sued, plead and be impleaded.

(11) To contract and be contracted with, including the power to enter into contracts with any person, firm or corporation, including any like authority of neighboring states; and shall have the authority, within state regulations, to enter into program royalty and distribution contracts and receive moneys for these purposes: Provided, That such contracts shall be for noncommercial purposes only.

(12) To have and use a corporate seal.

(13) To promulgate reasonable rules and regulations to carry out the provisions of this article in accordance with the provisions of article three, chapter twenty-nine-a of the code.

(14) To perform such other services in behalf of non-commercial educational radio, television and related media as it may consider to be in the best interest of the state.
AN ACT to amend and reenact section forty-four, article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increased compensation and mileage per election officials.

Be it enacted by the Legislature of West Virginia:

That section 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:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-44. Compensation of election officials; expenses.

1 Each ballot commissioner shall be allowed and paid a sum, to be fixed by the county court, not exceeding twenty-five 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 thirty 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 herein-after 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 ten cents per mile necessarily traveled in the perform-
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 necessarily 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 50

(House Bill No. 811—By Mr. Ball and Mr. Stone)

[Passed March 6, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article one, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-six, relating to training film for election officials.
Be it enacted by the Legislature of West Virginia:

That article one, chapter 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 forty-six, to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-46. Training film for election officials.

1 The secretary of state in conjunction with West Virginia board of regents shall produce a motion picture film which shall explain and illustrate the procedures for conducting elections, the duties of the various election officials and the methods of voting both on paper ballots and machines.

2 One copy of such film shall be distributed to the clerk of the county court of each county to be kept and preserved by him. Such film shall be shown to all election officials before each primary or general election as part of their instructional program.

3 While such film is not being used by the clerk for instructional purposes, it shall be available to any duly organized civic, religious, educational or charitable group without charge, except that the clerk shall require a cash deposit on such use in an amount to be determined by the secretary of state.

4 The secretary of state shall cause such film to be amended, edited or reproduced whenever he is of the opinion such revision is necessary in light of changes in the election laws of this state.

5 No office holder or person seeking election to any office shall appear in such film either in person or by visual image or by name.
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thousand nine hundred thirty-one, as amended, requiring and specifying the amount of filing fees which must be paid by candidates for nomination for or election to office; relating to the place of payment of such filing fees; relating to the disposition of such filing fees; relating to the form and contents of the official primary election ballot; relating to separate ballots; and relating to alternating names of candidates and ballots.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-8. Filing fees and their disposition.

§3-5-13. Form and contents of ballots.

§3-5-8. Filing fees and their disposition.

1 Every person who becomes a candidate for nomination for or election to office in any primary election, shall, at the time of filing the certificate of announcement as required in this article, pay a filing fee as follows:

2 (a) A candidate for president of the United States, for vice-president of the United States, for United States senator, for member of the United States house of representatives, for governor and for all other state elective offices shall pay a fee equivalent to one percent of the annual salary of the office for which the candidate announces;

3 (b) A candidate for the office of judge of a circuit court and judge of any court of record of limited jurisdiction shall pay a fee equivalent to one percent of the total annual salary of the office paid from any and all sources for which the candidate announces;

4 (c) A candidate for member of the house of delegates shall pay a fee of thirty-three dollars, and a candidate for state senator shall pay a fee of sixty-six dollars;

5 (d) A candidate for sheriff, prosecuting attorney, circuit clerk, county clerk, assessor, member of the county court and member of the county board of education shall
pay a fee equivalent to one percent of the annual salary of the office for which the candidate announces: Provided, That the fee in no case shall be less than five dollars. A candidate for any other county office shall pay a fee of five dollars;

(e) A candidate for justice of the peace in districts having a population of five thousand or less shall pay a fee of ten dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, fifteen dollars; and in districts having more than twenty-five thousand population, each candidate shall pay a fee of twenty-five dollars;

(f) A candidate for constable in districts having a population of five thousand or less shall pay a fee of five dollars; in districts having a population of more than five thousand and not more than twenty-five thousand, ten dollars; and in all other districts fifteen dollars;

(g) Delegates to the national convention of any political party shall pay the following filing fees:

A candidate for delegate-at-large shall pay a fee of twenty dollars; and a candidate for delegate from a congressional district shall pay a fee of ten dollars;

(h) Candidates for members of political executive committees and other political committees shall pay the following filing fees:

A candidate for member of a state executive committee of any political party shall pay a fee of ten dollars; a candidate for member of a county executive committee of any political party shall pay a fee of one dollar; and a candidate for member of a congressional, senatorial or delegate district committee of any political party shall pay a fee of one dollar.

Candidates filing for an office to be filled by the voters of one county shall pay the filing fee to the clerk of the circuit court, and candidates filing for an office to be filled by the voters of more than one county shall pay the filing fee to the secretary of state at the time of filing their certificates of announcement, and no certificate of announcement shall be received until the filing fee is paid.
All moneys received by such clerk from such fees shall be credited to the general county fund. Moneys received by the secretary of state from fees paid by candidates for offices to be filled by all the voters of the state shall be deposited in a special fund for that purpose and shall be apportioned and paid by him to the several counties on the basis of population, and that received from candidates from a district or judicial circuit of more than one county shall be apportioned to the counties comprising the district or judicial circuit in like manner. When such moneys are received by sheriffs, it shall be credited to the general county fund.

§3-5-13. Form and contents of ballots.

The official primary ballot shall contain at the left of each column of names of candidates, a perpendicular column, and shall be so printed as to leave a square at the left of each name on the ballot.

On such primary ballot, the names of candidates for president of the United States, for United States senator and for representative in Congress, shall be placed in the first column of candidates; the names of candidates for all state offices, and all other offices to be filled by the voters of a political division greater than a county, including the state executive committee, in the second column; the names of all candidates for county offices, including members of the House of Delegates and congressional, senatorial and delegate district executive committees, shall be placed in the third column; the names of all candidates for office in the magisterial districts shall be placed in the fourth column; and the names of all candidates for delegates to the national convention of the party shall be placed in the fifth column and in counties using voting machines the names of all candidates for delegates to the national convention of the party shall be placed after the names of all other candidates for all of the other above specified offices.

The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.
The secretary of state, or the circuit court clerk, as the case may be, shall arrange the names of the candidates to be printed on the ballot in alphabetical order, according to the surname, under the title of the respective offices upon the ballot.

A separate ballot, in connection with a primary election, for election of members of county board of education, shall be printed in bold type, under the caption, "Nonpartisan Ballot for Election of Members of the County Board of Education." The names of the candidates for election to the county board of education, and the number of candidates for which each voter is entitled to vote shall be printed beneath the caption, without reference to political party affiliation, and without designation as to a particular term of office.

In printing each set of ballots the position of the names of the candidates shall be changed in each office division as many times as there are candidates in that office division. As nearly as possible an equal number of ballots shall be printed after each change. In making the change of position, the printer shall take the line of type containing the first name in the office division concerned and place it at the bottom of the list of names in that division 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.

All ballots used in primary elections shall be printed on paper conforming as nearly as practicable in weight, texture, and color to the samples furnished by the secretary of state, and the paper shall be sufficiently thick so that the printing cannot be discernible from the back. On the back of the ballot shall be printed in black ink, and in plain legible, black face pica type, the name of the political party as contained in the heading or "Nonpartisan Board of Education," as the case may be, followed by the word "ballot." Under this designation shall
AN ACT to repeal section thirteen, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said chapter by adding thereto a new article, designated article eleven, relating to amendments to the state constitution and how such are proposed; providing procedures for withdrawal of proposed amendments from consideration by the voters; providing procedures to determine a title, summary, and the position on the ballot for each proposed amendment and for designation of the election at which a proposed amendment is to be submitted; duties of the secretary of state with respect to publication of proposed amendments and payment for such publication; designating the form of the ballot on constitutional amendments and designating duties of election officials; generally providing for election procedures in regard to proposed constitutional amendments; relating to proclamation by secretary of state of the results of vote on proposed amendment; and providing that amendments shall be in effect from the date of ratification by the voters.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article six, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said chapter be amended by adding thereto a new article, designated article eleven, to read as follows:

ARTICLE 11. AMENDMENTS TO THE STATE CONSTITUTION.

§3-11-1. Proposing amendments to state constitution; withdrawal of proposed amendments.
§3-11-1. Proposing amendments to state constitution; withdrawal of proposed amendments.

Any amendment to the constitution of the state may be proposed in either house of the Legislature by a joint resolution.

When an amendment as proposed is agreed to as provided by section two, article fourteen of the constitution, the question of ratification or rejection of such amendment shall be submitted to the voters of the state.

The Legislature may, by concurrent resolution adopted by a two-thirds vote of the members elected to each house, withdraw from consideration the question of ratification or rejection by the voters of such amendment in any session prior to the election at which it is to be submitted to the voters.

§3-11-2. Title and summary of amendment; position on ballot; designation of election for submission of amendment.

In any joint resolution proposing an amendment to the West Virginia constitution, for ratification or rejection by the voters, the Legislature shall for convenience of reference thereto, assign a title to such proposed amendment and shall set forth a summary of the purpose of such proposed amendment. If the Legislature shall fail in any such resolution to include a title and summary, or either, the secretary of state shall supply such omission or omissions, and certify the same to the ballot commissioners of each county. Whether set forth in such resolution or certified by the secretary of state, it shall be the duty of the ballot commissioners in each county to place upon the official ballot at the election at which such proposed amendment is to be voted upon,
or upon the ballot label in counties where voting machines
are used, the title and summary of such proposed con-
stitutional amendment.

The Legislature may, in the joint resolution, give a
proposed amendment a number. If this is done, and if
there is more than one amendment submitted at the
same election, the position of such amendment on the
ballot shall be in accordance with the number so desig-
nated. When numbers are not so designated by the
Legislature, the secretary of state, in certifying the elec-
tion ballot, shall number the amendments consecutively
in accordance with the dates of their final submission
by the Legislature.

The Legislature shall, in the joint resolution, designate
the election at which the proposed constitutional amend-
ment shall be submitted to the voters.

§3-11-3. Publication of proposed amendment by secretary of
state.

The secretary of state shall cause each proposed amend-
ment, with its title and summary of purpose, to be pub-
lished as a Class I legal advertisement at least three
months before such election in some newspaper in every
county in the state in which a newspaper is printed. The
cost of such publication, determined in accordance with
the provisions of section three, article three, chapter
fifty-nine of this code, shall be paid out of funds appro-
priated to the office of secretary of state.

§3-11-4. Form of ballot; conduct of election.

For the purpose of enabling the voters of the state to
vote on the question of proposed amendments to the con-
stitution at the election at which they are to be submitted,
the board of ballot commissioners of each county shall
place upon, and at the foot of, the official ballot to be
voted at that election, under the heading "Ballot on Con-
stitutional Amendments," as to each proposed amendment,
the following:

No. ___________________________ ___________________________

(title of amendment)
The election on each 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 an election held under the provisions of this article. The ballots cast on the question of any proposed amendment shall be counted as other ballots cast at said election.

§3-11-5. Certificates of election commissioners; canvass of vote; certifying result.

As soon as the result is ascertained as to an amendment to the constitution, 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 as to each separate amendment, which certificates shall be 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 ______, upon the question of ratification or rejection of the proposed constitutional amendment, do hereby certify that the result of said election was as follows:

"Amendment No. __________ ____________________________

(title of amendment)

"For ratification __________ votes.

"Against ratification __________ votes."
"Given under our hands this ______ day of ________,
one thousand nine hundred _________."

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 within such
time as will enable the commissioners of the county court
to convene as a board of canvassers on the fifth day (Sun-
days excepted) after such election for the purpose of
ascertaining the result of said election. As soon as the
result of said election in the county upon the question
of such ratification or rejection is ascertained, two cer-
tificates of such result shall be made out and signed by
said commissioners as a board of canvassers, in the fol-
lowing 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 __________, one thousand nine
hundred __________, 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. __________ (title of amendment)

"For ratification ....... votes.

"Against ratification ........ votes.

"Given under our hands this ______ day of __________,
one thousand nine hundred __________."

Separate certificates shall be made as to each consti-
tutional amendment.
One of the certificates shall be filed in the office of the clerk of the county court and the other forwarded by registered 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 provided in section six of this article.

§3-11-6. Proclamation of result of election by secretary of state; effective date of amendment ratified.

On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the secretary of state shall ascertain from said certificates the result of the election in the state, and declare the same by proclamation published as a Class I-0 legal advertisement in two newspapers printed at the seat of government. The cost of such publication, determined in accordance with the provisions of section three, article three, chapter fifty-nine of this code, shall be paid out of funds appropriated to the office of secretary of state. If a majority of the votes cast at said election upon said question be for ratification of an amendment, the amendment so ratified shall be in force and effect from the date of such ratification, as part of the constitution of the state.

CHAPTER 53

(Com. Sub. for House Bill No. 1016—By Mr. Speaker, Mr. McManus)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]
having the force and effect of law, to implement the provisions of such congressional act and make applicable to such agency the policies and requirements of such congressional act which are pertinent to the mission and functions of such agency; requiring coordination of all such rules and regulations with the office of federal-state relations; providing that certain types of payments shall not be considered as income or resources for certain purposes; setting forth specific provisions for the West Virginia department of highways; relating to the element of value or damage in eminent domain proceedings; authorizing assistance even though the dislocation or acquisition occasioning the same occurred prior to the effective date of the article if federal funds are available for the payment of such assistance; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-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:


§54-3-1. Definitions.
§54-3-2. Statement of purposes.
§54-3-3. Implementation of federal act; powers of state agencies; payments under act not considered income or resources for certain purposes.
§54-3-4. Construction of article; assistance for dislocation, etc., occurring prior to effective date.
§54-3-5. Severability.

§54-3-1. Definitions.

1 As used in this article, the term:
2 (1) "Federal act" means the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," being Public Law 91-646, enacted by the Ninety-first Congress of the United States of America.
3 (2) "State agency" means the state of West Virginia or any department, agency or instrumentality thereof, or any county, municipality or other political subdivision.
thereof or any department, agency or instrumentality of any such county, municipality or political subdivision, and, without in any way limiting the generality of the foregoing, includes boards of education, public service districts or any combination of any of the foregoing.

(3) “Person” means any individual, partnership, association or corporation.

§54-3-2. Statement of purposes.

The purposes of this article are (1) to require the establishment of a uniform policy for the fair and equitable treatment by state agencies of persons displaced from property in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and (2) to encourage and expedite the acquisition of real property or any interest therein by agreements with persons so as to avoid litigation and relieve congestion in the courts, to assure consistent treatment of persons and promote public confidence in the land acquisition practices of any state agency.

§54-3-3. Implementation of federal act; powers of state agencies; payments under act not considered income or resources for certain purposes.

In order to accomplish the purposes set forth in section two of this article and to satisfy the requirements of sections two hundred ten and three hundred five of such federal act, each state agency is hereby required and is hereby granted plenary power and authority to adopt rules and regulations, which shall have the force and effect of law, to implement the provisions of such federal act and make applicable to such state agency the policies and requirements of such federal act which are pertinent to the mission and functions of such state agency, including, without in any way limiting the generality of the foregoing, the carrying out of all procedures and the making of all financial assistance payments, relocation assistance payments, replacement housing payments, loans and expense reimbursement payments required by such federal act, subject only to any restrictions or limitations im-
posed by the constitution of the state of West Virginia. All
rules and regulations promulgated pursuant to the pro-
visions of this section shall be coordinated with the of-
lice of federal-state relations of this state in order to in-
sure uniformity in such rules and regulations, to the
fullest extent practicable, as contemplated in section two
of this article.

No payment of the type referred to in section two hun-
dred sixteen of such federal act received by any person
under this article and such rules and regulations shall be
considered as income or resources for the purpose of
determining the eligibility or extent of eligibility of any
person for assistance under any state law, or under any
state or local tax law or ordinance, and no such payment
shall be considered as income or resources of any recipient
of public assistance and no such payment shall be de-
ducted from the amount of aid to which the recipient
would otherwise be entitled.

§54-3-4. Construction of article; assistance for dislocation, etc.,
occurring prior to effective date.

Neither the provisions of this article nor any rules and
regulations promulgated pursuant to section three of this
article are intended to abrogate or derogate the provisions
of section twenty, article two-a, chapter seventeen of this
code, and, to the extent not in conflict with said section
twenty, the West Virginia department of highways shall
be considered to be a state agency within the meaning
of this article. To the extent that such department may
expend funds or make payments pursuant to the pro-
visions of this article and such rules and regulations, such
expenditures or payments are hereby declared to be a
cost of highway construction and may be expended and
paid from the state road fund.

Neither the provisions of this article nor any rules and
regulations promulgated pursuant to section three of this
article shall be construed or interpreted so as to create
any element of value or damage not in existence prior
to the effective date of this article in any condemnation
proceedings brought under the power of eminent domain
exercised by any state agency except to the extent, if any, required by applicable law of the United States; but, notwithstanding any other provision of law, whenever a state agency in a condemnation proceeding pays a sum into court as representing the fair market value of property to be acquired, the amount of the award or verdict pertaining to such property shall not be less than such sum.

Any state agency may provide assistance as contemplated in such federal act even though the dislocation or acquisition occasioning the same occurred prior to the effective date of this article if federal funds are available for the payment of any such assistance.

§54-3-5. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

CHAPTER 54

(Com. Sub. for Senate Bill No. 116—By Mr. McCourt, Mr. President)

[Passed February 24, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to the authority of a fire chief or other fireman in command and the subordinates of either to enter any building or upon any premises where a fire is in progress or where a fire is suspected for the purpose of extinguishing the same or to enter any building or premises adjacent thereto for the purpose of protecting such adjacent building or adjacent premises or for the purpose of extinguishing a fire in progress in another build-
ing or premises; relating to the authority of any such chief or other fireman in command and the subordinates of either in extinguishing a fire or answering a fire call or in returning to station and the duties of others in connection therewith; authorizing any such chief or other fireman in command to take and preserve property which indicates that fire was intentionally set and providing judicial procedures in connection therewith; relating to investigative powers to determine causes of fires; authorizing prohibitions against entry into the scene of a fire after extinguishment of such fire and providing exceptions in connection therewith; prohibiting any attack upon a fireman or fire-fighting equipment or emergency vehicles; prohibiting the hindering or obstructing of any fireman, equipment or emergency vehicles; creating criminal offenses; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3A. AUTHORITY OF LOCAL FIRE DEPARTMENTS.

§29-3A-1. Entry of buildings on fire or where reasonable cause to believe a fire is in progress; adjoining premises.

§29-3A-2. Authority of chief or other fireman in command when answering alarm or extinguishing fire.

§29-3A-3. Person in command at fire scene may take and preserve certain property; restitution.

§29-3A-4. Conducting investigation to determine cause of fire.

§29-3A-5. Person attacking or hindering or obstructing firemen or emergency equipment; penalties.

§29-3A-1. Entry of buildings on fire or where reasonable cause to believe a fire is in progress; adjoining premises.

1 The chief of any fire department or company or other fireman in command at a fire and the subordinates of either upon the order or direction of either shall have the right at any time of the day or night (a) to enter any building or upon any premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the same or (b) to enter any building or premises adjacent
thereto for the purpose of protecting such adjacent building or adjacent premises or for the purpose of extinguishing the fire which is in progress in another building or premises.

§29-3A-2. Authority of chief or other fireman in command when answering alarm or extinguishing fire.

When a fire is in progress all bystanders and other persons shall obey all proper orders duly given by the chief of any fire department or company or other fireman in command at a fire and the subordinates of either upon the order or direction of either.

While any fire department or company is in the process of answering an alarm of fire or extinguishing a fire or returning to station, the chief or other fireman in command of such fire department or company at that time shall have the authority to maintain order at the fire or its vicinity, direct the actions of the firemen at the fire, keep bystanders or other persons at a safe distance from the fire and fire equipment, facilitate the speedy movement and operation of fire-fighting equipment and firemen, and until the arrival of a police officer, direct and control traffic in person or by any subordinate and facilitate the movement of traffic. The fire chief or other fireman in command shall display his fireman's badge, or other proper means of identification. Notwithstanding any other provision of law, the authority granted in this section shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of fire-fighting equipment at a fire station.

§29-3A-3. Person in command at fire scene may take and preserve certain property; restitution.

The chief of any fire department or company or other fireman in command of fire fighters at the scene of any fire is authorized and empowered to take and preserve any property which indicates that the fire was intentionally set. Any person whose property is so held may petition the circuit court of the county within which the property was taken or the judge thereof in vacation for return of the property, and the court may order restitu-
tion upon such conditions as are appropriate for the preservation of evidence, including requiring the posting of bond.

§29-3A-4. Conducting investigation to determine cause of fire.

To determine the cause of any fire, the chief of any fire department or company or other authorized fireman may enter the scene of such fire within a forty-eight hour period after such fire has been extinguished.

If there is evidence that a fire was of incendiary origin, the fire chief or other authorized fireman may control who may enter the scene of such fire by posting no trespassing signs at such scene for a period of forty-eight hours after such fire has been extinguished.

During the period that the scene of a fire is posted against trespassing, no person shall enter such scene, except that an owner, lessee or any other person having personal property at such scene may enter at any time after such scene has been declared safe by authorized fire department or company officials to recover or salvage personal property if said owner, lessee or person is accompanied by or is granted permission to enter such scene by an authorized fire department or company official.

§29-3A-5. Person attacking or hindering or obstructing firemen or emergency equipment; penalties.

It shall be unlawful, while any fire department or company or fireman is in the process of answering an alarm of fire or extinguishing a fire or returning to station, for any person to:

(1) Attack any fireman or fire-fighting equipment or emergency vehicles with any firearms, knives, fire bombs or any object endangering life or property;

(2) Take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means; or

(3) Refuse to take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.
Any person violating the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than ten years, or, at the discretion of the court, be confined in jail not exceeding twelve months or fined not exceeding five hundred dollars, or both. Any person willfully violating any of the provisions of sections two or four of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars.

CHAPTER 55

(House Bill No. 792—By Mrs. Smirl)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article two-b, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting local boards of health to disseminate information about sterilization procedures in their family planning and child spacing program.

Be it enacted by the Legislature of West Virginia:

That section two, article two-b, 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 2B. FAMILY PLANNING AND CHILD SPACING.

§16-2B-2. Local boards of health authorized to establish clinics; supervision; purposes; abortion 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, con-
ducting medical examinations and distributing family planning and child spacing appliances, devices, drugs, approved methods and medication without charge to indigent and medically indigent persons 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, That the procedure of abortion shall not be considered an approved method of family planning and child spacing within the intent of this section and is 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.

CHAPTER 56

(House Bill No. 900—By Mr. Speaker, Mr. McManus, and Mrs. Withrow)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four-a, article three, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compulsory testing for tuberculosis of school children; time period within which the test is to be made.

Be it enacted by the Legislature of West Virginia:

That section four-a, article three, 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 3. PREVENTION AND CONTROL OF COMMUNICABLE, INFECTIOUS AND OTHER DISEASES.

§16-3-4a. Compulsory testing for tuberculosis of school children and school personnel; X rays required for
reactors; suspension from school or employment for pupils and personnel found to have tuberculosis in a communicable stage.

All first grade pupils and all students transferring from a school located outside this state shall furnish a certificate from a licensed physician stating that a tuberculin skin test approved by the director of the department of health has been made within four months prior to the beginning of the school year or during the first seven months of the current school year. Test results must be recorded on the certificate. Positive reactors to the skin test must be immediately x-rayed, and receive annual X rays thereafter, or at more frequent intervals if medically indicated. Pupils found to have tuberculosis in a communicable stage will not be allowed to attend school until their disease has been arrested and is no longer communicable.

All school personnel shall have an annual chest X ray or an approved tuberculin skin test within four months prior to the beginning of each school year. Positive reactors to the skin test are to be immediately x-rayed and re-x-rayed annually or at more frequent intervals if medically indicated. Reactors who are annually x-rayed will not be required to have an annual skin test. School personnel found to have tuberculosis in a communicable stage shall have their employment discontinued or suspended until their disease has been arrested and is no longer communicable. School personnel who have not had the required examination will be suspended from employment until reports of examination are confirmed.

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CHAPTER 57

(House Bill No. 1001—Originating in the House Committee on the Judiciary)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section six, article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, relating to duties of law-enforce-
ment officers in regard to persons under twenty-one years
of age possessing cigarettes or cigarette paper.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. PUBLIC HEALTH.

§1. Repeal of section relating to possession of cigarette or
cigarette paper; duties of officers; penalty for failure to
perform.

1 Section six, article nine, chapter sixteen of the code
2 of West Virginia, one thousand nine hundred thirty-one,
3 as amended, is hereby repealed.

CHAPTER 58
(House Bill No. 730—By Mr. Myles)

[Passed March 9, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirty-one, article six,
chapter thirty-three of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to un-
insured motorist insurance coverage.

Be it enacted by the Legislature of West Virginia:

That section thirty-one, 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 fol-

ARTICLE 6. THE INSURANCE POLICY.

§33-6-31. Motor vehicle policy to include an omnibus clause
and uninsured motorists coverage; conditions for
recovery under endorsement; rights and liabilities
of insurer.

1 (a) No policy or contract of bodily injury liability
2 insurance, or of property damage liability insurance, cov-
ering liability arising from the ownership, maintenance
4 or use of any motor vehicle, shall be issued or delivered
in this state to the owner of such vehicle, or shall be
issued or delivered by any insurer licensed in this state
upon any motor vehicle for which a certificate of title
has been issued by the department of motor vehicles of
this state, unless it shall contain a provision insuring the
named insured and any other person, except a bailee
for hire and any persons specifically excluded by any
restrictive endorsement attached to the policy, respon-
sible for the use of or using the motor vehicle with the
consent, expressed or implied, of the named insured or
his spouse against liability for death or bodily injury
sustained, or loss or damage occasioned within the cov-
erage of the policy or contract as a result of negligence
in the operation or use of such vehicle by the named in-
sured or by such person: Provided, That in any such
automobile liability insurance policy or contract, or en-
dorsement thereto, if coverage resulting from the use of
a nonowned automobile is conditioned upon the consent
of the owner of such motor vehicle, the word "owner"
shall be construed to include the custodian of such non-
owned motor vehicles.

(b) Nor shall any such policy or contract be so issued
or delivered unless it shall contain an endorsement or
provisions undertaking to pay the insured all sums which
he shall be legally entitled to recover as damages from
the owner or operator of an uninsured motor vehicle,
within limits which shall be no less than the require-
ments of section two, article four, chapter seventeen-d
of the code of West Virginia, as amended from time
to time: Provided, That such endorsement or pro-
visions may exclude the first three hundred dollars of
property damage resulting from the negligence of an un-
insured motorist.

(c) As used in this section, the term "bodily injury"
shall include death resulting therefrom, and the term
"named insured" shall mean the person named as such
in the declarations of the policy or contract and shall
also include such person's spouse if a resident of the same
household, and the term "insured" shall mean the named
insured and, while resident of the same household, the
spouse of any such named insured, and relatives of either,
while in a motor vehicle or otherwise, and any person, except a bailee for hire, who uses, with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies or the personal representative of any of the above; and the term "uninsured motor vehicle" shall mean a motor vehicle as to which there is no (i) bodily injury liability insurance and property damage liability insurance both in the amounts specified by section two, article four, chapter seventeen-d, as amended from time to time, or (ii) there is such insurance, but the insurance company writing the same denies coverage thereunder, or (iii) there is no certificate of self insurance issued in accordance with the provision of section two, article six, chapter seventeen-d of the code of West Virginia. A motor vehicle shall be deemed to be uninsured if the owner or operator thereof be unknown: Provided, That recovery under the endorsement or provisions shall be subject to the conditions hereinafter set forth.

(d) Any insured intending to rely on the coverage required by subsection (b) of this section shall, if any action be instituted against the owner or operator of an uninsured motor vehicle, cause a copy of the summons and a copy of the complaint to be served upon the insurance company issuing the policy, in the manner prescribed by law, as though such insurance company were a named party defendant; such company shall thereafter have the right to file pleadings and to take other action allowable by law in the name of the owner, or operator, or both, of the uninsured motor vehicle or in its own name. Nothing in this subsection shall prevent such owner or operator from employing counsel of its own choice and taking any action in his own interest in connection with such proceeding.

(e) If the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured be unknown, the insured, or someone in his behalf, in order for the insured to recover under the uninsured motorist endorsement or provision, shall:

(i) Within twenty-four hours after the insured discover, and being physically able to report the occurrence
of such accident, the insured, or someone in his behalf,
shall report the accident to a police, peace or judicial
officer, or to the commissioner of motor vehicles, unless
the accident shall already have been investigated by a
police officer; and

(ii) Notify the insurance company, within sixty days
after such accident, that the insured or his legal repre-
sentative has a cause or causes of action arising out of
such accident for damages against a person or persons
whose identity is unknown and setting forth the facts
in support thereof; and, upon written request of the in-
surance company communicated to the insured not later
than five days after receipt of such statement, shall
make available for inspection the motor vehicle which
the insured was occupying at the time of the accident;
and

(iii) Upon trial establish that the motor vehicle,
which caused the bodily injury or property damage,
whose operator is unknown, was a "hit and run" motor
vehicle, meaning a motor vehicle which causes damage
to the property of the insured arising out of physical
contact of such motor vehicle therewith, or which causes
bodily injury to the insured arising out of physical con-
tact of such motor vehicle with the insured or with a
motor vehicle which the insured was occupying at the
time of the accident. If the owner or operator of any
motor vehicle causing bodily injury or property damage
be unknown, an action may be instituted against the un-
known defendant as "John Doe," in the county in which
the accident took place or in any other county in which
such action would be proper under the provisions of ar-
ticle one, chapter fifty-six of this code; service of pro-
cess may be made by delivery of a copy of the complaint
and summons or other pleadings to the clerk of the court
in which the action is brought, and service upon the in-
surance company issuing the policy shall be made as
prescribed by law as though such insurance company
were a party defendant. The insurance company shall
have the right to file pleadings and take other action
allowable by law in the name of John Doe.
(f) An insurer paying a claim under the endorsement or provisions required by subsection (b) of this section shall be subrogated to the rights of the insured to whom such claim was paid against the person causing such injury, death or damage to the extent that payment was made. The bringing of an action against the unknown owner or operator as John Doe or the conclusion of such an action shall not constitute a bar to the insured, if the identity of the owner or operator who caused the injury or damages complained of, becomes known, from bringing an action against the owner or operator theretofore proceeded against as John Doe. Any recovery against such owner or operator shall be paid to the insurance company to the extent that such insurance company shall have paid the insured in the action brought against such owner or operator as John Doe, except that such insurance company shall pay its proportionate part of any reasonable costs and expenses incurred in connection therewith, including reasonable attorney's fees. Nothing in an endorsement or provision made under this subsection, nor any other provision of law, shall operate to prevent the joining, in an action against John Doe, of the owner or operator of the motor vehicle causing injury as a party defendant, and such joinder is hereby specifically authorized.

(g) No such endorsement or provisions shall contain any provision requiring arbitration of any claim arising under any such endorsement or provision, nor may anything be required of the insured except the establishment of legal liability, nor shall the insured be restricted or prevented in any manner from employing legal counsel or instituting legal proceedings.

(h) The provisions of subsections (a) and (b) of this section shall not apply to any policy of insurance to the extent that it covers the liability of an employer to his employees under any workmen's compensation law.

(i) The commissioner of insurance shall formulate and require the use of standard policy provisions for the insurance required by this section, but use of such standard policy provisions may be waived by the commissioner in the circumstances set forth in section ten of this article.
(j) A motor vehicle shall be deemed to be uninsured within the meaning of this section, if there has been a valid bodily injury or property damage liability policy issued upon such vehicle, but which policy is uncollectible in whole or in part, by reason of the insurance company issuing such policy upon such vehicle being insolvent or having been placed in receivership. The right of subrogation granted insurers under the provisions of subsection (f) of this section shall not apply as against any person or persons who is or becomes an uninsured motorist for the reasons set forth in this subsection.

CHAPTER 59
(House Bill No. 760—By Mr. White, of Cabell)

[Passed February 25, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eighteen, article eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the percentage of assets which an insurer may invest in revenue bonds.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article eight, 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 8. INVESTMENTS.

§33-8-18. Revenue bonds.

1 Any insurer may invest, subject to the limits prescribed by sections five and six of this article, in revenue bonds issued by any state or the United States, or any agency or instrumentality thereof, or any county, city, town, village or district of any state, if by statutory or other legal requirements applicable thereto such revenue bonds are payable as to both principal and interest from special revenues pledged or otherwise appropriated or by law
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9 required to be provided for the purpose of such payment,
10 but not including any obligations payable solely out of
11 special assessments on properties benefited by local im-
12 provements: Provided, That such revenue bonds constitu-
13 te a first and paramount lien upon such special revenues
14 and that such bonds are not in default as to any payment
15 of principal or interest. No insurer shall invest in more
16 than five percent of any one issue of such revenue bonds,
17 nor more than two percent of its assets in such revenue
18 bonds payable from any one public project, nor shall any
19 insurer invest in such revenue bonds in the aggregate ex-
20 ceeding twenty percent of its assets.

CHAPTER 60
(Com. Sub. for House Bill No. 503—By Mr. Steptoe)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article seventeen,
chapter fifty of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to fees of
justices in criminal cases and proceedings to require se-
curity to keep the peace.

Be it enacted by the Legislature of West Virginia:
That section eleven, article seventeen, chapter fifty of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted to read as follows:

ARTICLE 17. FEES, FINES AND COSTS.
§50-17-11. Fees of justices in criminal cases.
1 (1) Every justice shall be entitled to a fee of eight
dollars in each criminal case and proceeding before him,
whether a hearing is held or not, which fee shall consti-
tute his compensation for all official services performed
by him in connection with any single case, including affi-
davit for warrant, search and seizure warrant, warrant for
arrest, trial examination, issuing subpoenas and copies
thereof, warrant summoning and swearing a jury when required, swearing and certifying attendance of witnesses, entering judgment and taxing costs, making and certifying a transcript of his docket in any particular case and transmitting the same to the clerk of the circuit court, the department of motor vehicles, or any other office to which he may be by law required to certify such transcript, and for executing any bond or recognizance. No other fees shall be taxed or charged by any justice in such cases and proceedings. The provisions of this section shall not apply to proceedings to require security to keep the peace, and the fees and costs incidental thereto shall be assessed and collected as in civil cases.

(2) For issuing sheep warrant, appointing and swearing appraisers and docketing same $2.50.

CHAPTER 61
(Com. Sub. for House Bill No. 667—By Mr. Steptoe and Mr. Seibert)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section ten, article two, chapter two; section eight, article fourteen, chapter seven; section twelve, article fourteen, chapter eight; section seventeen, article fifteen, chapter eight; section twelve, article sixteen, chapter eleven; section five, article two, chapter fifteen; section one, article four-b, chapter sixteen; section two, article five-b, chapter sixteen; sections four and five, article nine, chapter sixteen; sections four and seven, article two, chapter seventeen-b; section ten, article eight, chapter eighteen; sections four and six, article seventeen, chapter eighteen; section nine, article twenty-three, chapter nineteen; section eight-a, article five-a, chapter twenty; sections one and three, article four, chapter twenty-seven; section one, article two, chapter thirty; section six, article four, chapter thirty; section five, article five, chapter thirty; section five, article six, chapter thirty;
section five, article eight, chapter thirty; sections two and three, article nine, chapter thirty; section six, article ten, chapter thirty; section three, article eleven, chapter thirty; section three, article twelve, chapter thirty; section five, article thirteen-a, chapter thirty; section four, article fourteen, chapter thirty; sections two and three, article fifteen, chapter thirty; section four, article sixteen, chapter thirty; section five, article seventeen, chapter thirty; section four, article twenty, chapter thirty; section seven, article twenty-one, chapter thirty; section six, article twenty-two, chapter thirty; section twelve, article twenty-two, chapter thirty; section two, article twelve, chapter thirty-three; sections nine and eleven, article one, chapter thirty-five; sections one, four and seven, article seven, chapter thirty-six; sections one and two, article four, chapter forty-one; section twelve, article five, chapter forty-one; section seven, article ten, chapter forty-four; section four, article twelve, chapter forty-seven; sections eight, twelve and twelve-a, article one, chapter forty-eight; section seven, article four, chapter forty-eight; section two, article two, chapter forty-nine; section one, article three, chapter forty-nine; section two, article five, chapter forty-nine; sections twenty and twenty-three, article four, chapter fifty; section one, article one, chapter fifty-two; section seven, article two, chapter fifty-five; section two, article one, chapter fifty-eight; section one, article two, chapter fifty-eight; section twenty-two, article three, chapter sixty; section twelve, article seven, chapter sixty and section two, article seven, chapter sixty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter two of said code by adding thereto a new article, designated article three, all relating to defining “under disability,” “infant” and “minor” to include or mean persons under the age of eighteen years; relating to a misdescription in pleadings; relating to residency requirements for reinstatement as a municipal policeman under civil service; relating to preference for members of armed forces in applying for membership in the department of public safety; reducing from twenty-one to eighteen the age required for qualification as a deputy sheriff under civil service, municipal policeman under
civil service, municipal fireman under civil service, holder of a license in connection with nonintoxicating beer, member of department of public safety, holder of a license to operate a hospital, voluntary water quality monitor, attorney, dentist, pharmacist, embalmer, funeral director, optometrist, certified public accountant, public accountant, veterinarian, chiropodist-podiatrist, architect, land surveyor, osteopathic physician and surgeon, midwife, chiropractor, sanitarian, physical therapist, psychologist, landscape architect, security salesman, insurance agent, broker or solicitor, real estate broker, and person entitled to perform marriage ceremony; relating to sanitarians, physical therapists and psychologists generally; relating to the age required to consent to an autopsy of a deceased parent and to methods of consenting with respect to autopsies generally; relating to the age at which a person may possess or have sold or given to him cigarettes and other tobacco products and accessories; relating to the age for a chauffeur's license to drive particular vehicles; relating to proof of age before commissioner of motor vehicles; relating to age involving the deaf and blind; relating to fees and testing involving dentists; reducing from twenty-one to eighteen the age at which consent of others is necessary for voluntary hospitalization or release from a state mental hospital; relating to the age at which a member of a church or other religious body has the right to vote on selling, conveying or encumbering property thereof or preventing conveyances of or creation of liens on the same; relating to the age for betting at racetracks; defining a minor as a person who has not attained the age of eighteen years for purposes of the uniform gifts to minors act; reducing from twenty-one to eighteen the age at which, if he or his descendant die unmarried and without issue, a pretermitted or afterborn child's statutory share would revert to the persons to whom it was given by a will; relating to the age under which a person is under disability for the purpose of impeaching or establishing a will; relating to the age of a child at which a guardianship terminates; relating to the age of a child at which a consent of others is necessary before marriage; relating to the age at which one may be adopted as an adult; re-
lating to the effect of reducing legal capacity from twenty-one to eighteen on limitation of actions; relating to the age of parent at which the consent of the judge of a court having jurisdiction of adoption proceedings is not necessary for such parent to give up his child for adoption; relating to the age of child under jurisdiction of department of welfare; relating to the age at which a person is still subject to the jurisdiction of a juvenile court; relating to the age below which a party may not act as his own attorney before a justice of the peace; relating to the age below which a party to an action in a justice of the peace court must have a guardian appointed for him; relating to the age at which persons are first liable to serve as jurors; relating to the age when attained by a ward at which a right of action on his guardian's or curator's bond first accrues; relating to the age of a party at which a judgment or decree need not be arrested or reversed for appearance of such person by attorney; relating to the age after which an infant is allowed to show cause against a decree or order; relating to the age under which a person may not be sold or served any alcoholic liquors; relating to age at which sales may be permitted in private clubs; relating to prohibitions concerning private clubs; relating to the age one must attain to qualify for a license to carry a dangerous weapon; relating to pleading and practice and harmless errors; granting to persons eighteen years of age full capacity to conduct or deal in their own affairs, but providing several savings or limiting provisions; and providing criminal penalties.

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

That section ten, article two, chapter two; section eight, article fourteen, chapter seven; section twelve, article fourteen, chapter eight; section seventeen, article fifteen, chapter eight; section twelve, article sixteen, chapter eleven; section five, article two, chapter fifteen; section one, article four-b, chapter sixteen; section two, article five-b, chapter sixteen; sections four and five, article nine, chapter sixteen; sections four and seven, article two, chapter seventeen-b; section ten, article eight, chapter eighteen; sections four and six, article seventeen, chapter eighteen; section nine, article twenty-three,
chapter nineteen; section eight-a, article five-a, chapter twenty; sections one and three, article four, chapter twenty-seven; section one, article two, chapter thirty; section six, article four, chapter thirty; section five, article five, chapter thirty; section five, article six, chapter thirty; section five, article eight, chapter thirty; sections two and three, article nine, chapter thirty; section six, article ten, chapter thirty; section three, article eleven, chapter thirty; section three, article twelve, chapter thirty; section five, article thirteen-a, chapter thirty; section four, article fourteen, chapter thirty; sections two and three, article fifteen, chapter thirty; section four, article sixteen, chapter thirty; section five, article seventeen, chapter thirty; section four, article twenty, chapter thirty; section seven, article twenty-one, chapter thirty; section six, article twenty-two, chapter thirty; section twelve, article one, chapter thirty-two; section two, article twelve, chapter thirty-three; sections nine and eleven, article one, chapter thirty-five; sections one, four and seven, article seven, chapter thirty-six; sections one and two, article four, chapter forty-one; section twelve, article five, chapter forty-one; section seven, article ten, chapter forty-four; section four, article twelve, chapter forty-seven; sections eight, twelve and twelve-a, article one, chapter forty-eight; section seven, article two, chapter fifty; section one, article two, chapter fifty-five; section two, article five, chapter fifty; sections twenty and twenty-three, article one, chapter fifty; section one, article one, chapter fifty; section seven, article two, chapter fifty-five; section two, article one, chapter fifty-eight; section one, article two, chapter fifty-eight; section twenty-two, article three, chapter sixty; section twelve, article seven, chapter sixty and section two, article seven, chapter sixty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter two of said code be amended by adding thereto a new article, designated article three, all to read as follows:

Chapter

2. Common Law, Statutes, Legal Holidays and Definitions, Legal Capacity.

7. County Courts and Officers.

8. Municipal Law, Municipalities and Counties; Intergovernmental Relations.
11. Taxation.
15. Public Safety.
17B. Motor Vehicle Operators' and Chauffeurs' Licenses.
18. Education.
19. Agriculture.
20. Natural Resources.
27. Mentally Ill Persons.
30. Professions and Occupations.
32. Speculative Securities and Fraudulent Sales; Face-Amount Certificates; Issuance and Sale of Checks, Drafts, Money Orders, etc.
33. Insurance.
36. Estates in Property.
41. Wills.
44. Administration of Estates and Trusts.
47. Regulation of Trade.
48. Domestic Relations.
50. Justices and Constables.
52. Juries.
55. Actions, Suits and Arbitration; Judicial Sales.
58. Appeal and Error.
60. State Control of Alcoholic Liquors.
61. Crimes and their Punishment.

CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS AND DEFINITIONS, LEGAL CAPACITY.

Article
2. Legal Holidays; Construction of Statutes; Definitions.
3. Legal Capacity.

ARTICLE 2. LEGAL HOLIDAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.

§2-2-10. Rules for construction of statutes.

1 The following rules shall be observed in the construction of statutes, unless a different intent on the part of the Legislature be apparent from the context:

(a) A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males;
Words purporting to give a joint authority to three or more persons confer such authority upon a majority of them, and not upon any less number;

The words "written" or "in writing" include any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his own proper handwriting, or his mark, attested, proved, or acknowledged;

The words "preceding," "succeeding" or "following" used in reference to any section or sections of a chapter or statute, mean next preceding, next succeeding or next following that in which such reference is made, unless a different interpretation be required by the context;

An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the authority and discharge the duties of his office;

The words "the governor" are equivalent to "the executive of the state" or "the person having the executive power";

The word "justice" is equivalent to the words "justice of the peace," and the word "notary," to "notary public";

The word "state," when applied to a part of the United States and not restricted by the context, includes the District of Columbia and the several territories, and the words "United States" also include the said district and territories;

The word "person" or "whoever" shall include corporations, societies, associations and partnerships, if not restricted by the context;

The words "personal representative" include the executor of a will, the administrator of the estate of a deceased person, the administrator of such estate with the will annexed, the administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer lawfully charged with the administration of the
estate of a deceased person, and every other curator or
committee of a decedent's estate for or against whom
suits may be brought for causes of action which accrued
to or against such decedent;

(k) The word "will" embraces a testament, a codicil,
an appointment by will or writing in the nature of a
will in exercise of a power, also any other testamentary
disposition;

(l) The word "judgment" includes decrees and orders
for the payment of money or the conveyance or delivery
of land or personal property, or some interest therein, or
any undertaking, bond or recognizance which has the legal
effect of a judgment;

(m) The words "under disability" include persons
under the age of eighteen years, insane persons, and
convicts while confined in the penitentiary;

(n) The words "insane person" include everyone who
is an idiot, lunatic, non compos or deranged;

(o) The word "convict" means a person confined in
the penitentiary of this or any other state, or of the
United States;

(p) The word "land" or "lands" and the words "real
estate" or "real property" include lands, tenements and
hereditaments, and all rights thereto and interests therein
except chattel interests;

(q) The words "personal estate" or "personal prop-
erty" include goods, chattels, real and personal, money,
credits, investments and the evidences thereof;

(r) The word "property" or "estate" embraces both
real and personal estate;

(s) The word "offense" includes every act or omission
for which a fine, forfeiture or punishment is imposed
by law;

(t) The expression "laws of the state" includes the
constitution of the state and the constitution of the United
States, and treaties and laws made in pursuance thereof;

(u) The word "town" includes a city, village or town,
and the word "council," any body or board, whether
composed of one or more branches, who are authorized
to make ordinances for the government of a city, town
or village;

(v) When a council of a town, city or village, or
any board, number of persons or corporations, are au-
thorized to make ordinances, bylaws, rules, regulations
or orders, it shall be understood that the same must be
consistent with the laws of this state;

(w) The words “county court” include any existing
tribunal created in lieu of a county court; the words
“commissioner of the county court” and “county commis-
sioner” mean, and have reference to, the commissioners,
or one of them, composing the county court, in pursuance
of section twenty-two, article eight of the constitution
as amended, or any existing tribunal created in lieu of
a county court;

(x) The word “horse” embraces a mare and a geld-
ing;

(y) The words “railroad” and “railway” shall be con-
strued by the courts of this state to mean the same thing
in law; and, in any proceeding wherein a railroad com-
pany or a railway company is a party, it shall not be
deemed error to call a railroad company a railway
company or vice versa; nor shall any demurrer,
plea or any other defense be set up to a mo-
tion, pleading or indictment in consequence of such
misdescription;

(z) The sectional headings or headlines of the several
sections of this code printed in black-faced type are in-
tended as mere catchwords to indicate the contents of
the section and shall not be deemed or taken to be titles
of such sections, or as any part of the statute, and, unless
expressly so provided, they shall not be so deemed when
any of such sections, including the headlines, are amended
or reenacted.

(aa) The words “infant” and “minor” mean persons
under the age of eighteen years as such words are used
in this code or in rules and regulations promulgated by
the supreme court of appeals.
ARTICLE 3. LEGAL CAPACITY.

§2-3-1. Legal capacity; saving provisions.

After the effective date of this section, except as otherwise specifically provided in this code, no person who is eighteen years of age or older shall lack legal capacity, by reason of his age, to enter into contracts, sell or purchase real property, create a lien, execute any legal or other written instrument, prosecute or defend legal actions or deal in his own affairs in any manner whatsoever.

The provisions of this section, and the provisions of this act reducing various prescribed age requirements to eighteen years of age, shall not, however, affect any rights, duties, obligations or interests accruing or vesting by virtue of any statute, act, event, transaction, order, judgment or decree prior to the effective date of this act or any cause of action which arose or any civil action instituted prior to the effective date of this act, and any such right, duty, obligation, interest, cause of action or civil action may be enforced, exercised, enjoyed, terminated, discharged, consummated, prosecuted or maintained with like effect as if this act had not been enacted.

Moreover, the provisions of this section shall not affect any acts performed or transactions entered into by a person under the age of twenty-one years prior to the effective date of this act, and under no circumstances whatever shall any of the changes made by this act have any effect upon any of the terms or provisions of or any conditions imposed by any last will and testament, trust agreement or any other written instrument of any kind or character executed prior to the effective date of this section. No change in the general age of legal capacity or in the definitions of the words "under disability," "infant" or "minor" contained in section ten, article two of this chapter shall alter any statute of limitations as to causes of action arising before the effective date of this act.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.
§7-14-8. Form of application; age requirements; exceptions.

The civil service commission in each such county shall require persons applying for admission to any competitive examination provided for under this article or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed competitive examination, a formal application in which the applicant shall state under oath or affirmation:

1. His full name, residence and post-office address;
2. His United States citizenship, age and the place and date of his birth;
3. His health and his physical capacity for the position of deputy sheriff;
4. His business, employments and residences for at least three previous years; and
5. Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of deputy sheriff.

Blank forms for such applications shall be furnished by the commission, without charge, to all persons requesting the same. The commission may require, in connection with the application, such certificates of citizens, physicians or others, having pertinent knowledge concerning the applicant, as the good of the service may require.

No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than eighteen years of age or more than forty-five years of age at the date of his application: Provided, That in the event any applicant formerly served as a deputy sheriff for a period of more than six months in the county to which he makes application, and resigned as a deputy sheriff at a time when there were no charges of misconduct or other misfeasance pending against him, within a period of two years next preceding the date of his application, and at the time of his application resides within the county in which he seeks appointment by reinstatement, then such applicant shall be eligible for appointment by reinstatement in the discretion of the civil service commission, even though
such applicant shall be over the age of forty-five years, provided he is not sixty-five years of age or over, and such applicant, providing his former term of service as a deputy sheriff so justifies, may be reappointed by reinstatement without a competitive examination, but such applicant shall undergo a medical examination; and if such applicant shall be so appointed by reinstatement as aforesaid, he shall be the lowest in rank in the sheriff's office next above the probationers of the office.

CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND COUNTIES; INTERGOVERNMENTAL RELATIONS.

Article

14. Law and Order; Police Force or Department; Powers, Authority and Duties of Law-Enforcement Officials and Policemen; Police Matrons; Special School Zone and Parking Lot or Parking Building Police Officers; Civil Service for Certain Police Departments.

15. Fire Fighting; Fire Companies and Departments; Civil Service for Paid Fire Departments.

ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

§8-14-12. Form of application; age and residency requirements; exceptions.

1 The policemen's civil service commission in each Class I and Class II city shall require individuals applying for admission to any competitive examination provided for under the civil service provisions of this article or under the rules and regulations of said commission to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

9 (1) His full name, residence and post-office address;

10 (2) His United States citizenship, age and the place and date of his birth;

12 (3) His state of health and his physical capacity for the public service;
(4) His business and employments and residences for
at least three previous years; and
(5) Such other information as may reasonably be re-
quired, touching upon the applicant's qualifications and
fitness for the public service.

Blank forms for such applications shall be furnished
by the commission, without charge, to all individuals re-
questing the same. The commission may require, in con-
nection with such application, such certificates of citi-
zens, physicians and others, having pertinent knowledge
concerning the applicant, as the good of the service may
require.

No application for original appointment shall be re-
ceived if the individual applying is less than eighteen
years of age or more than thirty-five years of age at the
date of his application: Provided, That in the event any
applicant formerly served upon the paid police depart-
ment of the city to which he makes application, for a
period of more than his probationary period, and re-
signed from the department at a time when there were
no charges of misconduct or other misfeasance pending
against such applicant, within a period of two years next
preceding the date of his application, and at the time of
his application resides within the corporate limits of the
city in which the paid police department to which he
seeks appointment by reinstatement is located, then such
individual shall be eligible for appointment by reinstate-
ment in the discretion of the policemen's civil service
commission, even though such applicant shall be over
the age of thirty-five years, and such applicant, providing
his former term of service so justifies, may be appointed
by reinstatement to the paid police department without
a competitive examination, but such applicant shall un-
dergo a medical examination; and if such individual shall
be so appointed by reinstatement to the paid police de-
partment, he shall be the lowest in rank in the depart-
ment next above the probationers of the department.

Any applicant for original appointment must have
been a resident for one year, during some period of
time prior to the date of his application, of the city
in which he seeks to become a member of the paid
police department: Provided, That if the commission
deems it necessary it may consider for original appoint-
ment or for reinstatement under the preceding proviso of
this section applicants who are not residents of the city
but who have been residents of the county in which the
city or any portion of the territory thereof is located for
a period of at least one year.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPART-
MENTS; CIVIL SERVICE FOR PAID FIRE DEPART-
MENTS.

§8-15-17. Form of application; age and residency require-
ments; exceptions.

The firemen's civil service commission in each munici-
pality shall require individuals applying for admission
to any competitive examination provided for under the
civil service provisions of this article or under the rules
and regulations of the commission to file in its office,
within a reasonable time prior to the proposed examina-
tion, a formal application in which the applicant shall
state under oath or affirmation:

(1) His full name, residence and post-office address;
(2) His United States citizenship, age and the place
and date of his birth;
(3) His state of health, and his physical capacity for
the public service;
(4) His business and employments and residences for
at least three previous years; and
(5) Such other information as may reasonably be
required, touching upon the applicant's qualifications and
fitness for the public service.

Blank forms for such applications shall be furnished by
the commission, without charge, to all individuals request-
ing the same. The commission may require, in connection
with such application, such certificates of citizens, phy-
sicians and others, having pertinent knowledge concern-
ing the applicant, as the good of the service may require.

No application for original appointment shall be re-
ceived if the individual applying is less than eighteen
years of age or more than thirty-five years of age at the
date of his application: Provided, That in the event any
applicant formerly served upon the paid fire department
of the municipality to which he makes application, for a
period of more than six months, and resigned from the
department at a time when there were no charges of
misconduct or other misfeasance pending against such
applicant, within a period of two years next preceding
the date of his application, and at the time of his ap-
plication resides within the corporate limits of the munici-
pality in which the paid fire department to which he
seeks appointment by reinstatement is located, then such
individual shall be eligible for appointment by rein-
statement in the discretion of the firemen's civil service
commission, even though such applicant shall be over
the age of thirty-five years, and such applicant, providing
his former term of service so justifies, may be appointed
by reinstatement to the paid fire department without a
competitive examination, but such applicant shall un-
dergo a medical examination; and if such individual shall
be so appointed by reinstatement to the paid fire depart-
ment, he shall be the lowest in rank in the department
next above the probationers of the department.

Any applicant for original appointment must have
been a resident for one year, during some period of time
prior to the date of his application, of the municipality
in which he seeks to become a member of the paid fire
department: Provided, That if the commission deems it
necessary it may consider for original appointment ap-
plicants who are not residents of the municipality but
who have been residents of the county in which the
municipality or any portion of the territory thereof is
located for a period of at least one year.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-12. Form of application for license; fee and bond; re-

A license may be issued by the commissioner to any
person who submits an application therefor, accompanied
by a license fee, and, where required, a bond, stating
under oath:
(a) The name and residence of the applicant, how
long he has resided there, that he has been a resident of
the state for a period of two years next preceding the
date of his application, that he is eighteen years of age,
and, if a firm, association, partnership or corporation,
the residence of the members or officers for a period of
two years next preceding the date of such application:
Provided, That if any person, firm, partnership, associa-
tion or corporation applies for a license as a distributor,
such person, or in the case of a firm, partnership, asso-
ciation, the members or officers thereof, shall state under
oath that he or they have been bona fide residents of
the state for four years preceding the date of such applica-
tion;
(b) The place of birth of applicant and that he is a
citizen of the United States and, if a naturalized citizen,
when and where naturalized; and, if a corporation, or-
ganized or authorized to do business under the laws of
the state, when and where incorporated, with the name
and address of each officer; that each officer is a citizen
of the United States and a person of good moral char-
acter; and if a firm, association or partnership, the place
of birth of each member of the firm, association or part-
nership, that each member is a citizen of the United
States and if a naturalized citizen, when and where
naturalized, each of whom must qualify and sign the
application: Provided, That the requirements as to
residence shall not apply to the officers of a corpora-
tion which shall apply for a Class B retailer's license,
but the officers, agent, or employee who shall manage
and be in charge of the licensed premises shall possess
all of the qualifications required of an individual applicant
for a retailer's license, including the requirement as to
residence;
(c) The particular place for which the license is de-
sired and a detailed description thereof;
(d) The name of the owner of the building and, if
the owner is not the applicant, that such applicant is
the actual and bona fide lessee of the premises;
(e) That the place or building in which it is proposed
to do business conforms to all laws of health and fire
regulations applicable thereto, and is a safe and proper
place or building, and is not within three hundred feet
of any school or church, measured from front door to
front door, along the street or streets: Provided, That
this requirement shall not apply to a Class B licensee,
or to any place now occupied by a beer licensee, so long
as it is continuously so occupied: Provided, however,
That the prohibition against locating any such proposed
business in a place or building within three hundred feet
of any school shall not apply to any college or university
that has notified the commissioner, in writing, that it
has no objection to the location of any such proposed
business in a place or building within three hundred
feet of such college or university;

(f) That the applicant has never been convicted of
a felony, or a violation of the liquor laws either federal
or state;

(g) That the applicant is the only person in any
manner pecuniarily interested in the business so asked
to be licensed, and that no other person shall be in any
manner pecuniarily interested therein during the con-
tinuance of the license;

(h) That the applicant has not during five years next
immediately preceding the date of said application had
a nonintoxicating beer license revoked, nor during the
same period been convicted of any criminal offense.

The foregoing provisions and requirements are man-
datory prerequisites for the issuance of a license, and in
the event any applicant fails to qualify under the same,
license shall be refused. In addition to the information
furnished in any application, the commissioner may make
such additional and independent investigation of each
applicant, and of the place to be occupied, as deemed
necessary or advisable; and for this reason each and
all applications, with license fee and bond, must be filed
thirty days prior to the beginning of any fiscal year,
and if application is for an unexpired portion of any
fiscal year, issuance of license may be withheld for such reasonable time as necessary for investigation.

The commissioner may refuse a license to any applicant under the provisions of this article if he shall be of the opinion:

(a) That the applicant is not a suitable person to be licensed; or,

(b) That the place to be occupied by the applicant is not a suitable place; or is within three hundred feet of any school or church, measured from front door to front door along the street or streets: Provided, That this requirement shall not apply to a Class B licensee, or to any place now occupied by a beer licensee, so long as it is continuously so occupied: Provided, however, That the prohibition against locating any such place to be occupied by an applicant within three hundred feet of any school shall not apply to any college or university that has notified the commissioner, in writing, that it has no objection to the location of any such place within three hundred feet of such college or university; or,

(c) That the license should not be issued for reason of conduct declared to be unlawful by this article.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-5. Qualifications, appointment, initial grade and promotions of members.

Preference in making appointments shall be given wherever possible to honorably discharged members of the armed forces of the United States. Each applicant for appointment shall be a person not less than eighteen nor more than thirty years of age, of sound constitution, of good moral character, and shall be required to pass such mental and physical examinations as may be provided for by the rules and regulations promulgated by the retirement board provided for under section twenty-seven of this article: Provided, That a former member to whom, at or after termination of his previous service, there were not refunded moneys contributed
by him to the retirement fund, may, at the discretion of the superintendent, be again enlisted if upon subtracting the period of his former service from the age of such former member when he shall present himself to the superintendent to be again enlisted shall leave a remainder not exceeding thirty. The superintendent is authorized to pay at public expense all reasonable fees and costs incurred in the making of such examinations of applicants. No person shall be barred from becoming a member of the department of public safety because of his religious or political convictions.

No person shall be appointed or enlisted to membership in the department at a grade or rank above the grade of trooper and no trooper shall be promoted to any other grade or rank until he shall have served at least two years as a member of the department at the grade of trooper.

CHAPTER 16. PUBLIC HEALTH.

Article
4B. Autopsies on Bodies of Deceased Persons.
5B. Hospitals and Similar Institutions.

ARTICLE 4B. AUTOPSIES ON BODIES OF DECEASED PERSONS.

§16-4B-1. Autopsy on body of deceased persons in interest of medical science; who may perform; consent required; who may give consent.

1 In case of the death of any person in the state of West Virginia, the attending physician, or if there be none, any physician, if he deems it advisable in the interest of medical science, may perform or cause to be performed an autopsy on the body of such deceased person without liability therefor, provided consent to such autopsy is first obtained in writing or by telephone, if the telephone authorization is verified by a second person, from (1) the surviving spouse of deceased; (2) if there be no surviving spouse, then any child of deceased over the age of eighteen years: Provided, That the child's permission shall not be valid, if any other child of the deceased over the age of eighteen years objects prior to said autopsy and the objection shall be made known in writing to the physician who
is to perform the autopsy; (3) if there be no surviving spouse, nor any child of deceased over the age of eighteen years, then the mother or father of deceased; (4) if there be no surviving spouse, nor any child over the age of eighteen years, nor mother or father, then the duly appointed and acting fiduciary of the estate of the deceased; or (5) if there be no surviving spouse, nor any child over the age of eighteen years, nor mother or father, nor duly appointed and acting fiduciary of the estate of deceased, then the person, firm, corporation or agency legally responsible for the financial obligation incurred in disposing of the body of deceased.

In the event the spouse, child or parent of deceased be mentally incompetent then the person authorized to consent to such autopsy shall be the next in the order of priority hereinabove defined.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-2. Hospitals and institutions to obtain license; qualifications of applicant.

No person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof may continue to operate an existing hospital, sanatorium or extended care facility operated in connection with a hospital, or open a hospital, sanatorium, or extended care facility operated in connection with a hospital after July one, one thousand ninety-six, unless such operation shall have been approved and regularly licensed by the state as hereinafter provided.

Before a license shall be issued under this article, the person applying, if an individual, shall submit evidence satisfactory to the state department of health that he is not less than eighteen years of age, of reputable and responsible character, and otherwise qualified. In the event the applicant is an association, corporation or governmental unit, like evidence shall be submitted as to the members thereof and the persons in charge. Every applicant shall, in addition, submit satisfactory evidence of his ability to comply with the minimum standards and
with all rules and regulations lawfully promulgated hereunder.

ARTICLE 9. OFFENSES GENERALLY.

§16-9-4. Sale or gift of cigarette, cigarette paper, pipe or tobacco to person under eighteen; penalty.

§16-9-5. Smoking or possession of cigarette or cigarette paper by person under eighteen; penalty; immunity.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-4. Age limit for chauffeurs driving school buses and transporting persons or property for compensation; issuance of chauffeur's license to licensees under prior law.

§17B-2-7. Examination of applicants.
§17B-2-4. Age limit for chauffeurs driving school buses and transporting persons or property for compensation; issuance of chauffeur's license to licensees under prior law.

No person who is under the age of eighteen years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation nor in either event until he has been licensed as a chauffeur for either such purpose and the license so indicates. The department shall not issue a chauffeur's license for either such purpose unless the applicant has had at least one year of driving experience prior thereto.

Notwithstanding the provisions of this section, a person who qualifies under all provisions of this chapter except this section, and who at the time of the enactment of this chapter possesses a valid chauffeur's license issued under a prior act of the Legislature, may be issued a chauffeur's license as provided in section twelve of this article.

§17B-2-7. Examination of applicants.

(a) Upon the exhibiting by the applicant under the age of eighteen years, of his or her birth certificate, or a certified copy thereof, as evidence that the applicant is of lawful age, the department of public safety shall examine every applicant for an operator's or chauffeur's license, except as otherwise provided in this section. Such examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, his knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle, and such further physical and mental examination as the department of motor vehicles deems necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways.

(b) The commissioner shall adopt and promulgate regulations concerning the examination of applicants for operator's and chauffeur's licenses and the qualifications
required of such applicants, and the examination of such
applicants by the department of public safety shall be in
accordance with such regulations.

CHAPTER 18. EDUCATION.

Article
8. Compulsory School Attendance.
17. West Virginia Schools for the Deaf and the Blind.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-10. Compulsory education of deaf and blind; offenses;
penalties; names of deaf and blind.

Every parent, guardian or other person having control
of any mentally normal minor over six years of age, who
is defective in sight or hearing to the extent that he can-
not be benefited by instruction in the public schools, shall
be required to send such minor to the West Virginia
schools for the deaf and the blind at Romney. Such minor
shall continue to attend such schools for a term of at least
thirty-six weeks each year until he has completed the
course of instruction prescribed for such schools by the
state board of education, or has been discharged by the
superintendent of said school.

Any such deaf or blind minor shall be exempt from
attendance at said schools for any of the following rea-
sions: (a) Instruction by a private tutor or in another
school approved by the state board of education for a time
equal to that required by the first paragraph of this sec-
tion; (b) physical incapacity for school work; (c) any
other reason deemed good and sufficient by the superin-
tendent of such schools, with the approval of the state
board of education.

Any parent, guardian or other persons in charge of such
minor or minors who fails or refuses to comply with the
requirements of this section shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
less than ten nor more than thirty dollars for each offense.

Failure for the period of one week within the school year
to send such minor to school shall constitute an offense:

Provided, That the time necessary for such minor to travel
Any person who induces or attempts to induce such blind or deaf minor to absent himself from school, or who employs or harbors such minor unlawfully, while said school is in session, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than fifty dollars for each offense.

It shall be the duty of school attendance directors and assistants, prosecuting attorneys, and any special attendance directors appointed by said school for the deaf and the blind to enforce the provisions of this section.

The county superintendent of schools shall furnish to the superintendents of the state-supported schools for the deaf and/or blind and to the state superintendent of schools the names of persons in his county between the ages of six and eighteen reported to him to be deaf and blind with the names and addresses of their parents or guardians.

ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.

§18-17-4. Period of attendance; special admissions.
§18-17-6. Registration of deaf and blind by assessors.

§18-17-4. Period of attendance; special admissions.

The pupils of said schools may continue therein until completion of the prescribed course of study, or a lesser period of time which the condition and progress of the pupil may justify, as determined by the state board of education and the superintendent. After all applicants between the prescribed ages of six and seventeen years, inclusive, have been enrolled, if there are additional accommodations, the superintendent may enroll other deaf pupils and blind pupils who may be of suitable age to receive any advantage from the institution, and upon such terms as the state board of education may prescribe; but it shall be distinctly understood that such persons shall withdraw from the institution in the order of their admission to make room for new applicants between the ages prescribed.
§18-17-6. Registration of deaf and blind by assessors.

1 In addition to their other duties the county assessors of the state are hereby required to register the names of all deaf persons and blind persons under eighteen years of age in their respective counties, with the degree and cause of deafness and blindness in each case, as far as can be ascertained from the heads of the families or from other persons whom the county assessors may conveniently consult, their ages, the names of their parents or guardians, their post-office addresses, and such other facts as may be useful in making the institution efficient in the education of the deaf and of the blind. They shall complete the registration on or before June one of each year and forward their report to the state superintendent of schools and to the superintendent of the West Virginia schools for the deaf and the blind on or before July one of each year. The superintendent shall immediately communicate with the parents or guardians of all the deaf persons and the blind persons mentioned in the assessor’s report, with a view of their admission as pupils into said schools.

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE RACING.

§19-23-9. Pari-mutuel system of wagering authorized; licensee authorized to deduct commissions from pari-mutuel pools; retention of breakage; auditing; minors.

1 (a) The pari-mutuel system of wagering upon the results of any horse race at any horse race meeting conducted or held by any licensee is hereby authorized, if and only if such pari-mutuel wagering is conducted by such licensee within the confines of such licensee’s horse racetrack, and the provisions of section one, article ten, chapter sixty-one of this code, relating to gaming, shall not apply to the pari-mutuel system of wagering in manner and form as provided for in this article at any horse race meeting within this state where horse racing shall be permitted for any purse by any licensee. A licensee shall permit or conduct only the pari-mutuel system of
wagering within the confines of such licensee's horse race-track at which any horse race meeting is conducted or held.

(b) A licensee is hereby expressly authorized to deduct a commission from the pari-mutuel pools, as follows:

(1) The commission deducted by any licensee from the pari-mutuel pools on thoroughbred racing shall not exceed sixteen percent of the total of such pari-mutuel pools for the day. Out of such commission, the licensee shall pay the pari-mutuel pools tax provided for in subsection (b), section ten of this article, and shall deposit one percent of such commission in a special fund to be established by the licensee and to be used for the augmentation of the regular purses offered by the licensee. The remainder of the commission shall be retained by the licensee.

(2) The commission deducted by any licensee from the pari-mutuel pools on harness racing shall not exceed seventeen percent of the total of such pari-mutuel pools for the day. Out of such commission, the licensee shall pay the pari-mutuel pools tax provided for in subsection (c), section ten of this article. The remainder of the commission shall be retained by the licensee.

(c) In addition to any such commission, a licensee shall also be entitled to retain the legitimate breakage, which shall be made and calculated to the dime.

(d) The director of audit, and any other auditors employed by the racing commission who shall also be certified public accountants or experienced public accountants, shall have free access to the space or enclosure where the pari-mutuel system of wagering is conducted or calculated at any horse race meeting for the purpose of ascertaining whether or not the licensee is deducting and retaining only a commission as provided in this section and is otherwise complying with the provisions of this section. They shall also, for the same purposes only, have full and free access to all records and papers pertaining to such pari-mutuel system of wagering, and shall report to the racing commission in writing, under oath, whether or not the licensee has deducted and retained
any commission in excess of that permitted under the provisions of this section or has otherwise failed to comply with the provisions of this section.

(e) No licensee shall permit or allow any individual under the age of eighteen years to wager at any horse racetrack, knowing or having reason to believe that such individual is under the age of eighteen years.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5A. WATER POLLUTION CONTROL ACT.

§20-5A-8a. Voluntary water quality monitors; appointment; duties; compensation.

1 The chief is hereby authorized to appoint voluntary water quality monitors to serve at the will and pleasure of the chief. All such monitors appointed pursuant hereto shall be eighteen years of age or over and shall be bona fide residents of this state.

2 Such monitors are authorized to take water samples of the waters of this state at such times and at such places as the chief shall direct and to forward such water samples to the chief for analysis.

3 The chief is authorized to provide such monitors with such sampling materials and equipment as he deems necessary: Provided, That such equipment and materials shall at all times remain the property of the state and shall be immediately returned to the chief upon his direction.

4 Such monitors shall not be construed to be employees of this state for any purpose except that the chief is hereby authorized to pay such monitors a fee not to exceed fifty cents for each sample properly taken and forwarded to him as hereinabove provided.

5 The chief shall conduct schools to instruct said monitors in the methods and techniques of water sample taking and issue to said monitors an identification card or certificate showing their appointment and training.

6 Upon a showing that any water sample as herein provided was taken in conformity with standard and recognized procedures, such sample shall be admissible in any
court of this state for the purpose of enforcing the provisions of this article.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

§27-4-1. Authority to receive voluntary patients.
§27-4-3. Right to release on application.

§27-4-1. Authority to receive voluntary patients.

1 The superintendent of a state hospital, subject to the availability of suitable accommodations, and subject further to the rules and regulations promulgated by the director of mental health, shall admit for diagnosis, care and treatment any individual:

6 (1) Over eighteen years of age who is mentally ill, mentally retarded or who has symptoms of mental illness or mental retardation and makes application for hospitalization; or

10 (2) Under eighteen years of age who is mentally ill or mentally retarded or who has symptoms of mental illness or mental retardation and there is application therefor in his behalf (a) by the parents of such person, 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 such person, or (d) if there is a guardian entitled to the custody of such person, then by such guardian.

§27-4-3. Right to release on application.

1 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:

5 (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;

9 (2) If the patient is under eighteen years of age, his release prior to becoming eighteen years of age may be conditioned upon the consent of the person or persons who applied for his admission;
13 (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.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

Article 2. Attorneys at Law.
4. Dentists, Dental Hygienists and Dental Corporations.
5. Pharmacists, Assistant Pharmacists and Drugstores.
6. Embalmers and Funeral Directors.
8. Optometrists.
10. Veterinarians.
11. Chiropodists-Podiatrists.
13A. Land Surveyors.
15. Midwives.
17. Sanitarians.
20. Physical Therapists.
22. Landscape Architects.

ARTICLE 2. ATTORNEYS AT LAW.

§30-2-1. Certificate of good moral character; examination of applicants for license; licenses; diploma privilege of graduates of West Virginia college of law.

1 Any person desiring to obtain a license to practice law in the courts of this state shall appear before the circuit court of the county in which he has resided for the last preceding year and prove to the satisfaction of such court, or to the satisfaction of a committee of three attorneys practicing before such court, appointed by the court, that he is a person of good moral character, that
he is eighteen years of age, and that he has resided in
such county for one year next preceding the date of his
appearance; and upon the presentation of such proof, the
court shall enter an order on its record accordingly. The
-supreme court of appeals shall prescribe and publish
rules and regulations for the examination of all appli-
cants for admission to practice law, which shall include
the period of study and degree of preparation required
of applicants previous to being admitted, as well as the
method of examinations, whether by the court or other-
wise. And the supreme court of appeals may, upon the
production of a duly certified copy of the order of the
circuit court, hereinbefore mentioned, and upon being
satisfied that the applicant has shown, upon an exami-
nation conducted in accordance with such rules and
-regulations, that he is qualified to practice law in the
courts of this state, and upon being further satisfied that
such rules and regulations have been complied with in
all respects, grant such applicant a license to practice law
in the courts of this state, and such license shall show
upon its face that all the provisions of this section and
of the said rules have been complied with: Provided,
That any person who shall produce a duly certified copy
of such order of the circuit court, and also a diploma of
graduation from the college of law of West Virginia
University, shall, upon presentation thereof in any of
the courts of this state, be entitled to practice in any
and all courts of this state, and the order so admitting
him shall state the facts pertaining to the same.

ARTICLE 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL CORPORATIONS.

§ 30-4-6. Qualifications of applicant for license; examinations;
examination fee; licensing.

An applicant for a dental license shall be of good moral
character, a citizen of the United States or an individual
who has declared his intention to become and who shows
progress toward becoming a citizen of the United States,
at least eighteen years of age at the time of making
application, and be a graduate of, and possess an accep-
table dental diploma from the faculty of a dental school
approved by the board. The board may require the application to be accompanied by sufficient evidence of these qualifications.

The applicant shall transmit with his application an examination fee of thirty-five dollars, which sum the board is authorized to expend in an investigation of the applicant's qualifications. No portion of this fee is refundable.

An applicant whose application has been accepted by the board shall be given an examination on subjects selected by the board from among those currently being taught in approved dental schools which shall test the qualifications of the applicant to practice dentistry. The testing body for such examinations shall be decided by the board under rules and regulations promulgated by it.

The board may recognize a certificate granted by the national board of dental examiners in lieu of the written portion of the required examination.

An applicant obtaining a satisfactory grade on such examination and otherwise fulfilling the requirements of the board shall be granted a license by the board to practice dentistry, which license shall bear a serial number, the full name of the licensee, the date of issuance of the license, the seal of the board and the signatures of a majority of the members of the board.

The board shall not issue a license to any person found guilty of cheating, deception or fraud in the examination or on any part of the application. All manuscripts used in any examination and all applications for licensure shall be filed for a period of two years by the secretary of the board for the purpose of reference and inspection.

ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND DRUGSTORES.

§30-5-5. Qualifications for registration as pharmacist; certificates of registration.

In order to be registered as a pharmacist within the meaning of this article, a person shall be a citizen of the United States, not less than eighteen years of age, shall present to the board of pharmacy satisfactory evidence that he is a graduate of a recognized school of pharmacy
as defined by the board of pharmacy, and in addition thereto he shall have had at least one year of practical experience in a pharmacy or drugstore under the instruction and supervision of a registered pharmacist and shall pass satisfactorily an examination by or under the direction of the board of pharmacy. Each application for examination must be accompanied by a fee of fifty dollars and the same forwarded to the secretary according to law.

Every applicant for registration as a pharmacist shall present to the board of pharmacy satisfactory evidence that he is a person of good moral character and not addicted to drunkenness or the use of narcotic drugs. The board shall issue certificates of registration to all persons who successfully pass the required examination and are otherwise qualified, and to all those whose certificates or licenses the board shall accept in lieu of an examination as provided in the next succeeding section.

ARTICLE 6. EMBALMERS AND FUNERAL DIRECTORS.

§30-6-5. Embalmers and funeral directors to be licensed; qualifications and requirements for license; advertising; renewal of license; registration as apprentice; courtesy cards.

No person shall engage in or hold himself out as engaging in, or discharge any of the duties of the business or profession of embalming, or preserving in any manner dead human bodies in this state, whether for himself or in the employ of another, unless he holds an embalmer's license issued to him by the board, and shall at the date of its issuance have complied with the provisions of this article.

No person shall engage in, or hold himself out as engaging in, or discharge any of the duties of the business or profession of funeral directing in this state, unless he holds a funeral director's license issued to him by the board, and shall at the date of its issuance have complied with the provisions of this article, or conduct a funeral unless he be a licensed funeral director.

No person shall be entitled to an embalmer's license unless he:
(1) Is eighteen years of age or over;
(2) A citizen of the United States;
(3) Of good moral character and temperate habits;
(4) Holds a high school diploma or its equivalent;
(5) Has had not less than sixty hours' credit of educational training in an accredited university or college, such credit shall be in such subjects only as are recognized in the university or college where taken, as credit toward a baccalaureate degree;
(6) Has completed a one-year course of apprenticeship under the supervision of a licensed embalmer actively and lawfully engaged in the practice of embalming in this state, such apprenticeship to consist of diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment, and under which said apprenticeship he shall have taken an active part in the operation of embalming not less than twenty-five dead human bodies, under the supervision of a licensed embalmer;
(7) Possesses a diploma of graduation from a school of embalming which requires as a prerequisite to graduation the completion of a course of study not less than twelve months' duration, and which said school of embalming must be one duly approved by the board;
(8) Passes such examination as the board shall deem necessary to ascertain his qualification and ability to engage in the practice of embalming.

The board shall issue licenses separately to embalmers and to funeral directors.

An applicant for a funeral director's license must furnish satisfactory proof to the board that his business or profession of funeral directing is to be conducted in a fixed place or establishment equipped for the care and preparation for burial or disposition of dead human bodies. What shall be deemed "necessary equipment" shall be defined in the rules and regulations of the board, the same to be in compliance with the public health laws of the state or the rules of the state board of health of West Virginia. This shall not be so construed as to deny an applicant for a funeral director's license such
a license because he is not the owner, or part owner, of
an establishment or proposed funeral business.

Licenses issued under the provisions of this article
shall not be transferable or assignable.

No person shall be eligible to receive a license as a
funeral director unless he:

(1) Holds an embalmer’s license issued by this board;
(2) Has been duly registered with the board as an
apprentice;
(3) Has served not less than a one-year apprenticeship
under the personal supervision of a licensed funeral
director actively and lawfully engaged in the business or
profession of funeral directing in this state, such ap-
prenticeship to consist of diligent attention to the work
in the course of regular and steady employment and not
as a side issue to another employment.

All funeral homes or establishments or any other places
pertaining to funeral directing or the conducting of
funerals, shall display in all advertising the name of the
licensed funeral director who is actually in charge of
the establishment. All branch establishments must dis-
play the name of the funeral director who is actually in
charge. At least one licensed funeral director shall su-
ervise each main establishment and at least one licensed
funeral director shall directly supervise each branch es-
tablishment.

No licensed funeral director or licensed embalmer
shall be permitted to register or have registered more
than five apprentices under his license at the same time.

Any person now holding a license as an embalmer,
funeral director, or assistant funeral director, shall not
be required to make a new application, or submit to an
examination, but shall, upon the payment of the fee
therefor, be entitled to a renewal of his license upon the
terms and conditions herein provided for the renewal of
licenses of those who may be licensed after the effective
date of this article, but all such persons shall be sub-
ject to every provision of this article, and such rules and
regulations as the board may adopt in pursuance of this
article.
No person shall be registered as an apprentice funeral director or apprentice embalmer unless he is eighteen years of age, or over, a citizen of the United States, of good moral character and temperate habits, and the holder of a high school diploma or its equivalent.

The board may issue annual nonrenewable courtesy cards to licensed funeral directors and licensed embalmers of the states bordering on West Virginia, upon application for same made on form prescribed by the board. The annual fee for such courtesy cards shall be twenty-five dollars and said fee shall be paid at the time application is made therefor. Applications for said courtesy cards shall be approved by the board before the same may be issued, and said courtesy cards shall be issued under the following conditions: Holders of courtesy cards shall not be permitted to open or operate a place of business for the purpose of conducting funerals or embalming bodies in the state of West Virginia, nor shall they be permitted to maintain an office or agency in this state. A violation of this section shall be sufficient cause for the board to revoke or cancel the courtesy card of the violator.

ARTICLE 8. OPTOMETRISTS.

§30-8-5. Qualifications of applicant for registration; examination.

An applicant for registration shall present satisfactory evidence that he is at least eighteen years of age, of good moral character and temperate habits, and has graduated from a high school or secondary school, or has completed an equivalent course of study approved by the West Virginia board of optometry, and has graduated from a school or college of optometry approved by said board. No school or college of optometry shall be approved by the board unless it has a minimum requirement of a course of study of two thousand clock hours, distributed over two school years of eight months' duration each. The examination shall cover such subjects as the anatomy of the eyes, the use of the ophthalmoscope, retinoscope, ophthalmometer, and trial lenses, the general laws of optics and refraction, and such other subjects as the board
may deem proper. If the applicant successfully passes such examination, and is otherwise qualified, the board shall register him as a duly qualified optometrist, and shall issue to him a certificate of registration authorizing him to practice optometry in this state.

ARTICLE 9. ACCOUNTANTS.

§30-9-2. Certified public accountants; requirements for certification; use of title “certified public accountant”; applicability of article to previous holders of certificates.

§30-9-3. Public accountants; registration; use of title “public accountant.”

§30-9-2. Certified public accountants; requirements for certification; use of title “certified public accountant”; applicability of article to previous holders of certificates.

The certificate of “certified public accountant” shall be granted by the board to any person:

1. (1) Who is a citizen of the United States or who has duly declared his intention of becoming such citizen, and who is domiciled in the state of West Virginia, or has a place of business therein at the time of making application;
2. (2) Who is over the age of eighteen years;
3. (3) Who is of good moral character;
4. (4) Who is a graduate of a high school with a four-year course, or who, in the opinion of the board, has had equivalent education;
5. (5) Who shall have for at least two years preceding the date of his application been engaged in practice as a public accountant or shall have been employed as a staff accountant of a practicing certified public accountant or public accountant; or who shall have been actively employed for at least four years preceding the date of his application by the United States treasury department as an internal revenue agent; or who shall have been actively employed for at least four years preceding the date of his application by any federal or state supervisory agency or instrumentality as an auditor or examiner, whose duties entail the audit or verification of accounts and records and the preparation, based thereon,
of reports to such agency or instrumentality for the purposes of supervision or regulation: Provided, That the experience required in this subsection shall include the preparation of balance sheets and operating statements from general books, or who, in the opinion of the board, has had experience equivalent to that required in the foregoing, and the board shall recognize that the equivalent experience may be obtained independently of employment with a practicing certified public accountant, public accountant, the United States treasury department, or any federal or state supervisory agency or instrumentality, as hereinabove set forth; and,

(6) Who has passed an examination in theory of accounts, accounting practice, auditing, commercial law and/or such other related subjects as the board may deem advisable. All matters relating to the examination and certification of applicants for the certificate of certified public accountant shall be handled by only those members of the state board of accountancy who are holders of a certificate of certified public accountant.

No applicant shall be examined in the subjects stated in subdivision (6) until the board shall have been satisfied in respect to the requirements stated in subdivisions (1) to (5), inclusive, except, however, that any person possessing the necessary qualifications, except the practical experience, who has completed an accountancy course in a university or college of recognized standing, or graduated from an accountancy school acceptable to the board, may be examined in the subjects specified in subdivision (6) and upon receiving a satisfactory grade shall be granted the certificate of certified public accountant.

Five years after the enactment of this article the educational requirement for taking the examination for a certificate shall be a degree or certificate conferred by a college, university or other educational institution approved by the board, with a major in accounting, or what the board determines to be the equivalent of the foregoing, or with a nonaccounting major supplemented by what the board determines to be the equivalent of an accounting major, including related courses in all areas
of business administration: Provided, That this requirement shall not apply to persons duly registered as public accountants before January first, one thousand nine hundred sixty.

Any person who has received from the board a certificate as a certified public accountant shall be designated and known as a certified public accountant; and every person holding such certificate, and every copartnership of accountants in which all members practicing in this state hold such a certificate, may assume and use the title of certified public accountant or the abbreviation thereof, "C. P. A." Any certified public accountant may also be known as a "public accountant."

Persons, who, on the effective date of this article, held certified public accountants' certificates theretofore issued by the board of this state shall not be required to obtain additional certificates under this article, but shall otherwise be subject to all provisions of this article; and such certificates theretofore issued shall, for all purposes, be considered certificates issued under this article and subject to the provisions hereof.

§30-9-3. Public accountants; registration; use of title "public accountant."

A person shall be deemed to be in practice as a public accountant within the meaning and intent of this article:

(a) Who holds himself out to the public in any manner as one skilled in the knowledge, science and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation; or

(b) Who maintains an office for the transaction of business as a public accountant; or

(c) Who offers to the public to perform for compensation, or who does perform for the public for compensation, professional services that involve or require an examination, verification, investigation or review of financial transactions and accounting records; or

(d) Who prepares reports on examinations of books or records of account, balance sheets, and other financial,
accounting and related schedules, exhibits and statements, or reports which are to be used for publication, credit purposes or are to be filed with any governmental agency; or

(e) Who, in general or as an incident to such work, renders professional assistance to the public for compensation in any or all matters relating to accounting procedure and to the recording and presentation of financial facts or data.

Any person who is a resident of this state, or has a place of business therein, who has attained the age of eighteen years, and who is of good moral character, and who holds himself out within this state to be in practice on the date this article is enacted as a public accountant as heretofore defined, may register with the board as a public accountant on or before January first, one thousand nine hundred sixty.

After the date this article is enacted and until January first, one thousand nine hundred sixty-seven, any person possessing the necessary qualifications for taking the examination for a certificate of certified public accountant, as provided in section two shall be registered by the board as a public accountant.

Any person who has been duly registered by the board as a public accountant shall be designated and known as a public accountant; and every person so registered and every copartnership of accountants in which all members practicing in this state have been so registered, may assume and use the title of public accountant or the abbreviation thereof, "P. A."

ARTICLE 10. VETERINARIANS.

§30-10-6. Application for license; qualifications; determination as to qualifications of applicants and action to be taken.

Any resident of this state desiring a license to practice veterinary medicine in this state shall make written application therefor to the board. The application shall show that the applicant is (1) either a graduate of a school of veterinary medicine accredited by the American
veterinary medical association or a graduate of a foreign veterinary school who holds a certificate of competence issued by the educational commission for foreign veterinary graduates, (2) eighteen years of age or over, (3) a citizen of the United States or an applicant for citizenship, and (4) a person of good moral character, and shall contain such other information and proof as the board may require by reasonable rules and regulations promulgated as aforesaid. The application shall be accompanied by the appropriate fee specified in the fee schedule established and published by the board.

If the board determines that an applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for a license without examination under the provisions of section eight of this article, the board may forthwith grant him a license. If an applicant is found not qualified to take the examination or for a license without examination, the secretary-treasurer shall immediately notify the applicant in writing of such finding and the grounds therefore. An applicant found not qualified may demand a hearing on the question of his qualifications in accordance with the provisions of section twelve of this article. The application fee of any applicant found not qualified shall be returned to such applicant.

ARTICLE 11. CHIROPODISTS-PODIATRISTS.

§30-11-3. Qualifications of applicant for license.

An applicant for license shall furnish to the medical licensing board satisfactory proof that he is: (a) Eighteen 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 application and examination in good standing in said state, territory 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 degree.

ARTICLE 12. ARCHITECTS.

§30-12-3. Qualifications of applicant for registration.

1 Any citizen of the United States or any person who has declared his intention of becoming a citizen, who is at least eighteen years of age and of good moral character, may apply for a certificate of registration or for such examination as shall be requisite for such certificate under this article; but before receiving such certificate the applicant shall submit satisfactory evidence of having completed the course in a high school or the equivalent thereof, and of having subsequently thereto completed such course in mathematics, history and language as may be prescribed by the board of examination and registration of architects. The examination for the above academic requirements shall be held by the board. In lieu of such examination the board may accept satisfactory diplomas or certificates, from institutions approved by the board, covering the course or subject matter prescribed for examination.

ARTICLE 13A. LAND SURVEYORS.

§30-13A-5. Qualifications of applicants for licenses; exceptions; applications; fees; examinations.

1 (a) To be eligible for a license to engage in the practice of land surveying, the applicant must:

2 (1) Be at least eighteen years of age;

3 (2) Be of good moral character;
(3) Have been a resident of the United States for one year immediately preceding the date of application;
(4) Not have been convicted of a crime involving moral turpitude;
(5) Have four years or more experience in the practice of land surveying under the supervision of a licensee, or a person eligible for a license hereunder, or a person authorized in another state or country to engage in the practice of land surveying; and each year of satisfactory study in an accredited surveying curriculum may be substituted for one year of experience, but only two years of such experience requirement may be fulfilled by such study; and
(6) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of land surveying and land surveying skills and techniques.

(b) The following persons shall be eligible for a license to engage in the practice of land surveying without examination:

(1) Any applicant who is licensed, certificated or registered to engage in the practice of land surveying in any other state or country, if the requirements to obtain a license or certificate or to become registered in such other state or country are found by the board to be at least as great as those prescribed in this article.

(2) Any applicant who is a graduate of an accredited surveying curriculum and has at least two years of experience in the practice of land surveying under the supervision of a licensee, or a person eligible for a license hereunder, or a person authorized in another state or country to engage in the practice of land surveying, if such applicant meets the requirements of subdivisions (1), (2), (3) and (4), subsection (a) of this section.

(3) Any applicant who has been engaged in the practice of land surveying in West Virginia for at least six years prior to the filing of such application, if such application for a license is made within three years after the effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3) and (4),
subsection (a) of this section. Such applicant must also
furnish the names and addresses of ten persons who have
engaged such applicant as a land surveyor, together with
satisfactory records of such land surveying work.

(c) Any applicant for any such license shall submit
an application therefor on forms provided by the board.
Such applications shall be verified and shall contain a
statement of the applicant's education and experience,
the names of five persons for reference (at least three of
whom shall be licensees, or persons eligible for a license
hereunder, or persons authorized in another state or
country to engage in the practice of land surveying, who
have knowledge of his work) and such other information
as the board may from time to time by reasonable rule
and regulation prescribe.

(d) An applicant shall pay to the board with his ap-
application a license fee of twenty dollars, which fee shall
be returned if he is denied a license.

(e) Examinations shall be held at least once each year
at such time and place as the board shall determine.
The scope of the examination and methods of procedure
shall be determined by the board. An applicant who
fails to pass an examination may reapply at any time and
shall furnish additional information as requested by the
board. Each such application shall be accompanied by
a license fee of twenty dollars, which fee shall be re-
turned if the applicant is again denied a license.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-4. Application for examination.

Each applicant for examination by the board shall sub-
mit an application therefor on forms prepared and fur-
nished by the board, accompanied by evidence verified
by oath and satisfactory to the board, establishing that
the applicant has satisfied the following requirements:

(a) That he is eighteen years of age or over; (b) that
he is of good moral character; (c) that he has graduated
from an approved osteopathic college; and (d) that he
has paid to the board a fee of fifty dollars for examination.

ARTICLE 15. MIDWIVES.

§30-15-2. Definition of midwife; limitation of article.

§30-15-3. License to practice midwifery; qualifications of applicants.
§30-15-2. Definition of midwife; limitation of article.

1 For the purposes of this article, a midwife shall be any person at least eighteen years of age, other than a physician, who shall attend or agree to attend any woman at or during childbirth, and who shall accept any compensation or other remuneration for her services: Provided, That nothing contained in this article shall prevent a neighbor or friend from rendering assistance in such cases in an emergency.

§30-15-3. License to practice midwifery; qualifications of applicants.

1 No person, other than a licensed physician, shall practice midwifery in the state of West Virginia unless such person shall be duly licensed to practice midwifery as hereinafter provided.

5 Every person, other than a licensed physician, who wishes to practice midwifery shall make written application to the West Virginia board of health for a license to practice midwifery. The application shall be sworn to before a notary public and shall be accompanied by a registration fee of one dollar. Every applicant for a license to practice midwifery shall possess the following qualifications:

13 (a) She shall not be less than eighteen years of age;
14 (b) She shall be able to read and write;
15 (c) She shall be clean and constantly show evidence, general appearance and in her home, of habits of cleanliness;
18 (d) She shall either possess a diploma from a school for midwives recognized by the state director of health, or shall have attended, under the instruction of a duly licensed and registered physician, not fewer than five mothers and newborn infants during lying-in periods of at least ten days each, and shall present a written statement from said physician or physicians that she has received such instruction in said five cases, with the name, date and address of each case, and establishing the fact that she is reasonably skillful and competent, to the satisfaction of the state director of health;
(e) She shall present evidence satisfactory to the West Virginia board of health that she is of good moral character, has good health, and is free from communicable disease, in such form as the state director of health, or such person designated by him, by rule or regulation may prescribe.

ARTICLE 16. CHIROPRACTORS.

§30-16-4. Application for license; qualifications 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 eighteen 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, That this requirement of sequence of attendance 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 aca-
demic college and chiropractic school or college apply
to such applicants who have, subsequent to the passage
of this article, commenced the fulfillment of requirement
(c) under the educational provisions of the federal ser-
vicemen's readjustment act now in force or as may here-
after be amended, or such federal act of similar effect,
benefit or purpose as may hereafter be enacted by Con-
gress.

ARTICLE 17. SANITARIANS.

§30-17-5. Eligibility and qualifications for registration.
1 The board shall accept for review the application of
2 any person eighteen years of age or more whose appli-
cation is submitted with the necessary fee.
3 The board shall issue a certificate of registration as a
4 professional sanitarian, together with a numbered iden-
tification card, to any applicant of good moral char-
acter:
8 (1) Who qualifies for and successfully passes a merit
9 system or civil service examination given under the au-
10 thority of this state, and who has satisfactorily completed
11 a six-month probationary period of employment as a san-
itarian prior to the date of his application; or
13 (2) Who is a graduate of a college or university, duly
14 accredited by the proper regional accrediting agency or
15 by the West Virginia state board of education, who has
16 credit for not less than thirty semester or forty-five
17 quarter hours of work in the physical, biological, social
18 and sanitary sciences; or
19 (3) Who has credit for not less than three full years
20 of academic work at a college or university, duly accre-
dited by the proper regional accrediting agency or by the
22 West Virginia state board of education, including credit
23 for not less than twenty semester or thirty quarter hours
24 of work in the physical, biological, social and sanitary
25 sciences, and who has satisfactorily completed a six-
26 month probationary period of employment as a sanitarian
27 prior to the date of his application; or
(4) Who has credit for not less than two full years of academic work at a college or university, duly accredited by the proper regional accrediting agency or by the West Virginia state board of education, including credit for not less than ten semester or fifteen quarter hours of work in the physical, biological, social and sanitary sciences, and who has satisfactorily completed a six-month probationary period of employment as a sanitarian prior to the date of his application.

Any person who meets all qualifications for registration as a professional sanitarian, except the experience requirements, may upon making application and paying a total fee of ten dollars be granted a temporary certificate of registration as an apprentice sanitarian. Such temporary registration shall, unless sooner revoked for cause, remain in effect for a period not to exceed one year, and upon payment of the required fee may be renewed annually for a period not to exceed two additional years.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-4. Qualifications of applicants for license; applications; fee.

To be eligible for license by the board as a physical therapist, each applicant must:

(a) Be at least eighteen years old.
(b) Be of good moral character.
(c) Not be addicted to the intemperate use of alcohol or narcotic drugs.
(d) Be a citizen of the United States or have obtained a declaration of intention of becoming a citizen.
(e) Present evidence that he is a graduate of a school of physical therapy approved by the American physical therapy association and the board: Provided, That any person who received his education in physical therapy outside of the United States may qualify for a license by fulfilling those requirements of the American physical therapy association and the medical board, including successful completion of a period of supervised clinical experience and a written examination provided by the board.
19  (f) Either (1) pass to the satisfaction of the board an
20 examination conducted by it to determine his fitness for
21 practice as a physical therapist; or (2) be entitled to be
22 licensed without examination as provided in section
23 seven of this article.
24
25 Unless entitled to be licensed under section seven of
26 this article, a person who desires to be licensed as a
27 physical therapist shall apply to the board, in writing, on
28 a blank furnished by the board. He shall embody in that
29 application evidence under oath, satisfactory to the board,
30 of his possessing the qualifications preliminary to exam-
31 ination required by this section. He shall pay to the board
32 a fee of fifty dollars at the time of filing his application,
33 no part of which shall be refunded.

ARTICLE 21. PSYCHOLOGISTS.

§30-21-7. Qualifications of applicants; exceptions; applications;
fee.

1  (a) To be eligible for a license to engage in the prac-
2 tice of psychology, the applicant must:
3  (1) Be at least eighteen years of age;
4  (2) Be of good moral character;
5  (3) Be a holder of a doctor of philosophy degree or
6 its equivalent or a master's degree in psychology from
7 an accredited institution of higher learning, with ade-
8 quate course study at such institution in psychology, the
9 adequacy of any such course study to be determined
10 by the board;
11  (4) When the degree held is a doctor of philosophy
12 degree or its equivalent, have at least two years' experi-
13 ence subsequent to receiving said degree in the perfor-
14rnance of any of the psychological services described in
15 subdivision (e), section two of this article, including those
16 activities excluded from the definition of the term "prac-
17 tice of psychology" in said subdivision (e), and, when
18 the degree held is a master's degree, have at least
19 eight years' experience subsequent to receiving said de-
20 gree in the performance of any of the psychological
21 s
activities excluded from the definition of the term “practice of psychology” in said subdivision (e);

(5) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of psychology and psychological skills and techniques;

(6) Not have been convicted of a felony or crime involving moral turpitude; and

(7) Not, within the next preceding six months, have taken and failed to pass the examination required by subdivision (5), subsection (a) of this section.

(b) The following persons shall be eligible for a license to engage in the practice of psychology without examination:

(1) Any applicant who holds a doctor of philosophy degree or its equivalent from an institution of higher learning, with adequate course study at such institution in psychology and who is a diplomate of the “American Board of Examiners in Professional Psychology”; and

(2) Any person who holds a license or certificate to engage in the practice of psychology issued by any other state, the requirements for which license or certificate are found by the board to be at least as great as those provided in this article.

(c) Any person who is engaged in the practice of psychology in this state, or is engaged in any of the activities described in subdivision (e), (1), (2) or (3), section two of this article, in this state, on the effective date of this article and has been so engaged for a period of two consecutive years immediately prior thereto shall be eligible for a license to engage in the practice of psychology without examination and without meeting the requirements of subdivision (4), subsection (a) of this section, if application for such license is made within six months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3) and (6), subsection (a) of this section: Provided, That an equivalent
of a masters degree in psychology may be considered by
the board, only for the purpose of this subsection (c), as
meeting the requirements of subdivision (3) of subsec-
tion (a) of this section.

(d) Any applicant for any such license shall submit
an application therefor at such time (subject to the time
limitation set forth in subsection (c) of this section),
in such manner, on such forms and containing such in-
formation as the board may from time to time by rea-
sonable rule and regulation prescribe, and pay to the
board an application fee of fifty dollars, not refundable.

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-6. Qualifications of applicants; exceptions; applications; fee.
1 (a) To be eligible for a license as a landscape archi-
tect, the applicant must:
2 (1) Be at least eighteen years of age;
3 (2) Be of good moral character;
4 (3) Not, within the next preceding twelve months,
have had his application for a license or a certificate or
for registration to engage in the practice of landscape
architecture or as a landscape architect refused, sus-
pended or revoked in any state of the United States;
5 (4) Either (i) be a holder of an undergraduate degree
or graduate degree in landscape architecture from an
accredited institution of higher learning, with adequate
course study at such institution in landscape architecture,
the adequacy of any such course study to be determined
by the board; and when the degree held is an under-
graduate degree, have had at least two years' experience
subsequent to receiving such degree in the practice of
landscape architecture under the supervision of a land-
scape architect or a person having qualifications ac-
ceptable to the board and similar to the qualifications of
a landscape architect, and, when the degree held is a
graduate degree, have had at least one year's experience
subsequent to receiving such graduate degree in the prac-
tice of landscape architecture under the supervision of a
landscape architect or a person having qualifications ac-
ceptable to the board and similar to the qualifications of
a landscape architect; or (ii) have had at least ten years'
experience in the practice of landscape architecture, of
a grade and character to qualify him to assume respon-
sibility for the work involved in the practice of land-
scape architecture, at least six years of which shall have
been under the supervision of a landscape architect or a
person having qualifications acceptable to the board and
similar to the qualifications of a landscape architect; and
(5) Have passed the examination prescribed by the
board, which examination shall cover the theory and prac-
tice of landscape architecture.

(b) The following persons shall be eligible for a
license as a landscape architect without examination:
(1) Any person who was once licensed under the
provisions of this article, who temporarily abandoned
the practice of landscape architecture and did not renew
his license, provided he satisfies the board that he remains
qualified to engage in the practice of landscape archi-
tecture; and
(2) Any person who holds a license or certificate or
is registered to engage in the practice of landscape archi-
tecture issued by or effected in any other state, the re-
quirements for which license, certificate or registration
are found by the board to be at least as great as those
provided in this article.
(c) Any person meeting the qualifications set forth in
subdivisions (1), (2) and (3), subsection (a) of this sec-
tion, who submits evidence satisfactory to the board
that for at least one year prior to the effective date of
this article he regularly engaged in the practice of land-
scape architecture as a principal livelihood shall be en-
titled to be licensed under the provisions of this article,
without meeting the qualifications set forth in subdi-
visions (4) and (5), subsection (a) of this section, if he
files such application with the board within six months
from and after the effective date of this article.
(d) Any applicant for any such license shall submit
an application therefor at such time (subject to the time
limitation set forth in subsection (c) of this section), in such manner, on such forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe, and pay to the board a license fee of forty dollars, which fee shall be returned to the applicant if he is denied a license.

CHAPTER 32. SPECULATIVE SECURITIES AND FRAUDULENT SALES; FACE-AMOUNT CERTIFICATES; ISSUANCE AND SALE OF CHECKS, DRAFTS, MONEY ORDERS, ETC.

ARTICLE 1. SECURITIES; DEFINITIONS; REGISTRATION; UNLAWFUL ACTS; PENALTIES; LIABILITIES.

§32-1-12. Registration of dealers and salesmen; requirements and fees generally; consent to service of process; register; renewals; examinations; responsibilities as to bills, confirmations, etc.; exceptions.

No dealer or salesman shall engage in business in this state as such dealer or salesman or sell any securities, including securities exempted in section three of this article, or transact a brokerage or trading business or do a business of buying or selling securities listed or traded in on any stock exchange, except in transactions exempt under section four of this article, unless he has been registered as a dealer or salesman in the office of the commissioner pursuant to the provisions of this section.

An application for registration as a dealer shall be filed in writing with the commissioner, in such form as he may prescribe, duly verified by oath, which shall state the principal office of the applicant, wherever situated, and the location of the principal office and all branch offices in this state, if any, the name or style of doing business, the names, residences and business addresses of all persons interested in the business as principals, copartners, officers and directors, specifying as to each his capacity and title, the general plan and character of business and the length of time the dealer has been engaged in business, a financial statement in detail showing the actual conditions of the dealer, classification and condition of all margin or installment accounts,
partner, officer and director accounts, a list of securities sold in West Virginia during the preceding year and so far as possible, a list of those to be sold or offered for sale when the registration is completed, and such information to be given in such detail as the commissioner may require. The commissioner may also require such additional information as to applicant's previous history, record and association, as he may deem necessary to establish the good repute in business of the applicant. The commissioner may require every applicant for registration as a salesman to pass a written examination as a requirement for issuance of such license. Every applicant for registration as a salesman must be eighteen years of age, and shall not, at the time of examination, be employed by any securities dealer other than the one by whom he was employed at the time of making application.

Every dealer, at the time of filing his application, shall file with the commissioner of securities his irrevocable written consent to service of process as prescribed by section nine of this article.

If the commissioner shall find that the applicant is of good repute, has furnished sufficient proof of financial responsibility, and has complied with the provisions of this section including the payment of the fee hereinafter provided, he may register such applicant as a dealer.

Upon written application of a registered dealer and payment of the proper fees, the commissioner may register as salesmen of such dealer such natural persons as shall appear to the commissioner to be qualified and of good character.

The partners of a partnership and the executive officers of a corporation or other association registered as a dealer may act as salesmen during such time as such partnership, corporation or association is so registered without further registration as salesmen. The salesmen registered by a dealer may sell any securities for which the dealer registering such salesmen is registered.

The names and addresses of all persons approved for registration as dealers or salesmen and all orders with respect thereto shall be recorded in a register of dealers
and salesmen, which shall be open to public inspection. Every registration under this section shall expire on the thirtieth day of June in each year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fee as hereinafter provided, and by filing of further statements or furnishing any further information specifically required by the commissioner. Applications for renewals must be made not less than thirty days before the first day of the ensuing year, otherwise they shall be treated as original applications. The fee for each dealer's registration and for each dealer's annual renewal shall be one hundred dollars. The fee for each salesman's registration shall be twenty dollars, and the fee for each salesman's annual renewal shall be ten dollars. When an application is denied, the commissioner shall retain the registration or renewal fee deposited.

Changes in registration occasioned by changes in personnel of a partnership or in the principals, copartners, officers or directors of any dealer may be made from time to time by written applications setting forth the facts with respect to such change.

Every dealer registered under this section shall be subject to examination as to his financial condition or methods of business by the commissioner or by his duly authorized representative at the time the commissioner may deem it advisable. The expense of the examination shall be paid by the applicant and the failure or refusal of such applicant to pay such expense upon the demand of the commissioner shall work a forfeiture of his right to registration under this section.

Every dealer or salesman shall send a copy of all bills, confirmations or orders on transactions with any employee or active official of any bank, trust company or savings institution, to the president of the institution by which the person is employed or in which the person is an official, and a copy shall also be sent to the commissioner of banking of the state of West Virginia. These copies of bills, confirmations or orders shall be sent at the same time as the original. Any dealer or salesman willfully violating the provisions of this paragraph shall
have his registration revoked by the commissioner and
may be liable to such bank, trust company or savings
institution for any losses or damages incurred in any case
where such dealer or salesman failed to comply with this
provision.
This section shall not apply to a person or his agent
selling exclusively his own contracts, if such contracts
are exempt from this chapter by subdivision (g), section
three of this article.
This section shall not apply to an unincorporated per-
son selling exclusively undivided interest in oil, gas or
other mineral rights if such unincorporated person is the
bona fide owner of the lease, interest, royalty or prop-
erty in which he is selling interests.
CHAPTER 33. INSURANCE.
ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.
§33-12-2. Qualifications.
For the protection of the people of West Virginia, the
commissioner shall not issue, renew or permit to exist
any agent's, broker's or solicitor's license except to an in-
dividual who:
(a) Is eighteen years of age or more.
(b) Is a resident of West Virginia, except that a bro-
ker's license shall be issued only to nonresidents, and
except for nonresident life and accident and sickness
agents as provided in section eight of this article.
(c) Is, in the case of an agent applicant, appointed
as agent by a licensed insurer for the kind or kinds of
insurance for which application is made, subject to issu-
ance of license, or, in the case of a solicitor applicant,
appointed as solicitor by a licensed resident agent, sub-
ject to issuance of license.
(d) Does not intend to use the license principally for
the purpose, in the case of life or accident and sickness
insurance, of procuring insurance on himself, members
of his family or his relatives; or, as to insurance other
than life and accident and sickness, upon his property or
insurable interests of those of his family or his relatives
or those of his employer, employees or firm, or corporation in which he owns a substantial interest, or of the employees of such firm or corporation, or on property or insurable interests for which the applicant or any such relative, employer, firm or corporation is the trustee, bailee or receiver. For the purposes of this provision, a vendor's or lender's interest in property sold or being sold under contract or which is the security for any loan, shall not be deemed to constitute property or an insurable interest of such vendor or lender.

(e) Satisfies the commissioner that he is trustworthy and competent. The commissioner may, at his discretion, test the competency of an applicant for a license under this section by examination. If such examination is required by the commissioner, each examinee shall pay a five dollar examination fee for each examination. The commissioner shall pay said examination fee into the state treasury for the benefit of the state fund, general revenue.

CHAPTER 35. PROPERTY OF RELIGIOUS, EDUCATIONAL AND CHARITABLE ORGANIZATIONS.

ARTICLE 1. RELIGIOUS ORGANIZATIONS.


§35-1-11. Proceedings to prevent conveyances or creation of liens.


1 The trustee or trustees of any church, religious sect, society, or denomination within this state, whenever directed by the ecclesiastical officer or the delegated or select body to whom the authority to administer the affairs of such church, religious sect, society, or denomination is committed by its rules and ecclesiastical polity, or the trustee or trustees of any individual church, parish, congregation or branch of any religious sect, society or denomination within this state, whenever directed by a majority of the members of such individual church, parish, congregation or branch who are over eighteen years of age, or by the ecclesiastical officer or the delegated or select body to whom the authority to administer the affairs of such church, parish, congregation or branch is
committed by the rules and ecclesiastical polity of such
church, religious sect, society or denomination, may sell
and convey any property, real or personal owned by such
church, religious sect, society or denomination, or by such
individual church, parish, congregation or branch, as the
case may be, or upon like direction, may borrow money
and execute a lien upon the church property to secure
the payment thereof; and all conveyances so made, or
liens so executed, by the persons who appear from the
records in the office of the county clerk to be the trustee
or trustees of the religious body making such conveyances
or executing such liens, shall be effective to pass from
such trustee or trustees such title or interest in the prop-
erty under his or their control as is purported to be con-
veyed or passed by such conveyances or instruments of
lien, and shall not be invalidated or affected by any defect
or informality in the proceedings for the selection or ap-
pointment of such person or persons as trustee or trustees,
or by any want of authority or lack of power in such
trustee or trustees.

§35-1-11. Proceedings to prevent conveyances or creation of
liens.

1 When any conveyance of, or any lien upon, the real
estate of any church, religious sect, society, or denomina-
tion, or of any individual church, parish, congregation or
branch, is proposed to be made or created by the trustee or
trustees thereof, and such conveyance or the creation of
such lien will, it is believed, violate or be inconsistent
with the conditions or purposes of the trust under which
the real estate is held, or the proper authorities or the
requisite number of members do not desire, or have not
directed, that a conveyance be made of or a lien be
created upon such real estate, or the rights of other
parties will thereby be affected, or for any other cause
the making of such conveyance or the creation of such
lien is improper; one fourth or more of the total number
of members of the conference, synod, presbytery, con-
vention, association, consultors or other ecclesiastical body
representing any church, religious sect, society or de-
nomination, when the property involved is that of the
church, religious sect, society or denomination as a whole;
or one fourth or more of the total number of members who are over eighteen years of age of any individual church, parish, congregation or branch, when the property involved is that of such individual church, parish, congregation or branch, may, in the name of two or more objecting, file their petition in the circuit court of the county where such real estate is situated, or before the judge of such court in vacation, against the trustee or trustees, or the surviving or remaining trustee or trustees, setting up the reasons why such conveyance should not be made or such lien should not be created. The court or judge, on the filing of such petition, shall fix a time and place for the hearing of the same, and direct a copy of such petition and a notice of the time and place of such hearing to be served on such trustee or trustees a reasonable time in advance thereof; and at the time and place so fixed the court or judge shall proceed to hear the objections to the making of such conveyance or creation of such lien, and make such order in reference thereto as may be right and proper.

CHAPTER 36. ESTATES IN PROPERTY.

ARTICLE 7. WEST VIRGINIA UNIFORM GIFTS TO MINORS ACT.

§36-7-1. Definitions.
§36-7-4. Duties and powers of custodian.
§36-7-7. Resignation, death or removal of custodian; bond; appointment of successor custodian.

§36-7-1. Definitions.

1 In this article, unless the context otherwise requires:
2 (a) An "adult" is a person who has attained the age of eighteen years.
3 (b) A "bank" is a bank, trust company, national banking association, savings bank or industrial bank.
4 (c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.
(d) "Court" means the circuit court.

(e) "The custodial property" includes:

(1) All securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article;

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.

(f) A "custodian" is a person so designated in a manner prescribed in this article; the term includes a successor custodian.

(g) A "financial institution" is a bank, a building and loan association, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state; an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation or by the federal savings and loan insurance corporation.

(h) A "guardian" of a minor means the general guardian, guardian, tutor or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.
(k) A “life insurance policy or annuity contract” means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this article or on the life of a member of the minor's family.

(l) A “member” of a “minor's family” means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A “minor” is a person who has not attained the age of eighteen years.

(n) A “security” includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in “registered form” when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(o) A “transfer agent” is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(p) A “trust company” is a bank or corporation authorized to exercise trust powers in this state.

§36-7-4. Duties and powers of custodian.

(a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian
deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of eighteen years or, if the minor dies before attaining the age of eighteen years, he shall thereupon deliver or pay it over to the estate of the minor: Provided, That the provisions of this section shall not affect the terms and conditions of any gift made pursuant to the West Virginia Uniform Gifts to Minors Act as it appeared in this article prior to the effective date of this section.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, (i) retain a security given to the minor in a manner prescribed in this article or (ii) hold money so given in an account in the financial institution to which it was paid or delivered by the donor.

(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is
custodial property. He may consent, directly or through
a committee or other agent, to the reorganization, con-
solidation, merger, dissolution or liquidation of an issuer,
a security which is custodial property, and to the sale,
lease, pledge or mortgage of any property by or to such
an issuer, and to any other action by such an issuer. He
may execute and deliver any and all instruments in
writing which he deems advisable to carry out any of
his powers as custodian.

(g) The custodian shall register each security which
is custodial property and in registered form in the name
of the custodian, followed, in substance, by the words:
“as custodian for ____________________________ under
the West Virginia Uniform Gifts to Minors Act.” Subject
to the provisions of subdivision (ii), subsection (e) of this
section, the custodian shall hold all money which is cus-
todial property in an account with a broker or in an in-
sured financial institution in the name of the custodian,
followed, in substance, by the words: “as custodian for
______________________________ under the West Virginia
(name of minor)

(h) The custodian shall keep records of all transac-
tions with respect to the custodial property and make
them available for inspection at reasonable intervals by
a parent or legal representative of the minor or by the
minor, if he has attained the age of fourteen years.

(i) A custodian has and holds as powers in trust, with
respect to the custodial property, in addition to the rights
and powers provided in this article, all the rights and
powers which a guardian has with respect to property
not held as custodial property.

(j) If the subject of the gift is a life insurance policy
or annuity contract, the custodian:

(1) In his capacity as custodian, has all the incidents
of ownership in the policy or contract to the same extent
as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) May pay premiums on the policy or contract out of the custodial property.

§36-7-7. Resignation, death or removal of custodian; bond; appointment of successor custodian.

(a) Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this article.

(b) The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

(1) Causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian, followed, in substance, by the words: "as custodian for______________________________

(name of minor)

under the West Virginia Uniform Gifts to Minors Act"; and
(2) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(c) A custodian who executes an instrument of designation of his successor containing the custodian's resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of eighteen years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative, the legal representative of the custodian or an adult member of the minor's family may petition the court for the designation of a successor custodian.

(e) A donor, the legal representative of a donor, a successor custodian, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for
cause shown in the petition, the custodian be removed and
a successor custodian be designated or, in the alternative,
that the custodian be required to give bond for the per-
formance of his duties.

(f) Upon the filing of a petition as provided in this sec-
tion, the court shall grant an order, directed to the persons
and returnable on such notice as the court may require, to
show cause why the relief prayed for in the petition
should not be granted and, in due course, grant such relief
as the court finds to be in the best interests of the minor.

CHAPTER 41. WILLS.

ARTICLE 4. PROVISIONS AS TO PRETERMINTED CHILDREN.

§41-4-1. Where no child living when will made.

If any person die leaving a child, or his wife with child,
which shall be born alive, and leaving a will made when
such person had no child living, wherein any child he
might have is not provided for or mentioned, such child,
or any descendant of his, shall succeed to such portion of
the testator’s estate as he would have been entitled to if
the testator had died intestate; and towards raising such
portion the devisees and legatees shall, out of what is de-
vised and bequeathed to them, contribute ratably, either
in kind or in money, as a court, in the particular case, may
decem most proper. But if any such child, or descendant,
die under the age of eighteen years, unmarried and with-
out issue, his portion of the estate, or so much thereof
as may remain unexpended in his support and education,
shall revert to the person or persons to whom it was given
by the will.

§41-4-2. Where child living when will made.

If a will be made when a testator has a child living,
and a child be born afterwards, such after-born child or
any descendant of his, if not provided for by any settle-
ment, and neither provided for nor expressly excluded by
the will, but only pretermitted, shall succeed to such portion of the testator's estate as he would have been entitled to if the testator had died intestate, toward raising which portion the devises and legatees shall, out of what is devised and bequeathed to them, contribute ratably, either in kind or in money, as a court in the particular case, may deem most proper. But if any such after-born child or descendant die under the age of eighteen years, unmarried and without issue, his portion of the estate, or so much thereof as may remain unexpended in his support and education, shall revert to the person or persons to whom it was given by the will.

ARTICLE 5. PRODUCTION, PROBATE AND RECORD OF WILLS.

§41-5-12. Impeachment or establishment in court—By person under disability or nonresident.

Notwithstanding the two preceding sections, any person interested who, at the time of the judgment or order is under the age of eighteen years, or is a convict or an insane person, may file a complaint to impeach or establish the will, within one year after he becomes of age, or other disability ceases; and any person interested who, at that time, resided out of the state, or was proceeded against by publication, may, unless he actually appeared as a party or was personally summoned, file such complaint within two years after the entry of such judgment or order.

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 10. GUARDIANS AND WARDS GENERALLY.

§44-10-7. Management of ward’s estate; maintenance, education and custody; duration of guardianship; settlement.

Every guardian who is appointed as aforesaid, and gives bond when it is required, shall have the possession, care and management of his ward’s estate, real and personal, and out of the proceeds of such estate shall provide for his maintenance and education; and shall have also, except as otherwise provided in this article, the custody of
his ward. Unless the guardian shall die, be removed or resign his trust (and the court before which he qualified may allow him to resign), he shall continue in office until his ward shall attain the age of eighteen years notwithstanding the ward may marry before that time, or, in the case of a testamentary guardianship, until the termination of the period limited therefor. At the expiration of his trust, he shall deliver and pay all the estate and money in his hands, or with which he is chargeable, to the person or persons entitled thereto. But the father or mother of any minor child or children shall be entitled to the custody of the person of such child or children, and to the care of his or their education. If living together, the father and mother shall be the joint guardians of the person of their minor child or children, with equal powers, rights and duties in respect to the custody, control, services, earnings, and care of the education of such minor child or children; and neither the father nor the mother shall have any right paramount to that of the other in respect to such custody, control, services or earnings, and care of the education of such minor child or children. If the father and mother be living apart, the court to which application is made for the appointment of a guardian, or before which any such matter comes in question, shall appoint, as guardian of the person of the minor child or children of such father and mother, that parent who is, in the court's opinion, best suited for the trust, considering the welfare and best interests of such minor child or children. No corporation or trust company shall as guardian of any minor child or children be entitled to the custody, control, services, earnings and care of the education of such minor child or children, and when any corporation or trust company is guardian of the estate of any minor child or children and neither of the parents of such child or children is living, or is a suitable person to act as guardian of the person of such child or children, then the court shall appoint a guardian of the person of such child or children who shall be entitled to the custody, control, services, earnings and care of the education of such minor child or children. Any corporation or trust company appointed as guardian of the estate of any minor child or children shall, unless for such minor child or children a nonresi-
dent of this state may be appointed guardian, be a cor-
poration organized under the laws of this state and doing
business in this state.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND
SALESMEN.

§47-12-4. Qualifications for licenses.

1 Licenses shall be granted only to persons who are
2 trustworthy, of good character and competent to transact
3 the business of a real estate broker or real estate sales-
4 man in such manner as to safeguard the interests of the
5 public. Every applicant for a license as a real estate bro-
6 ker shall be of the age of eighteen years or over, a citizen
7 of the United States and shall have served a bona fide
8 apprenticeship as a licensed real estate salesman for two
9 years or shall produce to the real estate commission sat-
10 isfactory evidence of real estate experience. No broker's
11 license shall be issued to a partnership, association or cor-
12 poration unless each member or officer thereof who will
13 actively engage in the real estate business be licensed as
14 a real estate salesman when and after said broker shall
15 have been granted a broker's license.

CHAPTER 48. DOMESTIC RELATIONS.

Article

1. Marriage.
4. Adoption.

ARTICLE 1. MARRIAGE.

§48-1-8. Consent of parents, parent or guardian.
§48-1-12. Persons authorized to celebrate marriages.
§48-1-12a. Qualifications of minister, priest or rabbi for celebrating marriages.

§48-1-8. Consent of parents, parent or guardian.

1 If any person intending to marry be under eighteen
2 years of age, and has not been previously married, the
3 consent of the parents of such person, or of the parent
4 living, or, if the parents be living separate and apart, of
5 the one to whom was awarded the custody of such
6 person, or, if there be a guardian entitled to the custody
7 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.

§48-1-12. Persons authorized to celebrate marriages.

Any minister, priest or rabbi, over the age of eighteen years, who has complied with the provisions of section twelve-a of this article, or a judge of any court of record in this state, is authorized to celebrate the rites of marriage in all the counties of the state. No person, other than a minister, priest or rabbi, who has complied with the provisions of section twelve-a of this article, or a judge of any court of record in this state, shall hereafter celebrate the rites of marriage in this state, anything in any act of the Legislature or of any court to the contrary, notwithstanding.

Wherever in this article the terms "minister," "priest" or "rabbi" shall appear, the same shall be understood and held in all respects to include, without being limited to, a leader or representative of a generally recognized spiritual assembly, church or religious organization which does not formally designate or recognize persons as ministers, priests or rabbis.

§48-1-12a. Qualifications of minister, priest or rabbi for celebrating marriages.

When any minister, priest or rabbi shall, before the county court of any county in this state, or the clerk of any such court in vacation, produce proof that he is over the age of eighteen, duly licensed by, and being in regular communion with, the religious society of which he is a member, and give bond in the penalty of fifteen hundred dollars, with surety approved by such court or clerk thereof in vacation, such court or clerk may make an order authorizing him to celebrate the rites of marriage in all the counties of the state: Provided, That any minister, priest or rabbi who gives proof before the county court of any county in this state, or the clerk of any such court in vacation, of his ordination or authorization by his respective church, denomination, synagogue or relig-
ARTICLE 4. ADOPTION.

§48-4-7. Adoption of adults.

Any adult person who is a resident of West Virginia may petition the circuit court or any other court of record having jurisdiction of adoption proceedings for permission to adopt one who has reached the age of eighteen years or over, and, if desired, to change the name of such person. The consent of the person to be adopted shall be the only consent necessary. The order of adoption shall create the same relationship between the adopting parent or parents and the person adopted and the same rights of inheritance as in the case of an adopted minor child. If a change in name is desired, the adoption order shall so state.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

§49-2-2. Duration of custody or guardianship of children committed to state department.

A child committed to the state department for guardianship, after termination of parental rights, shall remain in the care of the department until he attains the age of eighteen years, or is married, or is adopted, or guardianship is relinquished through the court.

A child committed to the state department for custody shall remain in the care of the department until he attains the age of eighteen years, or until he is discharged because he is no longer in need of care.

ARTICLE 3. CHILD WELFARE AGENCIES.

§49-3-1. Private and public child welfare agencies.

Whenever a child welfare agency licensed to place children for adoption or the state department of wel-
fare shall have been given the permanent care, custody and guardianship 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 eighteen 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.

ARTICLE 5. JUVENILE COURTS.


"Child" means a person under the age of eighteen years. When jurisdiction shall have been obtained by any court of competent jurisdiction in the case of any child, such child shall continue under the jurisdiction of the court until he becomes eighteen years of age unless discharged prior thereto or is committed to a correctional or other institution. A person subject to the jurisdiction of the juvenile court may be brought before it by either of the following means and no other:

(a) By petition praying that the person be adjudged neglected or delinquent;
(b) Certification from any other court before which such person is brought, charged with the commission of a crime.
CHAPTER 50. JUSTICES AND CONSTABLES.

ARTICLE 4. PLEADING AND PRACTICE.

§50-4-20. Appearing and conducting action or defense.

§50-4-23. Appointment of guardian for infant parties.

§50-4-20. Appearing and conducting action or defense.

1 Any party to a civil action, and the defendant in a criminal prosecution, before a justice, unless he be under the age of eighteen years, may appear and conduct his action or defense in person, or by agent or attorney.

§50-4-23. Appointment of guardian for infant parties.

1 Where a party to the action is under the age of eighteen years, a guardian for the suit must be appointed for him by the justice as follows:

4 (a) If the infant be plaintiff, the appointment must be made before the summons is issued, on the application of the infant, if he be of the age of fourteen years or upwards; if under that age, on the application of some friend. The consent in writing of the guardian to the appointment, and his agreement to be responsible for costs if he fail in the action, must be filed with the justice;

12 (b) If the infant be defendant, the guardian must be appointed and consent to act as such before the trial. It is the right of the infant defendant to nominate his own guardian, if the infant be fourteen years of age or over, and the proposed guardian be present and consent to serve, otherwise the justice shall appoint some suitable person who gives such consent. The guardian for the defendant shall not be liable for any costs in the action.

CHAPTER 52. JURIES.

ARTICLE 1. PETIT JURIES.

§52-1-1. Persons liable to service.

1 All persons, who are eighteen years of age and not over sixty-five, and who are citizens of this state, shall be liable to serve as jurors, except as hereinafter provided.
CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALES.

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-7. Actions on bonds of personal representatives and fiduciaries.

1 The right of action upon the bond of an executor, administrator, guardian, curator or committee, or of a sheriff acting as such, shall be deemed to have first accrued as follows: Upon a bond of a guardian or curator of a ward, from the time of the ward's attaining the age of eighteen years, or from the termination of the guardian's or curator's office, whichever shall happen first; and upon the bond of any personal representative of a decedent or committee of an insane person, the right of action of a person obtaining execution against such representative or committee, or to whom payment or delivery of estate in the hands of such representative or committee shall be ordered by a court acting upon his account, shall be deemed to have first accrued from the return day of such execution, or from the time of the right to require payment or delivery upon such order, whichever shall happen first. And as to any suit against such fiduciary himself, or his representative, which could have been maintained if he had given no bond, there shall be no other limitation than would exist if the preceding section were not passed. Where any such fiduciary, or any other fiduciary, has settled an account under the provisions of article four, chapter forty-four of this code, a suit to hold such fiduciary or his sureties liable for any balance stated in such account to be in his hands shall be brought within ten years after the account has been confirmed. The right to recover money paid under fraud or mistake shall be deemed to accrue, both at law and in equity, at the time such fraud or mistake is discovered, or by the exercise of due diligence ought to have been discovered.

CHAPTER 58. APPEAL AND ERROR.

Article
1. Errors Not Reversible.
2. Review in Lower Court.
ARTICLE 1. ERRORS NOT REVERSIBLE.


1 No judgment or decree shall be arrested or reversed for the appearance of either party, being under the age of eighteen years, by attorney, if the verdict (where there is one), or the judgment or decree, be for him and not to his prejudice; or because it does not appear that an issue has been made up on matter alleged in any pleading when, without objection by any party, the case has been tried in the absence of such issue and it is apparent from the record and the evidence (a) that the trial was conducted as if an issue had been made upon such matter, or (b) that no evidence pertaining to such matter was offered and it is reasonably apparent that the parties have treated such matter as waived or abandoned; or for any informality in the entry of the judgment or decree by the clerk; or for the omission of the name of any juror; or because it may not appear that the verdict was rendered by the number of jurors required by law; or for any defect, imperfection, or omission in the pleadings, which could not be properly regarded on any motion under rule twelve of the West Virginia rules of civil procedure for trial courts of record, or on a demurrer in any case in which a demurrer is appropriate.

ARTICLE 2. REVIEW IN LOWER COURT.

§58-2-1. Reservation to infants of right to show cause against decree or order.

1 It shall not be necessary to insert in any decree or order a provision allowing an infant to show cause against it within a certain time after he attains the age of eighteen years. But in any case in which, but for this section, such provision would have been proper, the infant may, within eight months after attaining the age of eighteen years, show such cause in like manner as if the decree or order contained such provision. This right of an infant shall not be affected by section seven, article twelve, chapter fifty-five of this code.
CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

Article
3. Sales by Commissioner.
7. Licenses to Private Clubs.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-22. Sales to certain persons prohibited.
1. Alcoholic liquors shall not be sold to a person who is:
   2. (1) Less than eighteen years of age;
   3. (2) An habitual drunkard;
   4. (3) Intoxicated;
   5. (4) Addicted to the use of narcotic drugs;

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; penalties.
1. (a) It shall be unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:
   2. (1) Sell or offer for sale any alcoholic liquors other than from the original package or container;
   3. (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice; gambling or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine;
   4. (3) Sell, give away, or permit the sale of, gift to, or the procurement of any alcoholic liquors, for any minor, mental incompetent, or person who is physically incapacitated due to the consumption of alcoholic liquor, or the use of drugs;
   5. (4) Sell, give or dispense alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of three o'clock a.m. and one o'clock p.m. on any Sunday;
   6. (5) Permit the consumption by, or serve to, on the licensed premises any alcoholic liquors, covered by this article, to any person under the age of eighteen years;
(6) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(7) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues paying member in good standing of said private club or a guest of such member; or

(8) Violate any reasonable rule or regulation of the commissioner.

(b) It shall further be unlawful for any licensee to advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

(c) Any person who violates any of the foregoing provisions shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed one year, or by both fine and imprisonment.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. License to carry weapons; how obtained.

1 Any person desiring to obtain a state license to carry any such weapon as is mentioned in the first section of this article, within one or more counties in this state, shall first publish a notice setting forth his name, residence and occupation, and that on a certain day he will apply to the circuit court of his county for such state license. Such notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such person resides. Such notice shall be published at least ten days before such application is made. After the publication of such notice and at the time stated in such notice, upon application to such court, it may grant such
license to such person, in the following manner, to wit:

The applicant shall file with such court his application in writing, duly verified, which application shall show:

(a) That such applicant is a citizen of the United States of America;

(b) That the applicant has been a bona fide resident of this state for at least one year next prior to the date of such application, and of the county sixty days next prior thereto;

(c) That the applicant is over eighteen years of age; that he is a person of good moral character, of temperate habits, not addicted to intoxication, and has not been convicted of a felony or of any offense involving the use on his part of such weapon in an unlawful manner, and shall prove to the satisfaction of the court that he is gainfully employed in a lawful occupation and has been so engaged for a period of five years next preceding the date of his application;

(d) The purpose or purposes for which the applicant desires to carry such weapon, the necessity therefor, and the county or counties in which such license is desired to be effective.

Upon the hearing of such application the court shall hear evidence upon all matters stated in such application and upon any other matter deemed pertinent by the court, and if such court be satisfied from the proof that there is good reason and cause for such person to carry such weapon, and all of the other conditions of this article be complied with, the court, or the judge thereof in vacation, may grant such license for such purposes, and no other, as such court, or the judge in vacation, may set out in the license (and the word "court" as used in this article shall include the circuit judge thereof, acting either in term or vacation); but, before such license shall be effective such person shall pay to the sheriff, and the court shall so certify in its order granting the license, the sum of twenty dollars, and shall also file a bond with the clerk of such court, in the penalty of three thousand five hundred dol-
lars, with good security, signed by a responsible person
or persons, or by some surety company, authorized to do
business in this state, conditioned that such applicant will
not carry such weapon except in accordance with his ap-
application and as authorized by the court, and that he will
pay all costs and damages accruing to any person by the
accidental discharge or improper, negligent or illegal use
of such weapon or weapons. Any such license granted
shall be good for one year, unless sooner revoked, as here-
inafter provided, and be coextensive with the county in
which granted, and such other county or counties as the
court shall designate in the order granting such license;
except that upon a proper showing the court granting
such license to any person regularly employed as a se-
curity guard may, in its discretion, in the order granting
such license extend the period of the validity of such
license for a period not to exceed four years, under such
terms and conditions as the court deems proper; except
that regularly appointed deputy sheriffs having license
shall be permitted to carry such revolver or other weapons
at any place, within the state, while in the performance
of their duties as such deputy sheriffs; and except that
any such license granted to regularly appointed railway
police shall be coextensive with the state. All license fees
collected hereunder shall be paid by the sheriff and ac-
counted for to the auditor as other license taxes are col-
lected and paid, and the state tax commissioner shall pre-
pare all suitable forms for licenses, bonds and certificates
showing that such license has been granted and shall do
anything else in the premises to protect the state and see
to the enforcement of this section.

The clerk of the circuit court shall, immediately after
license is granted as aforesaid, furnish the superintendent
of the department of public safety a certified copy of the
order of the court granting such license, for which service
the clerk shall be paid a fee of two dollars which shall be
taxed as cost in the proceeding. It shall be the duty of
the clerk of each circuit court to furnish to the superin-
tendent of the department of public safety, at any time so
required, a certified list of all such licenses issued in his
county.
CHAPTER 62

(House Bill No. 743—By Miss Crandall and Mr. Donley)

[Passed March 3, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to legal holidays and school holidays; changing the date of Veterans Day; and relating to the circumstances when the next secular day following a legal holiday is meant and intended.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. LEGAL HOLIDAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.

§2-2-1. Legal holidays; official acts or court proceedings.

1 The following days shall be regarded, treated and observed as legal holidays, viz: The first day of January, commonly called “New Year’s Day”; the twelfth day of February, commonly called “Lincoln’s Birthday”; the third Monday of February, commonly called “Washington’s Birthday”; the last Monday of May, commonly called “Memorial Day”; the twentieth day of June, commonly called “West Virginia Day”; the fourth day of July, commonly called “Independence Day”; the first Monday of September, commonly called “Labor Day”; the second Monday of October, commonly called “Columbus Day”; the eleventh day of November, hereinafter referred to as “Veterans Day”; the fourth Thursday of November, commonly called “Thanksgiving Day”; the twenty-fifth day of December, commonly called “Christmas Day”; any national, state or other election day throughout the district or municipality wherein held;
and all days that may be appointed or recommended by
the governor of this state, or the president of the United
States, as days of thanksgiving, or for the general cessa-
tion of business; and when any of said days or dates falls
on Sunday, then it shall be lawful to observe the succeed-
ing Monday as such holiday. When the return day of any
summons or other court proceedings or any notice or
time fixed for holding any court or doing any official act
shall fall on any of said holidays, the ensuing secular
day shall be taken as meant and intended: Provided,
That nothing herein contained shall increase nor diminish
the legal school holidays provided for in section two,
article five, chapter eighteen-a.

CHAPTER 63
(House Bill No. 629—By Mr. Speaker, Mr. McManus,
and Mr. Albright)

[Passed February 8, 1972; In effect July 1, 1972. 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 six, relating
to the formation of a commission to study and implement
the development of Blennerhassett Island as an historical,
cultural and recreational facility.

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 six, to read as follows:

ARTICLE 6. BLENNERHASSETT HISTORICAL COMMISSION.
§4-6-1. Statement of legislative intent and purpose.
§4-6-2. Creation of commission; composition; appointment and terms
of members.
§4-6-3. Powers and duties generally.
§4-6-4. Executive sessions; hearings; sessions away from capitol.
§4-6-5. Compensation and expenses of members; other expenses; how paid; joint committee approval.

§4-6-6. Duration of commission.

§4-6-1. Statement of legislative intent and purpose.

The Legislature, mindful of the historical significance of the events known and believed to have occurred on scenic Blennerhassett Island, situate in the Ohio river near the city of Parkersburg, prior to, during and after its ownership by Harmon Blennerhassett, and mindful of the benefits likely to flow from a well-planned and executed program for development of educational, cultural and recreational attractions related to the famous Blennerhassett events, does by the enactment of this article seek to determine what, if any, assistance the state of West Virginia should provide in the planning and execution of such a program for development, what other resources are available, and if the combined effect thereof can produce a result commensurate with the investment of such public and private resources as may be available.

§4-6-2. Creation of commission; composition; appointment and terms of members.

There is hereby created as a statutory body a joint committee of the Legislature to be known as “Blennerhassett Historical Commission.” The commission shall be composed of three members of the Senate, to be appointed by the president thereof, no more than two of whom shall be appointed from the same political party, and three members of the House of Delegates, to be appointed by the speaker thereof, no more than two of whom shall be appointed from the same political party. The commission shall be headed by two cochairmen, one to be selected by and from the members appointed from the Senate, and one to be selected by and from the members appointed from the House of Delegates. All members of the commission shall serve until their successors shall have been appointed as heretofore provided, except that no member's appointment shall extend beyond the time during which such member continues as a member of the Legislature.
Section 4-6-3. Powers and duties generally.

During any session of the Legislature and in the interim between sessions, the commission shall have the power, duty and responsibility to:

1. Conduct a comprehensive investigation to determine what, if any, educational, cultural and recreational attractions should be developed in the state of West Virginia concerning the historical events that have occurred on Blennerhassett Island, the economic feasibility of such attractions, needed capital investment, available or contemplated resources therefor, likely locations and accessibility thereto and such other related matters as the commission deems pertinent.

2. Make such written reports to the members of the Legislature between sessions thereof as the commission may deem advisable and on the first day of each regular session of the Legislature make an annual report to the Legislature containing the commission's findings and recommendations. Included in such report should be drafts of any proposed legislation which the commission deems necessary to carry its recommendations into effect.

The commission is also expressly empowered and authorized to:

1. Sit during any recess of the Senate and House of Delegates;

2. Employ such legal, technical, investigative, clerical, stenographic, advisory and other personnel as it deems needed and, within limits of available funds, fix reasonable compensation of such persons and firms as may be employed;

3. Consult and confer with all persons and agencies public (whether federal, state or local) and private, that may have information and data pertinent to the duties and responsibilities of the commission; and all state and local governmental personnel and agencies shall cooperate to the fullest extent with the commission;

4. Call upon any department or agency of state or local government for such services, information and assistance as it may deem advisable.
§4-6-4. Executive sessions; hearings; sessions away from capitol.
1 The commission shall have the power and authority
to hold executive sessions for the purpose of establishing
business, policy and an agenda.
2 The commission is hereby empowered and authorized
to hold such hearings as may be necessary in order for
it to effectuate its purposes, and all such hearings shall
be open to the public.
3 The commission shall ordinarily meet at the capitol but
shall have the power and authority upon the concurrence
of two thirds of its total membership to meet anywhere
in the state of West Virginia.

§4-6-5. Compensation and expenses of members; other expenses; how paid; joint committee approval.
1 The members of the commission shall receive no compen-
sation for their services except that provided for mem-
bers thereof who are members of the joint committee
on government and finance. The members of the com-
mission shall receive travel, interim and out-of-state
expenses, as authorized in sections six, eight and nine,
article two-a, chapter four of this code. Such expenses
and all other expenses including those incurred in the
employment of legal, technical, investigative, clerical,
stenographic, advisory and other personnel shall be paid
from an appropriation to be made expressly for the
Blennerhassett historical commission, but if no such ap-
propriation be made in any fiscal year such expenses
shall be paid from the appropriation under “Account No.
103 for Joint Expenses,” but no expense of any kind
whatever payable under said “Account No. 103 for Joint
Expenses” shall be incurred unless the approval of the
joint committee on government and finance therefor
is first had and obtained by the commission.

§4-6-6. Duration of commission.
1 Unless sooner terminated by law and until and unless
extended, the Blennerhassett historical commission shall
cease to exist at the adjournment sine die of both houses
of the Legislature at the conclusion of its regular session
in the year one thousand nine hundred seventy-four.
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 seven, relating to creating a legislative building commission; its composition; appointment of commission members; filling of vacancies on commission; election of commission officers; compensation and expenses of commission members; powers and duties of commission generally; specifically authorizing commission to acquire land, construct, equip and furnish a state legislative building; commission granted power of eminent domain; funds and expenditures of commission; state building commission of West Virginia issuing revenue bonds to construct state legislative building; deposit and disbursement of funds of commission; security for deposits; audits; contracts with commission to be secured by bond; competitive bids required for contracts exceeding two thousand dollars; management and control of state legislative building; article not authority to create state debt; compliance with article and state constitution only restrictions on construction and management of state legislative building; and severability.

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 seven, to read as follows:

ARTICLE 7. LEGISLATIVE BUILDING COMMISSION.

§4-7-1. Definitions.

§4-7-2. Legislative building commission created; its composition; appointment of members; vacancies; election of officers; compensation and expenses of members.

§4-7-3. Powers and duties of commission generally.

§4-7-4. Commission granted power of eminent domain.
§4-7-5. Funds and expenditures of commission.
§4-7-6. Deposit and disbursement of funds of commission; security for deposits; audits.
§4-7-7. Contracts for construction of state legislative building, etc., to be secured by bond; competitive bids required for contracts exceeding two thousand dollars; procedure.
§4-7-8. Management and control of state legislative building.
§4-7-9. Article not authority to create state debt.
§4-7-10. This article, article six, chapter five, and the state constitution are only restrictions on construction, etc., of building.
§4-7-11. Severability.

§4-7-1. Definitions.
1 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:
2 (1) "Commission" means the legislative building commission of West Virginia or if said commission shall be abolished, any board or officer succeeding to the principal functions thereof, or to whom the powers given to said commission shall be given by law.
3 (2) "Bonds" means bonds issued by the state building commission of West Virginia pursuant to this article.
4 (3) "Project" means collectively the acquisition of land, the construction, equipping and furnishing of a state legislative building together with incidental approaches, structures and facilities to, adjacent or around it.
5 (4) "Cost of project" includes 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.

§4-7-2. Legislative building commission created; its composition; appointment of members; vacancies; election of officers; compensation and expenses of members.
1 There is hereby created the legislative building commission of West Virginia as a body corporate and agency of the state of West Virginia. The commission shall consist of seven members and shall be comprised of two persons
who have previously served in the Senate, who shall be appointed by the president of the Senate; two persons who have previously served in the House of Delegates, who shall be appointed by the speaker of the House of Delegates; and three persons who shall be appointed by the governor. No member of the commission shall otherwise be an officer, employee or member of the executive, legislative or judicial branches of federal or state government or any political subdivision thereof. Persons appointed to the commission shall be residents and citizens of the state. All appointments made pursuant to the provisions of this article shall be by and with the advice and consent of the Senate.

All commission members shall be appointed no later than the first day of July, one thousand nine hundred seventy-two, and they shall continue to serve until the completion of the duties assigned to the commission.

Any vacancy occurring in the membership of the commission shall be filled by appointment in the same manner as provided for the initial appointments.

The members of the commission annually shall elect from their number a chairman, vice chairman and secretary. Each commission member shall be paid compensation of thirty-five dollars for each day or substantial part thereof that he is engaged in the work of the commission and shall, in addition thereto, be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as such commission member.

§4-7-3. Powers and duties of commission generally.

The commission shall have the following powers and duties:

(1) To sue and be sued, plead and be impleaded.

(2) To have a seal.

(3) To contract to acquire and to acquire, in the name of the commission or of the state, by purchase, eminent domain, or otherwise, a suitable site in the city of Charleston, state of West Virginia, for a state legislative building,
related facilities and grounds, including real property, rights and easements necessary for this purpose, or to use any suitable site which may be owned by the state and available and designated for this purpose and to construct a state legislative building on such site and equip and furnish said building.

(4) To contract to acquire and to acquire and hold, in the name of the commission or of the state, services, materials, furnishings, and equipment required in connection with the location, design, construction, furnishing and equipping of the state legislative building.

(5) To make bylaws for the management and regulation of its affairs.

(6) With the consent of the attorney general of the state, to use the facilities of his office, assistants and employees in all legal matters relating to or pertaining to the commission; or use legal services made available by the Legislature and its staff; or if necessary employ attorneys-at-law.

(7) To employ architects to prepare plans for the state legislative building, to assist and advise the architects in the preparation of those plans and to approve on behalf of the state all plans for the state legislative building.

(8) To make all contracts and execute all instruments necessary or convenient to effectuate the intent of, and to exercise the powers granted to it by the provisions of this article.

(9) To accept and expend any gift, grant or contribution of money or any other thing to, or for the benefit of the commission, from the state or any other source for the purposes specified in this article.

(10) To supervise generally the location, construction, furnishing and equipping of the state legislative building.

(11) To report to the Legislature at each regular session thereof and at the same time report to the governor concerning the action taken by the commission during the previous year in carrying out the provisions of this article and make such special reports as may be required by the Legislature and governor.
§4-7-4. Commission granted power of eminent domain.

Whenever the commission finds it necessary to acquire land, rights-of-way or easements in order to carry out the purposes of this article, and the commission is unable to purchase the same from the owners at an agreed price, or is unable to obtain a good and sufficient title therefor by purchase from the owners, then the commission may exercise the right of eminent domain and acquire any such lands, rights-of-way or easements necessary for the aforesaid purpose by condemnation in the manner prescribed in chapter fifty-four of this code.

§4-7-5. Funds and expenditures of commission.

To pay the compensation and expenses incurred by its members, to build, furnish and equip the state legislative building, and to carry out the provisions of this article, the commission may expend any general or special revenues, profits, fees or charges designated and appropriated by act of the Legislature for such purposes and proceeds of revenue bonds issued under authority of the state building commission of West Virginia for such purposes. Before any such revenue bonds are issued by the state building commission of West Virginia, the Legislature, by its act, shall increase the aggregate amount of all issues of bonds outstanding at one time for all projects authorized under authority of said commission if such action is necessary to permit issuance of revenue bonds in the amount required to construct, equip and furnish the state legislative building. Before any revenue bonds or other obligations are issued or incurred by the state building commission of West Virginia for said purpose, the Legislature shall, by adoption of a concurrent resolution, approve the purpose and amount of the revenue bonds or obligations. Revenue bonds issued as herein provided shall be issued in accordance with the provisions of article six, chapter five of this code.

§4-7-6. Deposit and disbursement of funds of commission; security for deposits; audits.

All moneys of the commission from whatever source derived shall be paid to the treasurer of the state of West
Virginia, who shall not commingle said moneys with any other moneys, but shall deposit them in a separate bank account or accounts. The moneys in said accounts shall be impressed with and subject to the lien or liens thereon in favor of the bondholders provided in the proceedings for issuance of bonds pursuant to this article. The moneys in said accounts shall be paid out on check of the treasurer on requisition of the chairman of the commission. All deposits of such moneys shall, if required by the treasurer or the commission, be secured by obligations of the United States, of the state of West Virginia, or of the commission, of a market value equal at all times to the amount of the deposit, and all banking institutions are authorized to give such security for such deposits. The state auditor and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

§4-7-7. Contracts for construction of state legislative building, etc., to be secured by bond; competitive bids required for contracts exceeding two thousand dollars; procedure.

The commission shall construct the state legislative building pursuant to a contract or contracts. Every such contract shall be secured by a bond meeting the requirements of section thirty-nine, article two, chapter thirty-eight of this code.

No contract or contracts for the construction of the building or any approaches, structures or facilities incidental thereto, or for the equipping and furnishing of the building, when the anticipated expenditure therefor will exceed the sum of two thousand dollars, shall be entered into except upon the basis of competitive sealed bids. Such bids shall be obtained by public notice soliciting such bids published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be Kanawha county. The publication
shall be completed at least fourteen days prior to the final date for the submission of bids. The commission may in addition to such publication also solicit sealed bids by sending requests by mail to prospective bidders. The contract shall be awarded to the lowest responsible bidder, unless any and all bids are rejected, in which event new bids shall be sought by again publishing notice as aforesaid. Any bid, with the name of the bidder, shall be entered on a record and each record, with the successful bid indicated thereon, shall, after the award of any contract, be open to public inspection.

§4-7-8. Management and control of state legislative building.

Notwithstanding the provisions of section eleven, article six, chapter five of this code, the commission shall properly maintain, repair, manage, operate and control the state legislative building; promulgate bylaws, rules and regulations, in accordance with the provisions of chapter twenty-nine-a, for the use and operation of the building; and may make and enter into all contracts or agreements necessary and incidental for the performance of its duties and the execution of its powers under this article, unless or until another agency, board or commission is designated by law to perform such duties and assume such responsibilities.

§4-7-9. Article not authority to create state debt.

Nothing in this article contained shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the provisions of the constitution of the state of West Virginia in relation to state debt.

§4-7-10. This article, article six, chapter five, and the state constitution are only restrictions on construction, etc., of building.

It shall not be necessary to secure from any officer or board not named in this article any approval or consent, or any certificate or finding, or to hold an election, or to take any proceedings whatever, either for the construction of a state legislative building, or the improvement, mainte-
nance, operation or repair thereof, or for the issuance of bonds hereunder, except such as are prescribed by this article; article six, chapter five of this code; or the constitution of the state.

§4-7-11. Severability.

If any provision or any part or clause of any provision of this article, or the application thereof to any person or circumstance, is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions, or other parts or other clauses of any provision, or applications of this article, and to this end the provisions of this article are declared to be severable.

CHAPTER 65

(Senate Bill No. 121—By Mr. Gainer and Mr. Bowers)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter ten 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 the entry of the state of West Virginia into an interstate library compact; prohibiting municipalities and counties from capital expenditure in certain situations; providing a definition of "state library agency"; permitting the state to enter into agreements for the exchange of library services and supplies with other states that are members of the compact; designating a compact administrator, and providing procedures for withdrawal from the compact.

Be it enacted by the Legislature of West Virginia:

That chapter ten 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 1A. INTERSTATE LIBRARY COMPACT.

§10-1A-1. Enactment of compact.

The “Interstate Library Compact” is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

ARTICLE I. POLICY AND PURPOSE.

1 Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II. DEFINITIONS.

1 As used in this compact:

2 (a) “Public library agency” means any unit or agency of local or state government operating or having power to operate a library.

3 (b) “Private library agency” means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

4 (c) “Library agreement” means a contract establishing an interstate library district pursuant to this compact or
providing for the joint or cooperative furnishing of library services.

ARTICLE III. INTERSTATE LIBRARY DISTRICTS.

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations therefrom, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges or the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

(1) Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein and the use thereof;

(2) Accept for any of its purposes under this compact any and all donations and grants of money, equipment,
supplies, materials and services (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency or from any institution, person, firm or corporation, and receive, utilize and dispose of the same;

(3) Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district;

(4) Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the in-service training of such personnel;

(5) Sue and be sued in any court of competent jurisdiction;

(6) Acquire, hold and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service;

(7) Construct, maintain and operate a library, including any appropriate branches thereof;

(8) Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV. INTERSTATE LIBRARY DISTRICTS, GOVERNING BOARD.

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing
board of the district in such manner as the library agreement may provide.

ARTICLE V. STATE LIBRARY AGENCY COOPERATION.

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI. LIBRARY AGREEMENTS.

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

(1) Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable;

(2) Provide for the allocation of costs and other financial responsibilities;

(3) Specify the respective rights, duties, obligations and liabilities of the parties;

(4) Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.
(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved and approved in accordance with Article VII of this compact.

ARTICLE VII. APPROVAL OF LIBRARY AGREEMENTS.

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to subsection (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.
ARTICLE VIII. OTHER LAWS APPLICABLE.

1 Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX. APPROPRIATIONS AND AID.

1 (a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

2 (b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X. COMPACT ADMINISTRATOR.

1 Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI. ENTRY INTO FORCE AND WITHDRAWAL.

1 (a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as
(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§10-1A-2. Restrictions relating to outlay of public funds.

No county, municipality or other political subdivision of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subsection (c), subdivision (7) of the compact, nor pledge its credit in support of such a library or contribute to the capital financing thereof, except after compliance with any laws applicable to such counties, municipalities or other political subdivisions of this state relating to or governing capital outlays and the pledging of credit.

§10-1A-3. State library agency defined.

As used in the compact, “state library agency,” with reference to this state, means the West Virginia library
§10-1A-4. Interstate library districts; state and federal aid.

1 An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state.

2 For the purposes of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive any federal aid for which it may be eligible.

§10-1A-5. Compact administrator.

1 The governor shall appoint an officer or employee of this state who shall be the compact administrator pursuant to Article X of the compact.

§10-1A-6. Withdrawal.

1 In the event of withdrawal from the compact, the governor shall send and receive any notices required by Article XI, subsection (b) of the compact.

CHAPTER 66

(Com. Sub. for Senate Bill No. 81—By Mr. Hubbard)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend chapter twenty-seven by adding thereto a new article, designated article two-a, all relating to mental health
facilities, establishment of a new central mental health-mental retardation facility; development, operation, location; state hospitals, the Colin Anderson center, Guthrie center, Roney's Point center; continuation, management; mental health-mental retardation centers; comprehensive community regional mental health-mental retardation centers; establishment, operation and location.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said chapter twenty-seven be amended by adding thereto a new article, designated article two-a, all to read as follows:

ARTICLE 2. MENTAL HEALTH FACILITIES.

Article
2. Mental Health Facilities.
2A. Mental Health-Mental Retardation Centers.

§27-2-1. Establishment of a new central mental health-mental retardation facility; development, operation, location; state hospitals, the Colin Anderson center, Guthrie center, Roney's Point center; continuation, management.

In consultation with the governor, the director of mental health is hereby authorized and directed to establish, develop, operate, and maintain a new central mental health-mental retardation facility for the evaluation, diagnosis, treatment, research and training and rehabilitation of persons disabled by mental illness and/or mental retardation and to include, but not to be limited to, alcoholism and drug abuse facilities, specific residential facilities designed for diagnosis, treatment, research and training and rehabilitation of mentally ill children, adolescents, and other specialized groups; such facility to be located on a site selected in accordance with the state comprehensive mental health and mental retardation plans, such facility shall also serve as a designated component as one of the fourteen regional mental health centers.

The state hospitals heretofore established at Weston, Spencer, Huntington, Barboursville, Lakin, and St. Marys
shall be continued and known respectively as the Weston hospital, Spencer hospital, Huntington hospital, Barboursville hospital, Lakin hospital and the Colin Anderson center. Said state hospitals shall be managed, directed and controlled by the department of mental health. The Guthrie center and the Roney's Point center shall be managed, directed and controlled by the department of mental health as treatment, and rehabilitation centers for the mentally disabled, and shall be included in all references to "state hospital" in this chapter.

The governor and the director of the department of mental health are hereby authorized to bring said hospitals into structural compliance with appropriate fire and health standards.

All references in this code or elsewhere in law to the "West Virginia Training School" shall be taken and construed to mean and refer to the "Colin Anderson Center."

ARTICLE 2A. MENTAL HEALTH-MENTAL RETARDATION CENTERS.

§27-2A-1. Comprehensive community regional mental health-mental retardation centers; establishment, operation and location.

In consultation with the governor, the director of mental health is authorized and directed to establish, maintain and operate not more than fourteen comprehensive regional mental health centers and not more than eight comprehensive mental retardation facilities, to be located at such places within the state as may be determined by the director in accordance with the comprehensive mental health plan for West Virginia and such community facilities for the mentally retarded as may be indicated in accordance with the state's comprehensive mental retardation plan. Such facilities may be operated directly by the department of mental health or by locally-based nonprofit organizations under such rules and regulations as may be promulgated by the director of mental health.

The state's share of costs of operating such centers or facilities may be provided from funds appropriated for
CHAPTER 67

(House Bill No. 558—By Mr. Seibert)

[Passed February 14, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections two and four, article five, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the transportation to and from state hospitals of persons involuntarily hospitalized.

Be it enacted by the Legislature of West Virginia:

That sections two and four, article five, 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 5. INVOLUNTARY HOSPITALIZATION.

§27-5-2. Hospitalization upon written application or medical certification—Emergency procedure; report; notice of admission to certain persons; duty of sheriff.

§27-5-4. Legal proceedings for involuntary hospitalization.

§27-5-2. Hospitalization upon written application or medical certification—Emergency procedure; report; notice of admission to certain persons; duty of sheriff.

1 Any individual may be admitted to a state hospital upon:
2
3 (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
4
5 (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.

It shall be the duty of the sheriff to provide immediate transportation to and from the state hospital for all persons hospitalized under the provisions of this section or the preceding section.

§27-5-4. Legal proceedings for involuntary hospitalization.

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 forthwith 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 commission 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 conduct 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 material evidence which may be offered and shall not be bound by the rules of evidence. The mental hygiene commission 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 hospital and, because of his illness or retardation lacks sufficient 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
temporary 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 indi-
vidual 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 proceedings 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 dis-
missed.

If the mental hygiene commission is satisfied that hos-
pitalization should be ordered but finds that the indi-
vidual 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 pre-
sent such transcript 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 commis-
sion 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 com-
mission, 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 re-
tarded person is not dangerous to himself or to others,
or is found harmless, he may be delivered to any re-
ponsible 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 resi-
dent 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.

Any order necessitating the transportation of a patient
to or from a state hospital shall be carried out immedi-
ately by the sheriff of the county in which such order
is entered.

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 direct-
ing hospitalization is entered shall immediately upon
AN ACT to amend and reenact sections one-b, one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eligibility requirements for deputy director of oil and gas; increasing salaries of inspectors and increasing traveling expenses; and increasing pay of board members.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. OIL AND GAS WELLS.

§22-4-1b. Deputy director for oil and gas—Eligibility.

§22-4-1d. Same—Eligibility for appointment; qualifications; salary; expenses; removal.

§22-4-1e. Oil and gas inspectors' examining board created; appointment, term and compensation of members; chairman; oaths of members; meetings; powers and duties generally.

§22-4-1b. Deputy director for oil and gas—Eligibility.

1 The deputy director for oil and gas shall be a citizen of West Virginia, shall be a competent person of good reputation and temperate habits and be a registered professional engineer and shall have had at least ten years' practical experience in the oil and gas industry.  
2 A degree in geology or in mining or petroleum engineering shall be counted as two years' practical experience.
The deputy director for oil and gas shall devote all of his time to his duties, and shall not be directly or indirectly interested financially in any oil or gas production or drilling or in any coal mine in this state.

§22-4-1d. 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 probationary 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 shall be considered the equivalent of five 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 twelve thousand dollars per annum and ten cents per mile traveling expenses. Salaries of inspectors shall be not less than ten thousand four hundred dollars
per annum and traveling expenses for personal car of
ten cents per mile. Within the limits provided by law,
the salary of each inspector and of the supervising in-
spector shall be fixed by the deputy director for oil and
gas, subject to the approval of the director of the depart-
ment of mines and oil and gas inspectors' examining
board. In fixing salaries of the oil and gas inspec-
tors and of the supervising inspector, the deputy
director for oil and gas 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 or super-
vising inspector, as the case may be, who shall verify,
upon oath, that such expenses were actually incurred 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 impair-
ment, incompetency, neglect of duty, drunkenness, mal-
feasance 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
department 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 or gas drilling and pro-
duction operations in the state may petition the deputy
director for oil and gas or the director of the depart-
ment 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 investigation, the deputy director for oil and gas or the director 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 inspectors' examining board requesting removal of the inspector 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 willfully 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.

§22-4-1e. Oil and gas inspectors' examining board created; composition; appointment, term and compensation of members; chairman; oaths of members; meetings; powers and duties generally.

There is hereby created an oil and gas inspectors' examining board consisting of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the Senate. Members may be removed only for the same causes and like manner as elective state officers. One member of the board, who shall be the representative of the public, shall be the professor in charge of the petroleum engineering department of the school of mines at West Virginia University; two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of independent oil and gas operators; and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of major oil and gas producers.

The deputy director for oil and gas shall be an "ex officio" member of the board, and shall serve as secretary of the board without additional compensation, but he shall have no right to vote with respect to any matter before the board.

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years, respectively. Any member whose term expires may be reappointed by the governor.

Each member of the board shall receive fifty dollars per diem while actually engaged in the performance of the work of the board; and shall receive mileage at the rate of ten cents for each mile actually traveled going from the home of the member to the place of the meeting of the board and returning therefrom, which shall be
paid out of the state treasury upon a requisition upon the
state auditor, properly certified by such members of the
board.

The public member shall serve as chairman of the
board.

Members of the board, before performing any duty shall
take and subscribe to the oath required by article four,
section five of the constitution of West Virginia.

The board shall meet at such times and places as shall
be designated by the chairman. It shall be the duty of the
chairman to call a meeting of the board on the written
request of two members, or on the written request of the
deputy director for oil and gas or the director of the de-
partment of mines. Notice of each meeting shall be given
in writing to each member by the secretary at least five
days in advance of the meeting. Three voting members
shall constitute a quorum for the transaction of business.

In addition to other powers and duties expressly set
forth elsewhere in this article, the board shall:

(1) Establish, and from time to time revise, forms of
application for employment as an oil and gas inspector
and supervising inspector and forms for written examina-
tions to test the qualifications of candidates, with such
distinctions, if any, in the forms for oil and gas inspector
and supervising inspector as the board may from time to
time deem necessary or advisable;

(2) Adopt and promulgate reasonable rules and regu-
lations relating to the examination, qualification and cer-
tification of candidates for appointment, and relating to
hearings for removal of inspectors or the supervising in-
spector, required to be held by this article. All of such
rules and regulations shall be printed and a copy thereof
furnished by the secretary of the board to any person
upon request;

(3) Conduct, after public notice of the time and place
thereof, examinations of candidates for appointment. By
unanimous agreement of all members of the board, one
or more members of the board or an employee of the
department of mines may be designated to give to a can-
didate the written portion of the examination;
(4) Prepare and certify to the deputy director for oil and gas and the director of the department of mines a register of qualified eligible candidates for appointment as oil and gas inspectors or as supervising inspectors, with such differentiation, if any, between the certification of candidates for oil and gas inspectors and for supervising inspector as the board may from time to time deem necessary or advisable. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates and at least annually, the board shall prepare and submit to the deputy director for oil and gas and the director of the department of mines a revised and corrected register of qualified eligible candidates for appointment, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such persons were qualified and eligible for appointment, or (e) who, in the judgment of at least three members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscripts, grading sheets and other papers of all applicants for appointment for such period of time as may be established by the board. Specimens of the examinations given, together with the correct solution of each question, shall be preserved permanently by the secretary of the board;

(6) Issue a letter or written notice of qualification to each successful eligible candidate;

(7) Hear and determine proceedings for the removal of inspectors or the supervising inspector in accordance with the provisions of this article;

(8) Hear and determine appeals of inspectors or the supervising inspector from suspension orders made by
the deputy director for oil and gas pursuant to the provisions of section one-a of this article: Provided, That in order to appeal from any order of suspension, an aggrieved inspector or supervising inspector shall file such appeal in writing with the oil and gas inspectors’ examining board not later than ten days after receipt of the notice of suspension. On such appeal the board shall affirm the action of the deputy director for oil and gas unless it be satisfied from a clear preponderance of the evidence that the deputy director for oil and gas has acted arbitrarily; and

(9) Make an annual report to the governor concerning the administration of oil and gas inspection personnel in the state service; making such recommendations as the board considers to be in the public interest.

CHAPTER 69

(Senate Bill No. 72—By Mr. Neeley and Mr. Bowers)

[Passed March 9, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article four-a, relating generally to the conservation of oil and gas; setting forth a declaration of public policy in this regard; making certain legislative findings with respect to deep oil or gas wells; providing certain definitions of terms; specifying the lands to which said article shall be applicable; providing certain exclusions; creating the West Virginia oil and gas conservation commission and providing for its authority and responsibility; authorizing the appointment of the oil and gas conservation commissioner and providing for his qualifications, compensation and expenses; relating to the membership of such commission, the qualifications and terms of its members, vacancies in such membership, meetings of the commission, the com-
pensation and expenses of its members and general powers
and duties of the commissioner; authorizing the commis-
sioner to issue subpoenas and subpoenas duces tecum;
authorizing the promulgation by the commissioner of rea-
sonable rules and regulations; specifying certain notice
requirements; making applicable certain provisions of the
West Virginia rules of civil procedure for trial courts of
record; prohibiting the waste of oil or gas; requiring the
establishment of drilling units and the pooling of interests
in drilling units in connection with deep oil or gas wells;
relating to the rights and duties of nonparticipating own-
ers in the event of a pooled tract; relating to the recovery
of oil and unit operations; validating unit agreements;
establishing hearing procedures; authorizing the commis-
sioner to hold hearings; providing a time and place for
such hearings; expressly providing that the provisions of
chapter twenty-nine-a of the code shall govern such hear-
ings and otherwise be applicable; providing for judicial
review of decisions of the commissioner entered following
such hearings; providing for appeals to the supreme court
of appeals; providing for legal counsel for the commis-
sioner; providing for injunctive relief; authorizing in-
junctive relief without bond or other undertaking; provid-
ing for a special oil and gas conservation tax; establishing
criminal penalties; providing for construction of article;
and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4A. OIL AND GAS CONSERVATION.

§22-4A-1. Declaration of public policy; legislative findings.
§22-4A-3. Application of article; exclusions.
§22-4A-4. Oil and gas conservation commissioner and commission;
 commissionership; qualifications of members;
terms of members; vacancies on commission; meetings;
compensation and expenses; appointment and qualifica-
tions of commissioner; general powers and duties.

§22-4A-5. Rules and regulations; notice requirements.
§22-4A-6. Waste of oil or gas prohibited.
§22-4A-1. Declaration of public policy; legislative findings.

1 (a) It is hereby declared to be the public policy of this state and in the public interest to:

2 (1) Foster, encourage and promote exploration for and development, production, utilization and conservation of oil and gas resources;

3 (2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

4 (3) Encourage the maximum recovery of oil and gas; and

5 (4) Safeguard, protect and enforce the correlative rights of operators and royalty owners in a pool of oil or gas to the end that each such operator and royalty owner may obtain his just and equitable share of production from such pool of oil or gas.

6 (b) The Legislature hereby determines and finds that oil and natural gas found in West Virginia in shallow sands or strata have been produced continuously for more than one hundred years; that oil and gas deposits in such shallow sands or strata have geological and other characteristics different than those found in deeper formations; and that in order to encourage the maximum recovery of oil and gas from all productive formations in this state, it is not in the public interest, with the exception of shallow wells utilized in a secondary recovery program, to enact new statutory provisions relating to the exploration for or production from oil and gas from shallow wells, as defined in section two of this article, but that it is in the public interest to enact new statutory provisions establishing regulatory procedures and prin-

(a) Unless the context in which used clearly requires a different meaning, as used in this article:

(1) “Commission” means the oil and gas conservation commission and “commissioner” means the oil and gas conservation commissioner as provided for in section four of this article;

(2) “Director” means the director of the department of mines as defined in section one, article one of this chapter;

(3) “Deputy director for oil and gas” means the deputy director for oil and gas provided for in section one-a, article four of this chapter;

(4) “Person” means any natural person, corporation, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;

(5) “Operator” means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as “operator” to the extent of seven eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as “royalty owner” as to one-eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as “operator” as to such pool;

(6) “Royalty owner” means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subdivision (5) of this section;
(7) "Independent producer" means a person who is actively engaged in the production of oil and gas in West Virginia, but whose gross revenue from such production in West Virginia does not exceed five hundred thousand dollars per year.

(8) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(9) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (8) of this section;

(10) "Pool" means an underground accumulation of petroleum in a single and separate natural reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be present in the same district or on the same geologic structure;

(11) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(12) "Shallow well" means any well drilled and completed in a formation above the top of the uppermost member of the "Onondaga Group" or at a depth less than six thousand feet, whichever is shallower;

(13) "Deep well" means any well drilled and completed in a formation at or below the top of the uppermost member of the "Onondaga Group" or at a depth of or greater than six thousand feet, whichever is shallower;

(14) "Drilling unit" means the acreage on which one well may be drilled;

(15) "Waste" means and includes: (a) Physical waste, as that term is generally understood in the oil and gas
industry; (b) the locating, drilling, equipping, operating
or producing of any oil or gas well in a manner that
causes, or tends to cause, a reduction in the quantity of
oil or gas ultimately recoverable from a pool under pru-
dent and proper operations, or that causes or tends to
cause unnecessary or excessive surface loss of oil or gas;
or (c) the drilling of more deep wells than are reasonably
required to recover efficiently and economically the maxi-
mum amount of oil and gas from a pool;
(16) “Correlative rights” means the reasonable oppor-
tunity of each person entitled thereto to recover and re-
ceive without waste the oil and gas in and under his tract
or tracts, or the equivalent thereof; and
(17) “Just and equitable share of production” means,
as to each person, an amount of oil or gas or both sub-
stantially equal to the amount of recoverable oil and gas
in that part of a pool underlying his tract or tracts.
(b) Unless the context clearly indicates otherwise, the
use of the word “and” and the word “or” shall be inter-
changeable, as, for example, “oil and gas” shall mean oil
or gas or both.

§22-4A-3. Application of article; exclusions.
(a) Except as provided in subsection (b) of this sec-
tion, the provisions of this article shall apply to all lands
located in this state, however owned, including any lands
owned or administered by any government or any
agency or subdivision thereof, over which the state has
jurisdiction under its police power. The provisions of
this article are in addition to and not in derogation of or
substitution for the provisions of article four of this
chapter.
(b) This article shall not apply to or affect:
(1) Shallow wells other than those utilized in secondary
recovery program as set forth in section eight of this
article;
(2) Any well commenced or completed prior to the
effective date of this article, unless such well is, after
completion (whether such completion is prior or subse-
quently to the effective date of this article), (i) deepened
18 subsequent to the effective date of this article to a forma-
19 tion at or below the top of the uppermost member of the
20 "Onondaga Group" or at a depth of or greater than
21 six thousand feet, whichever is shallower or (ii) in-
22 volved in secondary recovery operations for oil under
23 an order of the commissioner entered pursuant to section
24 eight of this article;
25 (3) Gas storage operations or any well employed to
26 inject gas into or withdraw gas from a gas storage reser-
27 voir or any well employed for storage observation; or
28 (4) Free gas rights.
29 (c) The provisions of this article shall not be con-
30 strued to grant to the commissioner authority or power to:
31 (1) Limit production or output, or prorate production
32 of any oil or gas well, except as provided in subdivision
33 (6), subsection (a), section seven of this article; or
34 (2) Fix prices of oil or gas.

§22-4A-4. Oil and gas conservation commissioner and commis-
1 sion; commission membership; qualifications of
2 members; terms of members; vacancies on com-
3 mission; meetings; compensation and expenses;
4 appointment and qualifications of commissioner;
5 general powers and duties.
6 (a) There is hereby created the “West Virginia Oil and
7 Gas Conservation Commission” which shall be composed
8 of five members. The director of the department of natural
9 resources and the deputy director for oil and gas shall
10 be members of the commission ex officio. The remaining
11 three members of the commission shall be appointed by
12 the governor, by and with the advice and consent of the
13 Senate. Of the three members appointed by the governor,
14 one shall be an independent producer and at least one
15 shall be a public member not engaged in full-time em-
16 ployment in an activity under the jurisdiction of the
17 public service commission or the federal power commis-
18 sion. As soon as practical after appointment of the mem-
19 bers of the commission, the governor shall call a meeting
20 of the commission to be convened at the state capitol for
21 the purpose of organizing and electing a chairman.
(b) The members of the commission appointed by the governor shall be appointed for overlapping terms of six years each, except that the original appointments shall be for terms of two, four and six years, respectively. Each member appointed by the governor shall serve until his successor has been appointed and qualified. Members may be appointed by the governor to serve any number of terms. The members of the commission appointed by the governor, before performing any duty hereunder, shall take and subscribe to the oath required by section five, article four of the constitution of West Virginia. Vacancies in the membership appointed by the governor shall be filled by appointment by him for the unexpired term of the member whose office shall be vacant and such appointment shall be made by the governor within sixty days of the occurrence of such vacancy. Any member appointed by the governor may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The commission shall meet at such times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two members or upon the written request of the oil and gas conservation commissioner. Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any three members, one of which may be the chairman, shall constitute a quorum for the transaction of any business as herein provided for. A majority of the commission shall be required to determine any issue brought before it.

(d) Each member of the commission appointed by the governor shall receive thirty-five dollars per diem not to exceed one hundred days per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.
(e) The commission shall appoint the oil and gas conservation commissioner, fix his salary within available funds, and advise him regarding his duties and authority under this article and consult with him prior to his reaching any final decisions and entering orders hereunder. However, the commissioner has full and final authority under this article with the commission serving in an advisory capacity to him. The commissioner shall possess a degree from an accredited college or university in petroleum engineering or geology and must be a registered professional engineer with particular knowledge and experience in the oil and gas industry.

(f) The oil and gas commissioner is hereby empowered and it shall be his duty to execute and carry out, administer and enforce the provisions of this article in the manner provided herein. Subject to the provisions of section three of this article, the commissioner shall have jurisdiction and authority over all persons and property necessary therefor. The commissioner is authorized to make such investigation of records and facilities as he deems proper. In the event of a conflict between the duty to prevent waste and the duty to protect correlative rights, the commissioner's duty to prevent waste shall be paramount. He shall serve as secretary of the oil and gas conservation commission.

(g) Without limiting his general authority, the commissioner shall have specific authority to:

1. Regulate the spacing of deep wells;
2. Make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commissioner and otherwise administer the provisions of this article;
3. Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the commissioner, it is necessary to do so for the effective discharge of his duties under the provisions of this article; and
(4) Serve as technical advisor regarding oil and gas to the Legislature, its members and committees, to the deputy director for oil and gas, to the department of natural resources and to any other agency of state government having responsibility related to the oil and gas industry.

§22-4A-5. Rules and regulations; notice requirements.

(a) The commissioner may promulgate such reasonable rules and regulations as he may deem necessary or desirable to implement and make effective the provisions of this article and the powers and authority conferred and the duties imposed upon him under the provisions of this article and for securing uniformity of procedure in the administration of the provisions of article three, chapter twenty-nine-a of this code.

(b) Notwithstanding the provisions of section two, article seven, chapter twenty-nine-a of this code, any notice required under the provisions of this article shall be given at the direction of the commissioner by (1) personal or substituted service and if such cannot be had then by (2) certified United States mail, addressed, postage prepaid, to the last-known mailing address, if any, of the person being served, with the direction that the same be delivered to addressee only, return receipt requested, and if there be no known mailing address or if the notice is not so delivered then by (3) publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county or counties wherein any land which may be affected by such order is situate. In addition, the commissioner shall mail a copy of such notice to all other persons who have specified to the commissioner an address to which all such notices may be mailed. The notice shall issue in the name of the state, shall be signed by the commissioner, shall specify the style and number of the proceeding, the time and place of any hearing, and shall briefly state the purpose of the proceeding. Personal or substituted service and proof thereof may be made by an officer authorized to serve process or by an agent of the...
34 commissioner in the same manner as is now provided by
35 the “West Virginia Rules of Civil Procedure for Trial
36 Courts of Record” for service of process in civil actions
37 in the various courts of this state. A certified copy of any
38 pooling order entered under the provisions of this article
39 shall be presented by the commissioner to the clerk of the
40 county court of each county wherein all or any portion of
41 the pooled tract is located, for recordation in the record
42 book of such county in which oil and gas leases are nor-
43 mally recorded. Such recording of such order from the
44 time noted thereon by such clerk shall be notice of the
45 order to all persons.

§22-4A-6. Waste of oil or gas prohibited.

1 Waste of oil or gas is hereby prohibited.

§22-4A-7. Drilling units and the pooling of interests in drill-

ing units in connection with deep oil or gas wells.

1 (a) Drilling units.

2 (1) After one deep well has been drilled establishing
3 a pool, an application to establish drilling units may be
4 filed with the commissioner by the operator of such dis-
5 covery deep well or by the operator of any lands directly
6 and immediately affected by the drilling of such discovery
7 deep well, or subsequent deep wells in said pool, and the
8 commissioner shall promptly schedule a hearing on said
9 application. Each application shall contain such informa-
10 tion as the commissioner may prescribe by reasonable
11 rules and regulations promulgated by him in accordance
12 with the provisions of section five of this article.
13 (2) Upon the filing of an application to establish
14 drilling units, notice of the hearing shall be given by the
15 commissioner. Each notice shall specify the date, time and
16 place of hearing, describe the area for which a spacing
17 order is to be entered, and contain such other informa-
18 tion as is essential to the giving of proper notice.
19 (3) On the date specified in such notice, the commis-
20 sioner shall hold a public hearing to determine the area to
21 be included in his spacing order and the acreage to be
22 contained by each drilling unit, the shape thereof, and
23 the minimum distance from the outside boundary of the
unit at which a deep well may be drilled thereon. At such hearing the commissioner shall consider:

(i) The surface topography and property lines of the lands underlaid by the pool to be included in such order;

(ii) The plan of deep well spacing then being employed or proposed in such pool for such lands;

(iii) The depth at which production from said pool has been found;

(iv) The nature and character of the producing formation or formations, and whether the substance produced or sought to be produced is gas or oil;

(v) The maximum area which may be drained efficiently and economically by one deep well; and

(vi) Any other available geological or scientific data pertaining to said pool which may be of probative value to the commissioner in determining the proper deep well drilling units therefor.

To carry out the purposes of this article, the commissioner shall, upon proper application, notice and hearing as herein provided, and if satisfied after such hearing that drilling units should be established, enter an order establishing drilling units of a specified and approximately uniform size and shape for each pool subject to the provisions of this section.

(4) When it is determined that an oil or gas pool underlies an area for which a spacing order is to be entered, the commissioner shall include in his order all lands determined or believed to be underlaid by such pool and exclude all other lands.

(5) No drilling unit established by the commissioner shall be smaller than the maximum area which can be drained efficiently and economically by one deep well: Provided, That if at the time of a hearing to establish drilling units, there is not sufficient evidence from which to determine the area which can be drained efficiently and economically by one deep well, the commissioner may enter an order establishing temporary drilling units for the orderly development of the pool pending the obtain-
(6) An order establishing drilling units shall specify the minimum distance from the nearest outside boundary of the drilling unit at which a deep well may be drilled. The minimum distance provided shall be the same in all drilling units established under said order with necessary exceptions for deep wells drilled or being drilled at the time of the filing of the application. If the commissioner finds that a deep well to be drilled at or more than the specified minimum distance from the boundary of a drilling unit would not be likely to produce in paying quantities or will encounter surface conditions which would substantially add to the burden or hazard of drilling such deep well, or that a location within the area permitted by the order is prohibited by the lawful order of any state agency or court, the commissioner is authorized after notice and hearing to make an order permitting the deep well to be drilled at a location within the minimum distance prescribed by the spacing order. In granting exceptions to the spacing order, the commissioner may restrict the production from any such deep well so that each person entitled thereto in such drilling unit shall not produce or receive more than his just and equitable share of the production.

(7) An order establishing drilling units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commissioner, from time to time, to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool. An order establishing drilling units may be modified by the commissioner to permit the drilling of additional deep wells on a reasonably uniform pattern at a uniform minimum distance from the nearest unit boundary as provided above. Any order modifying a prior order shall be made only after application by an interested operator and notice and hearing as prescribed herein for the original order. However, drilling units established by order shall not exceed one hundred sixty acres for an oil well or six hundred forty acres for a gas well.
(8) After the date of the notice of hearing called to establish drilling units, no additional deep well shall be commenced for production from the pool until the order establishing drilling units has been made, unless the commencement of the deep well is authorized by order of the commissioner.

(9) The commissioner shall, within forty-five days after the filing of an application to establish drilling units for a pool subject to the provisions of this section, either enter an order establishing such drilling units or dismiss the application.

(10) As part of the order establishing a drilling unit, the commissioner shall prescribe just and reasonable terms and conditions upon which the royalty interests in the unit shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent order integrating the royalty interests.

(b) Pooling of interests in drilling units.

(1) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after notice and hearing, the commissioner shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for sharing production therefrom. Each such pooling order shall be upon terms and conditions which are just and reasonable. In no event shall drilling be initiated on the tract of an unleased royalty owner without his written consent.

(2) All operations, including, but not limited to, the commencement, drilling or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately
owned tract included in a drilling unit shall, when pro-
duced, be deemed for all purposes to have been actually
produced from such tract by a deep well drilled thereon.

(3) Any pooling order under the provisions of this
subsection (b) shall authorize the drilling and operation
of a deep well for the production of oil or gas from the
pooled acreage; shall designate the operator to drill and
operate such deep well; shall prescribe the time and
manner in which all owners of operating interests in the
pooled tracts or portions of tracts may elect to participate
therein; shall provide that all reasonable costs and ex-
penses of drilling, completing, equipping, operating,
plugging and abandoning such deep well shall be borne,
and all production therefrom shared, by all owners of
operating interests in proportion to the net oil or gas
acreage in the pooled tracts owned or under lease to
each owner; and shall make provisions for payment of all
reasonable costs thereof, including a reasonable charge
for supervision and for interest on past-due accounts, by
all those who elect to participate therein.

(4) No drilling or operation of a deep well for the
production of oil or gas shall be permitted upon or with-
in any tract of land unless the operator shall have first
obtained the written consent and easement therefor, duly
acknowledged and placed of record in the office of the
county clerk, for valuable consideration of all owners of
the surface of such tract of land, which consent shall
describe with reasonable certainty, the location upon such
tract, of the location of such proposed deep well, a certified
copy of which consent and easement shall be submitted
by the operator to the commission.

(5) Upon request, any such pooling order shall provide
just and equitable alternatives whereby an owner of an
operating interest who does not elect to participate in
the risk and cost of the drilling of a deep well may
elect:

(i) Option 1. To surrender his interest or a portion
thereof to the participating owners on a reasonable
basis and for a reasonable consideration, which, if not
agreed upon, shall be determined by the commissioner;

or

(ii) Option 2. To participate in the drilling of the
deep well on a limited or carried basis on terms and con-
ditions which, if not agreed upon, shall be determined by
the commissioner to be just and reasonable.

(6) In the event a nonparticipating owner elects
Option 2, and an owner of any operating interest in any
portion of the pooled tract shall drill and operate, or pay
the costs of drilling and operating, a deep well for the
benefit of such nonparticipating owner as provided in the
pooling order, then such operating owner shall be entitled
to the share of production from the tracts or portions
thereof pooled accruing to the interest of such nonpartici-
patating owner, exclusive of any royalty or overriding roy-
alty reserved in any leases, assignments thereof or agree-
ments relating thereto, of such tracts or portions thereof,
or exclusive of one eighth of the production attributable
to all unleased tracts or portions thereof, until the market
value of such nonparticipating owner's share of the pro-
duction, exclusive of such royalty, overriding royalty or
one eighth of production, equals double the share of such
costs payable by or charged to the interest of such non-
participating owner.

(7) If a dispute shall arise as to the costs of drilling
and operating a deep well, the commissioner shall deter-
mine and apportion the costs, within ninety days from
the date of written notification to the commissioner of the
existence of such dispute.

§22-4A-8. Secondary recovery of oil; unit operations.

Upon the application of any operator in a pool produc-
tive of oil and after notice and hearing, the commissioner
may enter an order requiring the unit operation of such
pool in connection with a program of secondary recovery
of oil, and providing for the unitization of separately
owned tracts and interests within such pool, but only after
finding that: (1) The order is reasonably necessary for the
prevention of waste and the drilling of unnecessary deep
wells; (2) the proposed plan of secondary recovery will
increase the ultimate recovery of oil from the pool to such an extent that the proposed secondary recovery operation will be economically feasible; (3) the production of oil from the unitized pool can be allocated in such a manner as to insure the recovery by all operators of their just and equitable share of such production; and (4) the operators of at least three fourths of the acreage (calculating partial interests on a pro rata basis for operator interests on any parcel owned in common) and the royalty owners of at least three fourths of the acreage (calculating partial interests on a pro rata basis for royalty interests on any parcel owned in common) in such pool have approved the plan and terms of unit operation to be specified by the commissioner in its order, such approval to be evidenced by a written contract setting forth the terms of the unit operation and executed by said operators and said royalty owners, and filed with the commissioner on or before the day set for hearing. The order requiring such unit operation shall designate one operator in the pool as unit operator and shall also make provision for the proportionate allocation to all operators of the costs and expenses of the unit operation, including reasonable charges for supervision and interest on past-due accounts, which allocation shall be in the same proportion that the separately owned tracts share in the production of oil from the unit. In the absence of an agreement entered into by the operators and filed with the commissioner providing for sharing the costs of capital investment in wells and physical equipment, and intangible drilling costs, the commissioner shall provide by order for the sharing of such costs in the same proportion as the costs and expenses of the unit operation: Provided, That any operator who has not consented to the unitization shall not be required to contribute to the costs or expenses of the unit operation, or to the cost of capital investment in wells and physical equipment, and intangible drilling costs, except out of the proceeds from the sale of the production accruing to the interest of such operator: Provided, however, That no credit to the well costs shall be adjusted on the basis of less than the average well costs within the unitized area: Provided further,
That no order entered under the provisions of this section requiring unit operation shall vary or alter any of the terms of any contract entered into by operators and royalty owners under the provisions of this section.


No agreement between or among operators, lessees or other owners of oil or gas rights in oil and gas properties, entered into pursuant to the provisions of this article or with a view to or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate the statutory or common law of this state prohibiting monopolies or acts, arrangements, contracts, combinations or conspiracies in restraint of trade or commerce.


(a) Upon receipt of an application for an order of the commissioner for which a hearing is required by the provisions of this article, the commissioner shall set a time and place for such hearing not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the commissioner upon his own motion or for good cause shown by any party to the hearing. All interested parties shall be entitled to be heard at any hearing conducted under the provisions of this article.

(b) 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 subsection.

(c) Any such hearing shall be conducted by the commissioner. For the purpose of conducting any such hearing, the commissioner shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time, 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
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25 subpoenas duces tecum issued for the purpose of a hear-
26 ing hereunder.

27 (d) At any such hearing any interested person may
28 represent himself or be represented by an attorney at
29 law admitted to practice before any circuit court of this
30 state. Upon request by the commissioner, he shall be rep-
31 resented at such hearing by the attorney general or his
32 assistants without additional compensation. The com-
33 missioner, with the written approval of the attorney gen-
34 eral, may employ special counsel to represent the com-
35 missioner at any such hearing.

36 (e) After any such hearing and consideration of all of
37 the testimony, evidence and record in the case, the com-
38 missioner shall render his decision in writing. The written
decision of the commissioner shall be accompanied by
39 findings of fact and conclusions of law as specified in sec-
40 tion three, article five, chapter twenty-nine-a of this code,
41 and a copy of such decision and accompanying findings
42 and conclusions shall be served by certified mail, return
43 receipt requested, upon all interested persons and their
44 attorney of record, if any.

46 (f) The decision of the commissioner shall be final un-
47 less reversed, vacated or modified upon judicial review
48 thereof in accordance with the provisions of section eleven
49 of this article.

§22-4A-11. Judicial review; appeal to supreme court of ap-
peals; legal representation for commissioner.

1 (a) Any person adversely affected by a decision of the
2 commissioner rendered after a hearing held in accordance
3 with the provisions of section ten of this article shall be
4 entitled to judicial review thereof. All of the pertinent
5 provisions of section four, article five, chapter twenty-nine-
6 a of this code shall apply to and govern such judicial
7 review with like effect as if the provisions of said section
8 four were set forth in extenso in this section.

9 (b) The judgment of the circuit court shall be final un-
10 less reversed, vacated or modified on appeal to the su-
11 preme court of appeals in accordance with the provisions
12 of section one, article six, chapter twenty-nine-a of this
(c) Legal counsel and services for the commissioner in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation. The commissioner, with the written approval of the attorney general, may employ special counsel to represent the commissioner at any such appeal proceedings.

§22-4A-12. Injunctive relief.

(a) Whenever it appears to the commissioner that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated by the commissioner hereunder or any order or final decision of the commissioner, the commissioner may apply in the name of the state to the circuit court of the county in which the violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section fourteen of this article.

(b) Upon application by the commissioner, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated by the commissioner hereunder and all orders and final decisions of the commissioner. The court may issue a temporary injunction in any case pending a decision on
the merits of any application filed. Any other section of
this code to the contrary notwithstanding, the state shall
not be required to furnish bond or other undertaking as
a prerequisite to obtaining mandatory, prohibitory or
temporary injunctive relief under the provisions of this
article.

(c) The judgment of the circuit court upon any appli-
cation permitted by the provisions of this section shall
be final unless reversed, vacated or modified on appeal to
the supreme court of appeals. Any such appeal shall be
sought in the manner and within the time provided by
law for appeals from circuit courts in other civil actions.

(d) The commissioner shall be represented in all such
proceedings by the attorney general or his assistants and
in such proceedings in the circuit courts by the prose-
cuting attorneys of the several counties as well, all
without additional compensation. The commissioner, with
the written approval of the attorney general, may employ
special counsel to represent the commissioner in any such
proceedings.

(e) If the commissioner shall refuse or fail to apply for
an injunction to enjoin a violation or threatened violation
of any provision of this article, any reasonable rule and
regulation promulgated by the commissioner hereunder or
any order or final decision of the commissioner, within ten
days after receipt of a written request to do so by any
person who is or will be adversely affected by such viola-
tion or threatened violation, the person making such re-
quest may apply in his own behalf for an injunction to
enjoin such violation or threatened violation in any court
in which the commissioner might have brought suit. The
commissioner shall be made a party defendant in such
application in addition to the person or persons viola-
ting or threatening to violate any provision of this article,
any reasonable rule and regulation promulgated by the
commissioner hereunder or any order or final decision of
the commissioner. The application shall proceed and in-
junctive relief may be granted without bond or other
undertaking in the same manner as if the application
had been made by the commissioner.

Owners of leases on oil or gas for the exploration, development or production of oil or natural gas shall pay to the commission a special oil and gas conservation tax of three cents for each acre under lease, excluding from the tax the first twenty-five thousand acres. The commission shall deposit with the treasurer of the state of West Virginia, to the credit of the special oil and gas conservation fund, all taxes collected hereunder. The special oil and gas conservation fund shall be a special fund and shall be administered by the commission for the sole purpose of carrying out all costs necessary to carry out the provisions of this article. This tax shall be paid as provided herein annually on or before the first day of July, one thousand nine hundred seventy-two, and on or before the first day of July in each succeeding year.


(a) Any person who violates any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or any final decision of the commissioner, other than a violation covered by the provisions of subsection (b) of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, and each day that a violation continues shall constitute a new and separate violation.

(b) Any person who, for the purpose of evading any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or final decision of the commissioner, shall make or cause to be made any false entry or statement in a report required under the provisions of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or final decision of the commissioner, or shall make or cause to be made any false entry in any record, account or memorandum required under the provisions of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order or any final decision of the commissioner, or who shall omit, or cause to be
omitted, from any such record, account or memorandum, full, true and correct entries, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

(c) Any person who knowingly aids or abets any other person in the violation of any provision of this article, any of the reasonable rules and regulations promulgated by the commissioner hereunder or any order of final decision of the commissioner, shall be subject to the same penalty as that prescribed in this article for the violation by such other person.


1 Except as provided in subsection (c), section three of this article, this article shall be liberally construed so as to effectuate the declaration of public policy set forth in section one of this article.

2 If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such invalidation shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable.

CHAPTER 70

(Senate Bill No. 163—By Mr. Palumbo)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated
Be it enacted by the Legislature of West Virginia:

That chapter seventeen-b 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 1A. DRIVER LICENSE COMPACT.

§17B-1A-1. Authorization.

§17B-1A-2. Definitions; implementation of compact.

§17B-1A-1. Authorization.

Pursuant to authority granted by an act of the eighty-fifth Congress of the United States, being public law six hundred eighty-four, approved the twentieth day of August, one thousand nine hundred fifty-eight, the governor of this state is hereby authorized and directed to execute a compact on behalf of the state of West Virginia with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. FINDINGS AND DECLARATION OF POLICY.

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.
(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II. DEFINITIONS.

As used in this compact:
(a) "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.
(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.
(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III. REPORTS OF CONVICTION.

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV. EFFECT OF CONVICTION.

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the
license to operate a motor vehicle, shall give the same
effect to the conduct reported, pursuant to Article III of
this compact, as it would if such conduct had occurred in
the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from
the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence
of intoxicating liquor or a narcotic drug, or under the
influence of any other drug to a degree which renders the
driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor
vehicle is used;

(4) Failure to stop and render aid in the event of a
motor vehicle accident resulting in the death or personal
injury to another.

(b) As to other convictions, reported pursuant to
Article III, the licensing authority in the home state shall
give such effect to the conduct as is provided by the laws
of the home state.

(c) If the laws of a party state do not provide for
offenses or violations denominated or described in precisely the words employed in subsection (a) of this
article, such party state shall construe the denominations
and descriptions appearing in subsection (a) hereof as
being applicable to and identifying those offenses or viola-
tions of a substantially similar nature and the laws of
such party state shall contain such provisions as may be
necessary to ensure that full force and effect is given to
this article.

ARTICLE V. APPLICATIONS FOR NEW LICENSES.

Upon application for a license to drive, the licensing
authority in a party state shall ascertain whether the ap-
plicant has ever held, or is the holder of a license to drive
issued by any other party state. The licensing authority
in the state where application is made shall not issue a
license to drive to the applicant if:

(1) The applicant has held such a license, but the same
has been suspended by reason, in whole or in part, of a
violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrender such license.

ARTICLE VI. APPLICABILITY OF OTHER LAWS.

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION.

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL.

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.
(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person compensation on account of his service as such administrator, but shall be entitled to be reimbursed for all any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§17B-1A-2. Definitions; implementation of compact.

(1) As used in the compact, the term “licensing authority”, with reference to this state, shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact.

(2) The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to be reimbursed for all reasonable and necessary expenses actually incurred in connection with his duties and responsibilities as such ad-
ministrator, in the same manner as for other such ex-
enses incurred in connection with any other duties or
responsibilities of his office or employment.

(3) As used in the compact, with reference to this
state, the term "executive head" shall mean the governor.

(4) To aid in the implementation of the compact,
records required to be forwarded to the department of
motor vehicles by the provisions of section four, article
three of this chapter shall be forwarded to such depart-
ment within the time and as otherwise specified in said
section four.

(5) The statutes which Article IV of the compact refers
to are sections one, five and six, article three, chapter
seventeen-b, section three, article three, chapter seven-
teen-d, and section five, article four, chapter seventeen-d
of the code of West Virginia.

CHAPTER 71

(House Bill No. 622—By Mr. White, of Cabell and Mr. Romine)

[Passed March 10, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article two, chap-
ter seventeen-b of the code of West Virginia, one thousand
nine hundred thirty-one, as amended; and to amend and
reenact sections one and three, article two, chapter
seventeen-c of said code, all relating to motor vehicle
operators' and chauffeurs' licenses and their issuance, ex-
piration and renewal; traffic regulations and laws of the
road, obedience to and effect of traffic laws, their applica-
tion and enforcement; and penalties.

Be it enacted by the Legislature of West Virginia:

That section one, article two, chapter seventeen-b of the
code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted; and that sections one
and three, article two, chapter seventeen-c of said code be
amended and reenacted, all to read as follows:
Chapter

17B. Motor Vehicle Operators' and Chauffeurs' Licenses.
17C. Traffic Regulations and Laws of the Road.

CHAPTER 17B. MOTOR VEHICLE OPERATORS' AND CHAUFFEURS' LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Operators and chauffeurs must be licensed; chauffeur licensee need not procure operator's license; licensees need not obtain local government license.

1. No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a street or highway in this state or upon any subdivision street, as used in article twenty-four, chapter eight of this code, when the use of such subdivision street is generally used by the public unless the person has a valid license as an operator or chauffeur under the provisions of this chapter.

2. No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license. No person shall receive a chauffeur's license unless and until he surrenders to the department any operator's license issued to him or an affidavit that he does not possess an operator's license.

3. Any person holding a valid chauffeur's license hereunder need not procure an operator's license.

4. Any person licensed as an operator or chauffeur as provided in this chapter may exercise the privilege thereby granted as provided in this chapter and, except as otherwise provided by law, shall not be required to obtain any other license to exercise such privilege by any county, municipality or local board, or body having authority to adopt local police regulations.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 2. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS.

§17C-2-1. Provisions of chapter refer to vehicles upon streets and highways; exceptions.

§17C-2-3. Enforcement of chapter; designation and bond of special officers; failure to obey police officer.
§17C-2-1. Provisions of chapter refer to vehicles upon streets and highways; exceptions.

1 The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets and highways except:

4 (1) Where a different place is specifically referred to in a given section.

4 (2) The provisions of articles three, four, five, five-a, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, eighteen and nineteen shall apply upon streets and highways as defined in section one, article two, chapter seventeen-b of this code.

§17C-2-3. Enforcement of chapter; designation and bond of special officers; failure to obey police officer.

1 (a) It shall be the duty of the department of public safety and its members to enforce the provisions of this chapter and other laws of this state governing the operation of vehicles upon the streets and highways of this state as defined in section one, article two, chapter seventeen-b of this code; and it shall be the duty of sheriffs and their deputies and of the police of cities and towns to render to the department of public safety such assistance in the performance of said duties as the superintendent of the department of public safety may require of them.

11 (b) The West Virginia commissioner of highways is authorized to designate employees of the West Virginia department of highways as special officers to enforce the provisions of this chapter only when such special officers are directing traffic upon bridges and the approaches to bridges which are a part of the state road system when any such bridge needs special traffic direction and the superintendent of the department of public safety has informed the West Virginia commissioner of highways that he is unable to furnish personnel for such traffic direction. The West Virginia commissioner of highways shall provide a blanket bond in the amount of five thousand dollars for any such employee so designated, and for all employees designated as members of official West Virginia department of highways weighing crews.
(c) No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

CHAPTER 72

(Com. Sub. for House Bill No. 709—By Mr. Farley and Mr. Albright)

[Passed March 11, 1972: in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, article five-a, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the implied consent law generally and specifically to the implied consent to a chemical test to determine the alcoholic content of the blood of the operator of a motor vehicle arrested for driving a motor vehicle while under the influence of intoxicating liquor and the designation and administration of such a chemical test; and specifying the law-enforcement officers involved in the administration of such implied consent law.

Be it enacted by the Legislature of West Virginia:

That section one, article five-a, 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 5A. IMPLIED CONSENT FOR CHEMICAL TEST FOR INTOXICATION.

§17C-5A-1. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

Any person who drives a motor vehicle upon the public streets or highways of this state shall be deemed to have given his consent by the operation thereof, subject to the provisions of this article, to a chemical test of either his
blood, breath or urine for the purpose of determining
the alcoholic content of his blood whenever he shall be
lawfully arrested by a law-enforcement officer as here-
inafter defined for the offense of driving a motor vehicle
upon the public streets or highways of this state while
under the influence of intoxicating liquor. The test shall
be incidental to a lawful arrest and shall be administered
at the direction of the arresting law-enforcement officer
having reasonable grounds to believe the person to have
been driving a motor vehicle upon the public streets or
highways while under the influence of intoxicating liquor.
The law-enforcement agency by which such law-enforce-
ment officer is employed shall designate which one of the
aforesaid tests shall be administered: Provided, That if
the test so designated is a blood test and the person so
arrested refuses to submit to such blood test, then the law-
enforcement officer making such arrest shall designate in
lieu thereof, either a breath or urine test be adminis-
tered, and notwithstanding the provisions of section three
of this article, such refusal to submit to a blood test only
shall not result in the suspension of the arrested person's
operator's or chauffeur's license, or junior or probationary
operator's license, or nonresident privilege to drive. The
person arrested shall be told that his refusal to submit to
the test finally designated as provided in this section, will
result in the suspension of his operator's or chauffeur's
license, or junior or probationary operator's license, or
nonresident privilege to drive for a period of six
months.

For the purposes of this article the term "law-enforce-
ment officer" shall mean and be limited to (1) any mem-
ber of the department of public safety of this state, (2)
any sheriff and any deputy sheriff of any county, and
(3) any member of a municipal police department in any
Class I, Class II or Class III city, as cities are classified
in section three, article one, chapter eight of this code. If
any Class I, Class II or Class III city does not have avail-
able to its law-enforcement officers the testing equipment
or facilities necessary to conduct any test which a law-
enforcement officer may administer under this article,
any member of the department of public safety, the sheriff of the county wherein the arrest is made or any deputy of such sheriff, may, upon the request of such arresting law-enforcement officer and in his presence, conduct such test and the results of such test may be used in evidence to the same extent and in the same manner as if such test had been conducted by such arresting law-enforcement officer. Only the person actually administering or conducting such test shall be competent to testify as to the results and the veracity of such test.

CHAPTER 73

(House Bill No. 769—By Mr. Neely and Mr. Bowman)

[Passed February 17, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-six, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to lamps or illuminating devices on motor vehicles and permitting red flashing warning lights on certain vehicles.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, 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.


1 (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
(a) Fifty hundred candlepower 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 other than a white or amber light visible from directly in front of the center thereof except as authorized by subsection (d) of this section.

(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 right or left turn, on any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency.

(d) Notwithstanding any other provisions of this chapter, the following color of flashing warning lights are restricted for the use of the type of vehicle designated:

(1) Blue flashing warning lights are restricted to police vehicles, except as authorized by section twenty-seven of this article.

(2) Except as authorized by sections nineteen and twenty-seven of this article, red flashing warning lights are restricted to ambulances, fire fighting vehicles, school buses, wreckers and the personal car or truck of those volunteer firemen who are authorized by their fire chief to have such lights.

(3) All other emergency vehicles authorized by this chapter and by section twenty-seven of this article shall be restricted to amber or yellow flashing warning lights.

It shall be unlawful for flashing warning lights of an unauthorized color to be installed or used on a vehicle other than as specified in this section, except that a police vehicle may be equipped with either or both blue or red warning lights.
AN ACT to amend and reenact section thirty-four, article fifteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to standards for vehicle mufflers to prevent noise, fumes and smoke.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. EQUIPMENT.

§17C-15-34. Mufflers; prevention of noise, fumes and smoke.

1 (a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. Such muffler shall be the muffler originally installed by the manufacturer of the vehicle or, if a replacement, the equivalent thereof. No person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway.

9 (b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

CHAPTER 75

(Com. Sub. for House Bill No. 538—By Mr. Steptoe)

[Passed March 9, 1972; in effect July 1, 1972. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

That sections two and four, article three, chapter seventeen-d 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 fifteen, all to read as follows:

ARTICLE 3. SECURITY FOLLOWING ACCIDENT.

§17D-3-2. Commissioner to determine amount of security required; notices; form of security.

§17D-3-4. Exceptions to requirement of security.

§17D-3-15. Right to hearing on security requirement; hearing procedures; judicial review.

§17D-3-2. Commissioner to determine amount of security required; notices; form of security.

1 (a) The commissioner within not less than thirty nor more than ninety days after receipt of a report of an accident as described in section one of this article shall take action as provided in this section. The commissioner shall determine the amount of security which he deems sufficient to satisfy any judgment or judgments against each owner or driver, for damages which may reasonably result from such accident.
If the commissioner finds that there exists a reasonable possibility that a judgment may be rendered against any such driver or owner, he shall determine the amount of security deposit upon the basis of the reports or other evidence relative to such accident transmitted to him. The commissioner shall thereupon give written notice by certified mail to every such person that he is required to deposit security in an amount and within the time specified in such notice, which time shall be not less than ten days after the giving of such notice, or that upon the expiration of said time an order of suspension as stated therein will become effective unless the person receiving said notice deposits such security or establishes his exemption under other provisions of this chapter. Such notice shall also advise such person of his right to request a hearing as provided by section fifteen of this article.

(b) The security required under this article shall be in the form of money or its equivalent and in such amount as the commissioner may require but, in no case, in excess of the limits specified in section five of this article in reference to the acceptable limits of a policy or bond.

(c) The commissioner shall not take action as required in this section in respect to drivers or owners who establish exemption under succeeding sections of this chapter from the requirements as to security and suspension.

§17D-3-4. Exceptions to requirement of security.

(a) The requirements as to security and suspension in this article shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy or bond with respect to the driver or the vehicle involved in the accident. Unless otherwise covered by insurance a driver shall not be exempt from the requirements as to security in the event it is established to the satisfaction of the commissioner that at the time of the accident the vehicle was being operated without the owner's permission, expressed or implied, or was parked by a driver who had been operating such vehicle without such permission.
(2) To the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident, an automobile liability policy or bond with respect to his driving of vehicles not owned by him.

(3) To a driver or owner whose liability for damages resulting from the accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy or bond.

(4) To the owner or driver in the event that such liability as may arise from the driver's operation of the vehicle involved in the accident is, in the judgment of the commissioner, covered by some form of liability insurance or bond which complies with the requirements set forth under section five of this article.

(5) To any person qualifying as a self-insurer under section two, article six of this chapter, or to any person operating a vehicle for such self-insurer.

(6) To any person under the jurisdiction of the public service commission who has qualified as a self-insurer.

(7) To a driver or owner against whom there is no reasonable possibility of judgment being rendered for damages resulting from the accident, as determined by the commissioner or any subsequent hearing or appeals upon that issue.

(b) When erroneous information is given to the commissioner with respect to the matters set forth in subdivisions (1), (2), (3) or (4) of subsection (a) of this section, he shall take appropriate action as hereinbefore provided in sections two and three of this article within fifty days after receipt by him of correct information with respect to such matters.

§17D-3-15. Right to hearing on security requirement; hearing procedures; judicial review.

Upon the written request of a person from whom the commissioner has required security following the occurrence of a vehicular accident, the commissioner shall afford the person an opportunity to be heard concerning such security requirement. Such written request must be
filed with the commissioner in person or by registered or
certified mail, return receipt requested, within ten days
after receipt of a copy of the order of suspension. The
hearing shall be before said commissioner or his au-
thorized hearing examiner. All of the pertinent pro-
visions of article five, chapter twenty-nine-a of this code
shall apply to and govern the hearing and the administra-
tive 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 in the case of a resident of this state the hearing
shall be held in the county wherein the person resides
unless the commissioner or the hearing examiner and
such person agree that the hearing may be held in some
other county. Any such hearing shall be held within
twenty days after the date upon which the commissioner
received the timely written request therefor, unless there
is a postponement or continuance. The commissioner
or the hearing examiner may postpone or continue any
hearing on his own motion, or upon application of such
person for good cause shown. For the purpose of con-
ducting such hearing, the commissioner or the hearing
examiner 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. The person requesting a
hearing and the commissioner shall be the only parties
in interest at such hearing. No other persons or their
attorneys shall have the right to attend or be permitted
to examine parties or witnesses.

The scope of such hearing shall be whether there is a
reasonable possibility of judgment being rendered against
the person requesting the hearing as a result of the acci-
dent in question.

After such hearing and consideration of all of the testi-
mony, evidence and record in the case, the commissioner
or the hearing examiner shall make and enter an order
affirming, rescinding or modifying the earlier order of
the commissioner.

A copy of the order made and entered following the
hearing shall be served upon such person by registered
or certified mail, return receipt requested. During the pendency of any such hearing, the suspension of the operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive of such person, and of his vehicle registration, shall be stayed, and if the commissioner has possession of such person's operator's or chauffeur's license, or junior or probationary operator's license, or his vehicle registration, the same shall be forthwith returned to him pending the outcome of such hearing or any judicial review thereafter, as hereinafter provided.

If the commissioner or hearing examiner shall after hearing make and enter an order by which the person requesting the hearing believes himself aggrieved, such person shall be 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. The judgment of the circuit court shall be final unless reversed 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, except that notwithstanding the provisions of said section one, the petition seeking such review must be filed with said supreme court of appeals within thirty days from the date of entry of the judgment of the circuit court. Notwithstanding any provisions in said chapter twenty-nine-a to the contrary, during the pendency of any appeal to the circuit court or supreme court of appeals, no security shall be required of such person, nor shall his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive, or his vehicle registration, be suspended pending the outcome of such judicial review.

Neither the findings, actions and orders of the commissioner or hearing examiner resulting from any hearings nor any of the evidence introduced or testimony taken at such hearings nor the outcome of any judicial review shall be referred to in any way, and shall not be any evidence of the negligence or due care of either party, at the trial of any civil action to recover damages.
CHAPTER 76
(Senate Bill No. 177—By Mr. McCourt, Mr. President)

[Passed March 9, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend article ten, chapter eight 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 municipalities and providing that notwithstanding any charter provision to the contrary the governing body of every municipality shall have plenary power and authority by ordinance to authorize the mayor to employ an attorney or firm of attorneys as special municipal counsel to represent the municipality in connection with any legal matter or matters; and providing that the ordinance authorizing such employment shall be consent on behalf of the municipality to such attorney or firm of attorneys to represent other clients in other legal matters involving such municipality, but requiring such attorney or firm of attorneys to file with the recorder as a public record a statement of disclosure identifying such other client and the nature of the matter in controversy directly involving such municipality.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-la. Authority to hire special counsel; consent to other representation.

1 Notwithstanding any charter provision to the contrary, the governing body of every municipality shall have plenary power and authority by ordinance to authorize the mayor to employ within the limit of funds available for such purpose, in lieu of or in addition to the municipal attorney or municipal solicitor and any assistant munici-
pal attorneys or assistant municipal solicitors, an attorney
or firm of attorneys as special municipal counsel to repre-
sent the municipality in connection with any legal matter
or matters. The ordinance authorizing such employment
shall be the consent on behalf of the municipality to such
attorney or firm of attorneys to represent other clients
in other legal matters involving such municipality, but
at the time of representation of any such other client in
any such other legal matter in controversy directly in-
volving such municipality, such attorney or firm of at-
torneys shall file with the recorder as a public record a
statement of disclosure identifying such other client and
the nature of the matter in controversy directly involving
such municipality.

CHAPTER 77

(Senate Bill No. 320—By Mr. Hubbard)

[Passed March 1, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article twelve,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the gen-
eral powers and authorities of every municipality and the
governing body thereof; specifically authorizing any mu-
nicipality and the governing body thereof to permit any
person to construct and maintain a passageway, building
or other structure overhanging or crossing the airspace
above a public street, avenue, road, alley, way, sidewalk
or crosswalk; and relating to criminal offenses and pen-
alties.

Be it enacted by the Legislature of West Virginia:

That section five, article twelve, 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 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

PART III. GENERAL POWERS OF MUNICIPALITIES AND GOVERNING BODIES.

§8-12-5. General powers of every municipality and the governing body thereof.

In addition to the powers and authority granted by (i) the constitution of this state, (ii) other provisions of this chapter, (iii) other general law, and (iv) any charter, and to the extent not inconsistent or in conflict with any of the foregoing except a special legislative charter, every municipality and the governing body thereof shall have plenary power and authority therein by ordinance or resolution, as the case may require, and by appropriate action based thereon:

(1) To lay off, establish, construct, open, alter, curb, recurb, pave or repave and keep in good repair, or vacate, discontinue and close, streets, avenues, roads, alleys, ways, sidewalks, crosswalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them which have not been authorized pursuant to the succeeding provisions of this subdivision (1); and, subject to such terms and conditions as the governing body shall prescribe, to permit, without in any way limiting the power and authority granted by the provisions of article sixteen of this chapter, any person to construct and maintain a passageway, building or other structure overhanging or crossing the airspace above a public street, avenue, road, alley, way, sidewalk or crosswalk, but before any such permission for any person to construct and maintain a passageway, building or other structure overhanging or crossing any such airspace is granted, a public hearing thereon shall be held by the governing body after publication of a notice of the date, time, place and purpose of such public hearing has been published as a Class I legal advertisement in compliance with the provisions
of article three, chapter fifty-nine of this code, and
the publication area for such publication shall be the
municipality: Provided, however, That any such permit
so granted, shall automatically cease and terminate in
the event of abandonment and nonuse thereof for the
purposes intended for a period of ninety days, and all
rights therein or thereto shall revert to such munici-
pality for its use and benefit;

(2) To provide for the opening and excavation of
streets, avenues, roads, alleys, ways, sidewalks, cross-
walks and public places belonging to the municipality
and regulate the conditions under which any such open-
ing may be made;

(3) To prevent by proper penalties the throwing,
depositing or permitting to remain on any street, avenue,
road, alley, way, sidewalk, square or other public place
any glass, scrap iron, nails, tacks, wire, other litter, or any
offensive matter or anything likely to injure the feet
of individuals or animals or the tires of vehicles;

(4) To regulate the use of streets, avenues, roads,
alleys, ways, sidewalks, crosswalks and public places
belonging to the municipality;

(5) To regulate the width of sidewalks on the streets,
avenues and roads, and, subject to the provisions of
article eighteen of this chapter, to order the sidewalks,
footways and crosswalks to be paved, repaved, curbed or
recurbed and kept in good order, free and clean, by the
owners or occupants thereof or of the real property next
adjacent thereto;

(6) To establish, construct, alter, operate and main-
tain, or discontinue, bridges, tunnels and ferries and ap-
proaches thereto;

(7) To provide for the construction and maintenance
of water drains, the drainage of swamps or marshlands
and drainage systems;

(8) To provide for the construction, maintenance and
covering over of watercourses;

(9) To control and administer the waterfront and
waterways of the municipality, and to acquire, establish,
construct, operate and maintain and regulate flood control works, wharves and public landings, warehouses and all adjuncts and facilities for navigation and commerce and the utilization of the waterfront and waterways and adjacent property;

(10) To prohibit the accumulation and require the disposal of garbage, refuse, wastes, ashes, trash and other similar matters;

(11) To construct, establish, acquire, equip, maintain and operate incinerator plants and equipment and all other facilities for the efficient removal and destruction of garbage, refuse, wastes, ashes, trash and other similar matters;

(12) To regulate or prohibit the purchase or sale of articles intended for human use or consumption which are unfit for such use or consumption, or which may be contaminated or otherwise unsanitary;

(13) To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome;

(14) To regulate the keeping of gunpowder and other combustibles;

(15) To make regulations guarding against danger or damage by fire;

(16) To arrest, convict and punish any individual for carrying about his person any revolver or other pistol, dirk, bowie knife, razor, slungshot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character;

(17) To arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications;

(18) To arrest, convict and punish any person for keeping a house of ill fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill fame, or for knowingly permitting any house owned by him or under his control to be kept or used as a house of ill fame, or for
loafing, boarding or loitering in a house of ill fame, or frequenting same;

(19) To prevent and suppress conduct and practices which are immoral, disorderly, lewd, obscene and indecent;

(20) To prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations;

(21) To arrest, convict and punish any individual for driving or operating a motor vehicle while intoxicated or under the influence of liquor, drugs or narcotics;

(22) To arrest, convict and punish any person for gambling or keeping any gaming tables, commonly called “A, B, C,” or “E, O,” table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value;

(23) To provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance;

(24) To license, or for good cause to refuse to license in a particular case, or in its discretion to prohibit in all cases, the operation of pool and billiard rooms and the maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for any such business and the provisions of section four, article thirteen of this chapter; and when the municipality, in the exercise of its discretion, shall have refused to grant a license to operate a pool or billiard room, mandamus shall not lie to compel such municipality to grant such license unless it shall clearly appear that the refusal of the municipality to grant such license is discriminatory or arbitrary; and in the event that the municipality determines to license any such business, the municipality shall have plenary power and authority, and it shall be the duty of its governing body, to make and enforce
reasonable ordinances regulating the licensing and operation of such businesses;

(25) To protect places of divine worship and to preserve peace and order in and about the premises where held;

(26) To regulate or prohibit the keeping of animals or fowls and to provide for the impounding, sale or destruction of animals or fowls kept contrary to law or found running at large;

(27) To arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or overloading or overdriving, or willfully depriving of necessary sustenance, any domestic animal;

(28) To provide for the regular building of houses or other structures, for the making of division fences by the owners of adjacent premises and for the drainage of lots by proper drains and ditches;

(29) To provide for the protection and conservation of shade or ornamental trees, whether on public or private property, and for the removal of trees or limbs of trees in a dangerous condition;

(30) To prohibit with or without zoning the location of occupied house trailers or mobile homes in certain residential areas;

(31) To regulate the location and placing of signs, billboards, posters and similar advertising;

(32) To erect, establish, construct, acquire, improve, maintain and operate a gas system, an electric system, a waterworks system, or sewer system and sewage treatment and disposal system, or any combination of the foregoing (subject to all of the pertinent provisions of articles nineteen and twenty of this chapter and particularly to the limitations or qualifications on the right of eminent domain set forth in said articles nineteen and twenty), within or without the corporate limits of the municipality, or partly within and partly without the corporate limits of the municipality, except
that the municipality shall not erect any such system partly without the corporate limits of the municipality to serve persons already obtaining service from an existing system of the character proposed, and where such system is by the municipality erected, or has heretofore been so erected, partly within and partly without the corporate limits of the municipality, the municipality shall have the right to lay and collect charges for service rendered to those served within and those served without the corporate limits of the municipality, and to prevent injury to such system or the pollution of the water thereof and its maintenance in a healthful condition for public use within the corporate limits of the municipality;

(33) To acquire watersheds, water and riparian rights, plant sites, rights-of-way and any and all other property and appurtenances necessary, appropriate, useful, convenient or incidental to any such system, waterworks or sewage treatment and disposal works, as aforesaid, subject to all of the pertinent provisions of articles nineteen and twenty of this chapter;

(34) To establish, construct, acquire, maintain and operate public buildings, municipal buildings or city halls, auditoriums, arenas, jails, juvenile detention centers or homes, motor vehicle parking lots, or any other public works;

(37) To establish, construct, acquire, provide, equip, maintain and operate recreational parks, playgrounds and other recreational facilities for public use, and in this connection also to proceed in accordance with the provisions of article two, chapter ten of this code;

(38) To establish, construct, acquire, maintain and operate a public library or museum or both for public use;
(39) To provide for the appointment and financial support of a library board in accordance with the provisions of article one, chapter ten of this code;

(40) To establish and maintain a public health unit in accordance with the provisions of section two, article two, chapter sixteen of this code, which unit shall exercise its powers and perform its duties subject to the supervision and control of the West Virginia board of health and state department of health;

(41) To establish, construct, acquire, maintain and operate hospitals, sanitaria and dispensaries;

(42) To acquire, by purchase, condemnation or otherwise, land within or near the corporate limits of the municipality for providing and maintaining proper places for the burial of the dead and to maintain and operate the same and regulate interments therein upon such terms and conditions as to price and otherwise as may be determined by the governing body, and, in order to carry into effect such authority the governing body may acquire any cemetery or cemeteries already established;

(43) To exercise general police jurisdiction over any territory without the corporate limits owned by the municipality or over which it has a right-of-way;

(44) To protect and promote the public morals, safety, health, welfare and good order;

(45) To adopt rules for the transaction of business and the government and regulation of its governing body;

(46) Except as otherwise provided, to require and take such bonds from such officers, when deemed necessary, payable to the municipality, in its corporate name, with such sureties and in such penalty as the governing body may see fit, conditioned upon the faithful discharge of their duties;

(47) To require and take from such employees and contractors such bonds in such penalty, with such sureties and with such conditions, as the governing body may see fit;
(48) To investigate and inquire into all matters of concern to the municipality or its inhabitants;

(49) To establish, construct, require, maintain and operate such instrumentalities, other than free public schools, for the instruction, enlightenment, improvement, entertainment, recreation and welfare of the municipality's inhabitants as the governing body may deem necessary or appropriate for the public interest;

(50) To create, maintain and operate a system for the enumeration, identification and registration, or either, of the inhabitants of the municipality and visitors thereto, or such classes thereof as may be deemed advisable;

(51) To appropriate and expend not exceeding twenty-five cents per capita per annum for advertising the municipality and the entertainment of visitors;

(52) To conduct programs to improve community relations and public relations generally and to expend municipal revenue for such purposes;

(53) To reimburse applicants for employment by the municipality for travel and other reasonable and necessary expenses actually incurred by such applicants in traveling to and from such municipality to be interviewed;

(54) To provide revenue for the municipality and appropriate the same to its expenses; and

(55) To provide penalties for the offenses and violations of law mentioned in this section, subject to the provisions of section one, article eleven of this chapter, and such penalties shall not exceed any penalties provided in this chapter, and chapter sixty-one of this code for like offenses and violations.

CHAPTER 78

(House Bill No. 1018—By Mr. Speaker, Mr. McManus)

(Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section five, article thirteen, chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the im-
position of business and occupation tax or privilege tax
by municipalities, and limitations thereon as to contractors
and financial institutions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. TAXATION AND FINANCE.

§8-13-5. Business and occupation or privilege tax; limitations
as to contractors and financial institutions.

1 Whenever any business or occupation, upon which the
2 state imposes an annual business and occupation or priv-
3 ilege tax under article thirteen, chapter eleven of this
4 code, is engaged in or carried on within the corporate
5 limits of any municipality, the governing body thereof
6 shall have plenary power and authority, unless prohibited
7 by general law, to impose a similar business and occupa-
8 tion or privilege tax thereon for the use of the municipal-
9 ity: Provided, That in no case shall the rate of such mu-
10 nicipal business and occupation or privilege tax on a par-
11 ticular activity exceed the rate imposed by the state, ex-
12 clusive of surtaxes, and the ordinance imposing such tax
13 shall conform with the provisions of said article thirteen
14 as to the waiver of penalties: Provided, however, That
15 no municipality shall impose a business and occupation
16 or privilege tax upon any businesses, occupations or priv-
17 ileges taxed under sections two-a, two-b, two-c, two-d,
18 two-e, two-g, two-h, two-i and two-j of said article thir-
19 teen, chapter eleven in excess of the rates in effect under
20 said article thirteen on January one, one thousand nine
21 hundred fifty-nine or in excess of one percent of gross
22 income under section two-k of said article thirteen.
23 Any taxes levied pursuant to the authority of this sec-
24 tion may be made operative as of the first day of the cur-
25 rent fiscal year and each year thereafter: Provided fur-
26 ther, That any new imposition of tax or any increase in
27 the rate of tax upon any business, occupations or priv-
28 ileges taxed under section two-e shall apply only to gross
when due the principal or redemption price, if applicable, and interest due and to become due on said bonds on and prior to the next redemption date thereof or, if said bonds are not redeemable, on and prior to the maturity date thereof.

The moneys and securities held by the state sinking fund commission pursuant to this subsection (c) shall be held by the sinking fund commission in trust for the payment of the principal or redemption price, if applicable, of and interest on the bonds for the payment or redemption of which such provision is made: Provided, That any cash received from principal or interest payments on securities so held by the sinking fund commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in principal amounts sufficient to pay when due the principal or redemption price, if applicable, of and interest to become due on such bonds on and prior to the redemption date or maturity date thereof, as the case may be, and the interest earned from any such reinvestments shall be paid over to the municipality which issued such bonds, as received by the state sinking fund commission, free and clear of any trust. Any moneys, and the proceeds of any securities, held by the sinking fund commission in trust for the redemption, if applicable, or for the payment and discharge of any series of bonds, which are in excess of the moneys required to fully pay and discharge such bonds, by redemption, if applicable, or upon maturity thereof, shall also be transferred to the general fund of the municipality which issued such bonds after such bonds are redeemed, if applicable, or after such bonds are fully paid and discharged at maturity, as the case may be.

(d) In any case where such funds are transferred from sinking funds, or are remitted from the state sinking fund commission, as hereinabove provided, no part of the moneys so transferred or remitted shall be expended for the payment of current expenses of the municipality, but such funds shall be expended as the governing body of such municipality shall elect for the liquidation of existing nonbonded indebtedness, if any, of such munici-
AN ACT to amend and reenact section three, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the power and authority of any municipality to contract for the prevention and extinguishment of fires within three miles of its corporate limits; and relating to the annual payments to be made by property owners for such contract fire service.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.


1 (a) Any municipality shall have plenary power and authority to contract to render services in the prevention and extinguishment of fires upon property located within three miles of its corporate limits: Provided, That no contract entered into under the authority of this section shall operate to impose any greater or different
obligation or liability upon the municipality than that with respect to property within its corporate limits: Provided, however, That nothing contained in this section shall be construed as requiring any municipality to contract to render such services.

Any contract entered into under the authority of this section, after the effective date of this article, on and after such effective date shall require the property owner to pay as consideration for said services an annual payment, determined as provided in the remainder of this subsection. If the municipality does not impose a fire service fee on the users of such service within the municipality as authorized in section thirteen, article thirteen of this chapter, the annual payment shall be equivalent to eighty percent of the annual tax levied for current municipal purposes upon property within said municipality of like assessed valuation to the property under contract. If the municipality does impose a fire service fee on the users of such service within the municipality, as authorized in section thirteen, article thirteen of this chapter, the annual payment shall be equivalent to the amount of fire service fee which would be imposed if the property under contract were located within the municipality plus at least fifty percent of the annual tax levied for current municipal purposes upon property within said municipality of like assessed valuation to the property under contract. No contract entered into under the authority of this section, and nothing herein contained, shall be construed as requiring or permitting any municipality to install or maintain any special additional apparatus or equipment beyond that necessary for the protection of property within its corporate limits.

(b) The annual payments due under any such contract shall be payable on or before the first day of October of each calendar year in which such contract shall remain in effect, or upon such day as may be hereafter provided as the due date of the first installment of ad valorem taxes. If any annual payment shall be in default for a period of more than thirty days it shall bear interest at the same rate as that provided for delinquent property taxes, and shall be a lien upon the property
under contract, provided a notice of such lien is recorded in the proper deed of trust book in the office of the clerk of the county court of the county in which such property or the major portion thereof is located. Such lien shall be void at the expiration of two years after such defaulted annual payment shall have become due, unless within such two-year period a civil action seeking equitable relief to enforce the same shall have been instituted by said municipality. The municipality may by civil action collect any annual payment and the interest thereon at any time within five years after such payment shall have become due; and upon default in any annual payment, the municipality may cancel the contract involved.

(c) Any contract made under the authority of this section shall inure to the benefit of and be binding upon the successors in title of the person making the same; and such person, upon conveying the property subject to such contract, shall no longer be liable under such contract, except as to annual payments due prior to said conveyance and remaining unpaid.

(d) Any property owner may cancel any such contract with respect to the property of such owner upon giving a thirty-day written notice to the municipality, if such owner is not in default with respect to any annual payment due thereunder, except that if such notice be given subsequent to July first of any calendar year, the next succeeding annual payment shall be made by said property owner as soon as the amount thereof is ascertainable. Upon cancellation as aforesaid, the municipality shall deliver to the property owner a recordable release discharging such owner and such property from any further lien or obligation with respect to said annual payments. The annual payments due under any such contract shall be made to such officials as the municipality, in such contract, shall designate to receive them, who shall likewise have authority to receive notice of cancellation, and execute upon behalf of such municipality the release for which provision is hereinbefore made.
CHAPTER 81

(House Bill No. 625—By Mr. Goodwin and Mr. Hatfield)

[Passed March 8, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-b, relating to issuance of a license permitting hunting with a revolver or pistol.

Be it enacted by the Legislature of West Virginia:

That article two, 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 forty-b, to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-40b. Class A-1 small arms hunting license.

1 Notwithstanding the provisions of section two, article seven, chapter sixty-one of this code, a Class A-1 license shall be a small arms hunting license. If a person is otherwise qualified, a Class A-1 license may be issued by the department, pursuant to rules and regulations promulgated by the director, to a person twenty-one years of age or older who holds a valid Class A or Class AB license, or to a person who is a resident and sixty-five years of age or older, but a Class A-1 license shall never be issued to a person who has been convicted of a misdemeanor in any way associated with the use of firearms or dangerous weapons or who has been convicted of any felony nor shall the clerk of the county court issue A-1 licenses as provided in section thirty-two, article two of this chapter.

A Class A-1 license shall entitle the licensee to hunt, as otherwise permitted by the provisions of this chapter, but only during small game and big game season as established annually by the director, with either a revolver or pistol not to exceed .22 caliber and must have a barrel
at least four inches in length. A Class A-1 license shall entitle the licensee to carry or have in his possession one, and only one, revolver or pistol when going to and from his home or residence and a place of hunting and while hunting in the place: Provided, That such Class A-1 license shall not be valid unless the licensee have in his possession a valid Class A or Class AB license or be a resident and sixty-five years of age or older: Provided, however, That at all times, when not actually hunting, the revolver or pistol shall be unloaded.

While hunting, the licensee shall carry the revolver or pistol outside of his person in an unconcealed and easily visible place. At all other times the revolver or pistol shall be cased or dismantled in a way to cause it not to operate. When being transported in a vehicle it shall be kept in a locked compartment of the vehicle which shall not be accessible from the inside of such vehicle.

The fee shall be five dollars for a Class A-1 license. All such fees collected shall be deposited in the state treasury and credited to the law-enforcement division of the department of natural resources. Such fees shall be paid out of the state treasury on order of the director and used solely for law-enforcement purposes.

CHAPTER 82

(House Bill No. 660—By Miss Crandall and Mr. Myles)

[Passed March 7, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section forty-five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing from ten to five dollars the license fee for nonresident six-day visitors.

Be it enacted by the Legislature of West Virginia:

That section forty-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. WILDLIFE RESOURCES.

§20-2-45. Class K nonresident six-day, statewide, fishing license.

1 A Class K license shall be a nonresident fishing license and shall entitle the licensee to fish for all fish except trout in all counties of the state for a period not to exceed six days. It shall be issued only to citizens of the United States, and to unnaturalized persons possessing the permit required by section twenty-nine of this article, who are not residents of this state. The fee therefor shall be five dollars.

2 Trout fishing is not permitted with a Class K license unless such license has affixed thereto an appropriate trout stamp as prescribed by the department of natural resources. The fee for a trout stamp shall be five dollars.

3 The trout stamp is in addition to a Class K license.

CHAPTER 83

(House Bill No. 548—By Mr. Butcher)

(Passed February 26, 1972; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact section eleven, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recovery of costs incurred in fighting fires.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-11. Recovery of costs incurred in fighting fires.

1 The director shall, in the name of the state, recover from the persons, firms or corporations whose negligence or whose violation of any provision of this article caused
any fire at any time on grass or forest land, the amount
expended by the state for the personal services of per-
sons especially employed under the provisions of section
four of this article to control, confine, extinguish or sup-
press such fire, and the costs associated therewith, but
such recovered amounts shall not include payment for
the personal services rendered by fulltime state law en-
forcement or forestry employees nor costs of state equip-
ment and costs related thereto in controlling, confining,
extinguishing or suppressing such fire. Such recovery
shall not bar an action for damages by any other person.

Any such fire which was caused by a trespasser or by
a person who was upon the property without the con-
sent of the owner shall not be deemed caused by the
negligence of the owner; but the owner shall use all
practical means to confine, extinguish or suppress any
such fire on his land even though it was caused by any
such person. If he fails to do so, after becoming aware
of such fire, the director shall, in the name of the state,
recover from him amounts expended by the state for the
personal services of persons especially employed under the
provisions of section four of this article to control, con-
fine, extinguish or suppress such fire and the costs asso-
ciated therewith, but such recovered amounts shall not
include payment for the personal services rendered by
fulltime state law enforcement or forestry employees nor
costs of state equipment used and costs related thereto in
controlling, confining, extinguishing or suppressing such
fire.

CHAPTER 84

(Com. Sub. for Senate Bill No. 154—Mr. Gainer and Mr. Hubbard)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend chapter twenty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article five-c, pro-
viding for the adoption of the West Virginia water development authority act; setting forth a declaration of policy and responsibility in connection therewith; relating to the purposes of such act; setting forth certain legislative findings; defining terms; creating the West Virginia water development authority for the performance of essential governmental functions; creating the West Virginia water development board; relating to the organization and composition of such board; relating to the designation or appointment of board members, the terms of their office, their oaths and bonds and their compensation and expenses; relating to the qualification of board members, the removal thereof for cause and the functioning of such board; relating to officers of such board and the bond of the secretary-treasurer thereof; relating to the director of the authority; authorizing the authority to provide water development projects; relating to such projects generally; relating to the powers, duties and responsibilities of the authority; relating to venue of actions; authorizing the authority to exercise the right of eminent domain; relating to the expenditure of funds for the study and engineering of proposed water development projects; empowering the authority to issue water development revenue bonds and notes and refunding revenue bonds; specifying the requirements for the issuance of the same; relating generally to all such revenue bonds and notes and resolutions authorizing the same; relating to trust agreements to secure all such revenue bonds and notes; relating to legal remedies of bondholders and trustees; relating to the involvement of the authority and counties, municipalities and other political subdivisions in the establishment of water development projects and the maintenance and operation thereof; specifying that all such revenue bonds and notes shall not be a debt of this state, or any county, municipality or political subdivision in this state; relating to the use of moneys, properties and assets by the authority and restrictions on such use; relating to the investment of funds by the authority; relating to rentals and all other revenues from water development projects; relating generally to contracts and agreements with respect to such projects; authorizing governmental and other contributions to the authority; authorizing proceeds of other bond issues to be
used to aid the authority; relating to the maintenance, operation and repair of water development projects; relating to the taking, destroying and damaging of property; requiring reports by the authority; making water development revenue bonds lawful investments; providing broad exemption from taxation; relating to the acquisition by the authority of property interests; relating to the disturbing, taking, relocation or vacation of highways and property or facilities belonging to any public utility or common carrier and costs in connection therewith; prohibiting certain financial interests; creating criminal offenses; providing criminal penalties; requiring meetings and records of authority to be public; providing a rule of construction; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5C. WEST VIRGINIA WATER DEVELOPMENT AUTHORITY.

§20-5C-1. Short title.
§20-5C-2. Declaration of policy and responsibility; purpose and intent of article; findings.
§20-5C-3. Definitions.
§20-5C-4. West Virginia water development authority created; West Virginia water development board created; organization of authority and board; appointment of board members; their term of office, compensation and expenses; director of authority.
§20-5C-5. Authority may construct, maintain, etc., water development projects.
§20-5C-6. Powers, duties and responsibilities of authority generally.
§20-5C-7. Expenditure of funds for study and engineering of proposed projects.
§20-5C-8. Authority empowered to issue water development revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
§20-5C-9. Trustee for bondholders; contents of trust agreement.
§20-5C-10. Legal remedies of bondholders and trustees.
§20-5C-11. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
§20-5C-12. Use of funds by authority; restrictions thereon.
§20-5C-13. Investment of funds by authority.
§20-5C-14. Rentals and other revenues from water development projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.
§20-5C-15. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.

§20-5C-16. Water development bonds lawful investments.

§20-5C-17. Exemption from taxation.

§20-5C-18. Acquisition of property by authority—Acquisition by purchase; governmental agencies authorized to convey, etc., property.

§20-5C-19. Same—Acquisition under §20-5C-6, subdivision (10); property of public utilities and common carriers; relocation, restoration, etc., of highways and public utility facilities.

§20-5C-20. Financial interest in contracts prohibited; penalty.

§20-5C-21. Meetings and records of authority to be kept public.

§20-5C-22. Liberal construction of article.

§20-5C-23. Severability.

§20-5C-1. Short title.

1 This article shall be known and cited as the "West Virginia Water Development Authority Act."

§20-5C-2. Declaration of policy and responsibility; purpose and intent of article; findings.

1 It is hereby declared to be the public policy of the state of West Virginia and a responsibility of the state of West Virginia, through the establishment, funding, operation and maintenance of water development projects, to maintain, preserve, protect, conserve and in all instances possible to improve the purity and quality of water within the state in order to (1) protect and improve public health; (2) assure the fullest use and enjoyment of such water by the public; (3) provide suitable environment for the propagation and protection of animal, bird, fish, aquatic and plant life, all of which are essential to the health and well-being of the public; and (4) provide water of the necessary quality and in the amount needed for the development, maintenance and expansion of, and to attract service industries and businesses, agriculture, mining, manufacturing and other types of businesses and industries.

To assist in the preservation, protection, improvement and management of the purity and quality of the waters of this state, to prevent or abate pollution of water resources and to promote the health and welfare of citizens of this state, it is the purpose and intent of the Legislature in enacting this article to provide for the necessary, dependable, effective and efficient purification of water; the disposal of liquid and solid wastes harmful to the
public health and safety removed from such water; to
improve water and stream quality; and to assist and co-
operate with governmental agencies in achieving all of
the purposes set forth in this section.

The Legislature finds and hereby declares that the re-
sponsibility of the state as outlined above cannot be
effectively met without the establishment, funding, oper-
ation and maintenance of water development projects as
provided for in this article.

§20-5C-3. Definitions.

1 As used in this article unless the context clearly re-
2 quires a different meaning:
3 (1) “Authority” means the West Virginia water de-
4 velopment authority created in section four of this article,
5 the duties, powers, responsibilities and functions of
6 which are specified in this article.
7 (2) “Beneficial use” means a use of water by a person
8 or by the general public that is consistent with the public
9 interest, health and welfare in utilizing the water re-
10 sources of this states, including, but not limited to,
11 domestic, agricultural, irrigation, industrial, manufactur-
12 ing, mining, power, public, sanitary, fish and wildlife,
13 state, county, municipal, navigational, recreational, aesthe-
14 tic and scenic use.
15 (3) “Board” means the West Virginia water develop-
16 ment authority board created in section four of this
17 article, which shall manage and control the West Vir-
18 ginia water development authority.
19 (4) “Bond” or “water development revenue bond”
20 means a revenue bond or note issued by the West Vir-
21 ginia water development authority to effect the intents
22 and purposes of this article.
23 (5) “Construction” includes reconstruction, enlarge-
24 ment, improvement and providing furnishings or equip-
25 ment.
26 (6) “Cost” means, as applied to water development
27 projects, the cost of their acquisition and construction;
28 the cost of acquisition of all land, rights-of-way, property
29 rights, easements, franchise rights and interests required
by the authority for such acquisition and construction;
the cost of demolishing or removing any buildings
or structures on land so acquired, including the cost
of acquiring any lands to which such buildings or struc-
tures may be moved; the cost of acquiring or con-
structing and equipping a principal office and suboffices
of the authority; the cost of diverting highways, inter-
change of highways, access roads to private property,
including the cost of land or easements therefor; the cost
of all machinery, furnishings, and equipment; all financing
charges, and interest prior to and during construction
and for no more than eighteen months after completion
of construction; the cost of all engineering services and
all expenses of research and development with respect
to waste water facilities; the cost of all legal services and
expenses; the cost of all plans, specifications, surveys
and estimates of cost and revenues; all working capital
and other expenses necessary or incident to determining
the feasibility or practicability of acquiring or construct-
ing any such project; all administrative expenses and
such other expenses as may be necessary or incident to
the acquisition or construction of the project; the financing
of such acquisition or construction, including the amount
authorized in the resolution of the authority providing
for the issuance of water development revenue bonds
to be paid into any special funds from the proceeds of
such bonds; and the financing of the placing of any
such project in operation. Any obligation or expenses
incurred after the effective date of this section by any
governmental agency, with the approval of the authority,
for surveys, borings, preparation of plans and specifica-
tions and other engineering services in connection with
the acquisition or construction of a project shall be re-
garded as a part of the cost of such project and shall
be reimbursed out of the proceeds of water development
revenue bonds as authorized by the provisions of this
article.

(7) "Establishment" means an industrial establish-
ment, mill, factory, tannery, paper or pulp mill, mine,
colliery, breaker or mineral processing operation, quarry,
refinery, well, and each and every industry or plant or
works or activity in the operation or process of which
industrial wastes, or other wastes are produced.

(8) "Governmental agency" means the state govern-
ment or any agency, department, division or unit there-
of; counties; municipalities; watershed improvement
districts; soil conservation districts; sanitary districts;
public service districts; drainage districts; regional
governmental authorities and any other governmental
agency, entity, political subdivision, public corporation
or agency having the authority to acquire, construct
or operate waste water facilities; the United States
government or any agency, department, division or unit
thereof; and any agency, commission or authority estab-
lished pursuant to an interstate compact or agreement.

(9) "Industrial wastes" means any liquid, gaseous,
soild or other waste substance, or any combination
thereof, resulting from or incidental to any process of
industry, manufacturing, trade or business, or from or
incidental to the development, processing or recovery
of any natural resources; and the admixture with
such industrial wastes of sewage or other wastes, as
defined in this section, shall also be considered industrial
wastes.

(10) "Other wastes" means garbage, refuse, decayed
wood, sawdust, shavings, bark and other wood debris
and residues, sand, lime, cinders, ashes, offal, night soil,
silt, oil, tar, dyestuffs, acids, chemicals, and all other
materials or substances not sewage or industrial wastes
which may cause or might reasonably be expected to
cause or to contribute to the pollution of any of the
waters of this state.

(11) "Owner" includes all persons, copartnerships or
governmental agencies having any title or interest in
any property rights, easements and interests authorized
to be acquired by this article.

(12) "Person" means any public or private corporation,
institution, association, firm or company organized or
existing under the laws of this or any other state or
country; the United States or the state of West Virginia;
any federal or state governmental agency; political subdivision; county court; municipality; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group or any other legal entity whatever.

(13) "Pollution" means (a) the discharge, release, escape, deposit or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes, or other wastes, of whatever kind or character, in or near any waters of the state, in such condition, manner or quantity, as does, will, or is likely to (1) contaminate or substantially contribute to the contamination of any of such waters, or (2) alter or substantially contribute to the alteration of the physical, chemical or biological properties of any of such waters, if such contamination or alteration, or the resulting contamination or alteration where a person only contributes thereto, is to such an extent as to make any of such waters (i) directly or indirectly harmful, detrimental or injurious to the public health, safety and welfare, or (ii) directly or indirectly detrimental to existing animal, bird, fish, aquatic or plant life, or (iii) unsuitable for present or future domestic, commercial, industrial, agricultural, recreational, scenic or other legitimate uses; and also means (b) the discharge, release, escape, deposit, or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes or other wastes, of whatever kind or character, in or near any waters of the state in such condition, manner or quantity, as does, will, or is likely to reduce the quality of the waters of the state below the standards established therefor by the United States or any department, agency, board or commission of this state authorized to establish such standards.

(14) "Project" or "water development project" means any waste water facility the acquisition or construction of which is authorized by the West Virginia water development authority or the acquisition or construction of which is financed in whole or in part from funds
made available by grant or loan by, or through, the
authority as provided in this article, including all build-
ings and facilities which the authority deems necessary
for the operation of the project, together with all property,
rights, easements and interest which may be required
for the operation of the project, but excluding all build-
ings and facilities used to produce electricity other than
electricity for consumption by the authority in the
operation and maintenance of the project.

(15) “Public roads” mean all public highways, roads
and streets in this state, whether maintained by the
state, county, municipality or other political subdivision.

(16) “Public utility facilities” mean public utility
plants or installations and includes tracks, pipes, mains,
conduits, cables, wires, towers, poles and other equip-
ment and appliances of any public utility.

(17) “Revenue” means any money or thing of value
collected by, or paid to, the West Virginia water develop-
ment authority as rent, use or service fee or charge for
use of, or in connection with, any water development
project.

(18) “Sewage” means water-carried human or animal
wastes from residences, buildings, industrial establish-
ments or other places, together with such ground water
infiltration and surface waters as may be present.

(19) “Water resources,” “water” or “waters” mean any
and all water on or beneath the surface of the ground,
whether percolating, standing, diffused or flowing, wholly
or partially within this state, or bordering this state and
within its jurisdiction, and shall include, without limiting
the generality of the foregoing, natural or artificial lakes,
rivers, streams, creeks, branches, brooks, ponds (ex-
cept farm ponds, industrial settling basins and ponds
and water treatment facilities), impounding reservoirs,
springs, wells and watercourses.

(20) “Waste water” means any water containing sew-
age, industrial wastes, other wastes or contaminants de-
erived from the prior use of such water, and shall include
without limiting the generality of the foregoing, surface
494  water of the type storm sewers are designed to collect and  
dispose of.  

(21) "Waste water facilities" mean facilities for the  
purpose of treating, neutralizing, disposing of, stabilizing,  
cooling, segregating or holding waste water, including  
without limiting the generality of the foregoing, facilities  
for the treatment and disposal of sewage, industrial  
wastes, or other wastes, or waste water, and the residue  
thereof; facilities for the temporary or permanent im-  
poundment of waste water, both surface and underground;  
and sanitary sewers or other collection systems, whether  
on the surface or underground, designed to transport  
waste water together with the equipment and furnishings  
thereof and their appurtenances and systems, whether on  
the surface or underground, including force mains and  
pumping facilities therefor.

§20-SC-4. West Virginia water development authority created;  
West Virginia water development board created;  
organization of authority and board; appointment  
of board members; their term of office, compensation and expenses; director of authority.

There is hereby created the West Virginia water de-  
velopment authority. The authority is a governmental  
instrumentality of the state and a body corporate. The  
exercise by the authority of the powers conferred by  
this article and the carrying out of its purposes and duties  
shall be deemed and held to be, and are hereby deter-  
mined to be, essential governmental functions and for a  
public purpose.

The authority shall be controlled, managed and oper-  
ated by the five-member board known as the West Vir-  
ginia water development board, which is hereby created.  
The director of the department of natural resources and  
the director of the department of health shall be mem-  
ers ex officio of the board. The other three members of  
the board shall be appointed by the governor, by and  
with the advice and consent of the Senate, for terms of  
two, four and six years, respectively. The successor of  
each such appointed member shall be appointed for a  
term of six years in the same manner the original ap-
pointments were made, 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 board member shall serve until the appointment and qualification of his successor. No more than two of the appointed board members shall at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms.

All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of twenty-five thousand dollars in the manner provided in article two, chapter six of this code. The governor may remove any board member for cause as provided in article six, chapter six of this code.

Annually the board shall elect one of its appointed members as chairman and another as vice chairman, and shall appoint a secretary-treasurer, who need not be a member of the board. Four members of the board shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by vote of the board. No vacancy in the membership of the board shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if he is so appointed, shall give bond in the sum of fifty thousand dollars in the manner provided in article two, chapter six of this code.

The director of the department of natural resources and the director of the department of health shall not receive any compensation for serving as board members. Each of the three appointed members of the board shall receive an annual salary of five thousand dollars, payable in monthly installments. Each of the five board members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of such board. All such expenses incurred by the board shall be payable solely from funds of the authority or from funds appropriated for such pur-
pose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

There shall also be a director of the authority appointed by the board.

§20-5C-5. Authority may construct, maintain, etc., water development projects.

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the West Virginia water development authority may initiate, acquire, construct, maintain, repair and operate water development projects or cause the same to be operated pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to governmental agencies for the acquisition or construction of waste water facilities by such governmental agencies; and may issue water development revenue bonds of this state, payable solely from revenues, to pay the cost of such projects. A water development project shall not be undertaken unless it has been determined by the authority to be consistent with any applicable comprehensive plan of water management approved by the director of the department of natural resources or in the process of preparation by such director and to be consistent with the standards set by the state water resources board, for the waters of the state affected thereby. Any resolution of the authority providing for acquiring or constructing such projects or for making a loan or grant for such projects shall include a finding by the authority that such determinations have been made.

§20-5C-6. Powers, duties and responsibilities of authority generally.

The West Virginia water development authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose. The authority shall have the power and capacity to:
(1) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules and regulations to implement and make effective its powers and duties, such rules and regulations to be promulgated in accordance with the provisions of chapter twenty-nine-a of this code.

(2) Adopt an official seal.

(3) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.

(4) Sue and be sued in its own name and plead and be impleaded in its own name, and particularly to enforce the obligations and covenants made under sections eight, nine and fourteen of this article. Any actions against the authority shall be brought in the circuit court of Kanawha county in which the principal office of the authority shall be located.

(5) Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and, in accordance with chapter twenty-nine-a of this code, adopt rules and procedures for making such loans and grants.

(6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by a governmental agency or person, water development projects, and, in accordance with chapter twenty-nine-a of this code, adopt rules and regulations for the use of such projects.

(7) Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof.

(8) Issue water development revenue bonds and notes and water development revenue refunding bonds of the state, payable solely from revenues as provided in section eight of this article unless the bonds are refunded by refunding bonds, for the purpose of paying any part of the cost of one or more water development projects or parts thereof.
(9) Acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties as set forth in this article.

(10) Acquire in the name of the state, by purchase or otherwise, on such terms and in such manner as it deems proper, or by the exercise of the right of eminent domain in the manner provided in chapter fifty-four of this code, such public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests it deems necessary for carrying out the provisions of this article, but excluding the acquisition by the exercise of the right of eminent domain of any waste water facility operated under permits issued pursuant to the provisions of article five-a, chapter twenty of this code and owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken.

(11) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers. When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than two thousand dollars, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area for such publication to be the county wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined and the time and place of receiving bids, but a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to section fourteen of this article is not subject to the foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and
upon such terms and conditions and for such period as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project. The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority, shall be required of all contractors in an amount equal to at least fifty percent of the contract price, conditioned upon the faithful performance of the contract.

(12) Employ managers, superintendents and other employees, who shall be covered by the state civil service system, and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys and such other consultants and independent contractors as are necessary in its judgment to carry out the provisions of this article, and fix the compensation or fees thereof. All expenses thereof shall be payable solely from the proceeds of water development revenue bonds or notes issued by the authority, from revenues and from funds appropriated for such purpose by the Legislature.

(13) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any water development project or for research and development with respect to waste water facilities and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made.

(14) Engage in research and development with respect to waste water facilities.

(15) Purchase fire and extended coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and any other insurance the authority may agree to provide under any resolution authorizing the issuance of water develop-
ment revenue bonds or in any trust agreement securing the same.

(16) Charge, alter and collect rentals and other charges for the use or services of any water development project as provided in this article.

(17) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

§20-5C-7. Expenditure of funds for study and engineering of proposed projects.

With the approval and the consent of the board, either the director of the department of natural resources or the director of the department of health, or both of them, shall expend, out of any funds available for the purpose, such moneys as are necessary for the study of any proposed water development project and may use its engineering and other forces, including consulting engineers and sanitary engineers, for the purpose of effecting such study. All such expenses incurred by such directors or either of them prior to the issuance of water development revenue bonds or notes under this article shall be paid by the director or respective directors incurring such expenses and charged to the appropriate water development project and the director or respective directors shall keep proper records and accounts, showing the amounts so charged. Upon the sale of water development revenue bonds or notes for a water development project, the funds so expended by the director or respective directors, with the approval of the authority, in connection with such project, shall be repaid to the department or departments of such director or directors from the proceeds of such bonds or notes.

§20-5C-8. Authority empowered to issue water development revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

The authority is hereby empowered to raise the cost of one or more water development projects or parts thereof by the issuance from time to time of water development revenue bonds and notes of the state in such principal amount as the authority deems neces-
sary, but the aggregate amount of all issues of bonds
and notes outstanding at one time for all projects au-
thorized hereunder shall not exceed that amount capable
of being serviced by revenues received from such
projects.

The authority may, from time to time, issue renewal
notes, issue bonds to pay such notes and whenever it
deems refunding expedient, refund any bonds by the is-
suance of water development revenue refunding bonds of
the state, whether the bonds to be refunded have or have
not matured, and issue bonds partly to refund bonds then
outstanding and partly for any other authorized pur-
pose. The refunding bonds shall be sold and the pro-
ceeds applied to the purchase, redemption or payment of
the bonds to be refunded. Except as may otherwise be
expressly provided by the authority, every issue of its
bonds or notes shall be obligations of the authority pay-
able out of the revenues of the authority, which are
pledged for such payment, without preference or priority
of the first bonds issued, subject only to any agreements
with the holders of particular bonds or notes pledging any
particular revenues. Such pledge shall be valid and bind-
ing from the time the pledge is made and the revenue so
pledged and thereafter received by the authority shall
immediately be subject to the lien of such pledge without
any physical delivery thereof or further act and the lien
of any such pledge shall be valid and binding as against
all parties having claims of any kind in tort, contract or
otherwise against the authority irrespective of whether
such parties have notice thereof.

All such bonds and notes shall have and are hereby
declared to have all the qualities of negotiable instru-
ments.

The bonds and notes shall be authorized by resolution of
the authority, shall bear such date and shall mature at
such time, in the case of any such note or any renewals
thereof not exceeding five years from the date of issue of
such original note, and in the case of any such bond not
exceeding fifty years from the date of issue, as such reso-
lution may provide. The bonds and notes shall bear in-
terest at such rate, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by the chairman and vice chairman of the authority, both of whom may use facsimile signatures. The official seal of the authority or a facsimile thereof shall be affixed thereunto or printed thereon and attested, manually or by facsimile signature, by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chairman of the authority. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery and in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes such facsimile seal will continue to be sufficient for all purposes.

Any resolution authorizing any bonds or notes or any issue thereof may contain provisions (subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof) as to pledging all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; a covenant to fix, alter and collect rentals and other charges so that pledged revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or
notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale or other disposition of any water development project or any other assets of the authority; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue thereof; notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority; securing any bonds or notes by a trust agreement; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

§20-5C-9. Trustee for bondholders; contents of trust agreement.

In the discretion of the authority, any water development revenue bonds or notes or water development revenue refunding bonds issued by the authority under this article may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within or without this state.

Any such trust agreement may pledge or assign revenues of the authority to be received, but shall not convey or mortgage any water development project or any part
thereof. Any such trust agreement or any resolution pro-
viding for the issuance of such bonds or notes may con-
tain such provisions for protecting and enforcing the
rights and remedies of the bondholders or noteholders as
are reasonable and proper and not in violation of law,
including covenants setting forth the duties of the au-
thority in relation to the acquisition of property, the con-
struction, improvement, maintenance, repair, operation
and insurance of the water development project in con-
nection with which such bonds or notes are authorized,
the rentals or other charges to be imposed for the use
or services of any water development project, the custody,
safeguarding, and application of all moneys and provisions
for the employment of consulting engineers in connec-
tion with the construction or operation of such water de-
velopment project. Any banking institution or trust
company incorporated under the laws of this state which
may act as depository of the proceeds of bonds or notes
or of revenues shall furnish such indemnifying bonds or
pledge such securities as are required by the authority.
Any such trust agreement may set forth the rights and
remedies of the bondholders and noteholders and of the
trustee and may restrict individual rights of action by
bondholders and noteholders as customarily provided in
trust agreements or trust indentures securing similar
bonds. Such trust agreement may contain such other pro-
visions as the authority deems reasonable and proper for
the security of the bondholders or noteholders. All ex-
penses incurred in carrying out the provisions of any such
trust agreement may be treated as a part of the cost of the
operation of the water development project. Any such
trust agreement or resolution authorizing the issuance of
water development revenue bonds may provide the
method whereby the general administrative overhead ex-
penses of the authority shall be allocated among the sev-
eral projects acquired or constructed by it as a factor of
the operating expenses of each such project.

§20-5C-10. Legal remedies of bondholders and trustees.

Any holder of water development revenue bonds issued
under the authority of this article or any of the coupons
appertaining thereto and the trustee under any trust
agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or such trust agreement, may by civil action, mandamus or other proceedings, protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this article, or by the trust agreement or resolution, to be performed by the authority or any officer thereof, including the fixing, charging and collecting of sufficient rentals or other charges.

§20-5C-11. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.

Water development revenue bonds and notes and water development revenue refunding bonds issued under authority of this article and any coupons in connection therewith shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders or owners thereof shall have no right to have taxes levied by the Legislature or taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds and notes shall be payable solely from the revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out the provisions of
this article shall be payable solely from funds provided under authority of this article. Such article does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any county, municipality or political subdivision thereof.

§20-SC-12. Use of funds by authority; restrictions thereon.

1 All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of water development revenue bonds or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of water development revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section thirteen of this article, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any banking institution or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and such resolution or trust agreement provide.


1 Funds of the authority in excess of current needs, except as otherwise provided in any resolution authorizing the issuance of its water development revenue bonds or in any trust agreement securing the same, may be invested by the authority in any security or securities in which the "West Virginia State Board of Investments" is authorized to invest under sections nine and ten, article six, chapter twelve of this code, except those securities specified in subdivisions (f) and (g) of said section nine. Income from all such investments of moneys in any fund shall be credited to such funds as the authority determines, subject to the provisions of any
§20-5C-14. Rentals and other revenues from water development projects; contracts and leases of authority; cooperation of other governmental agencies; bonds of such agencies.

The authority may charge, alter and collect rentals or other charges for the use or services of any water development project, and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals or other charges for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any other authority, department, commission, board, bureau or agency of the state, and such contract may provide for acquisition by such person or governmental agency of all or any part of such water development project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water development revenue bonds or notes or water development revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain waste water facilities may enter into a contract or lease with the authority whereby the use or services of any water development project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by such governmental agency and the authority.

Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a water development project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such con-
tributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of water development revenue bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection thereof, and by the payment of such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.

Any governmental agency, pursuant to a favorable vote of the electors in an election held before or after the effective date of this section for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for a waste water facility, whether or not the governmental agency at the time of such election had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with an agreement between such governmental agency and the authority: Provided, That the legislative authority of the governmental agency finds and determines that the water development project to be acquired or constructed by the authority in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.
§20-5C-15. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.

Each water development project, when constructed and placed in operation, shall be maintained and kept in good condition and repair by the authority or the authority shall cause the same to be maintained and kept in good condition and repair. Each such project shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a governmental agency or person. All public or private property damaged or destroyed in carrying out the provisions of this article and in the exercise of the powers granted hereunder with regard to any project shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided in accordance with the provisions of this article. As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.

§20-5C-16. Water development bonds lawful investments.

The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, all water development revenue bonds issued pursuant to this article shall be lawful investments for the West Virginia state board of investments and shall also be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, insurance companies, including domestic for life and domestic not for life insurance companies.

§20-5C-17. Exemption from taxation.

The exercise of the powers granted to the authority by this article will be in all respects for the benefit of the
people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is a public purpose. As the operation and maintenance of water development projects will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon any water development project or upon any property acquired or used by the authority or upon the income therefrom.

Such bonds and notes and all interest and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except inheritance taxes.

§20-5C-18. Acquisition of property by authority—Acquisition by purchase; governmental agencies authorized to convey, etc., property.

The authority may acquire by purchase, whenever it deems such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands it deems necessary or convenient for the construction and operation of any water development project upon such terms and at such prices it considers reasonable and can be agreed upon between the authority and the owner thereof, and take title thereto in the name of the state.

All governmental agencies, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies deem reasonable and fair and without the necessity for an advertisement, auction, order of court or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein, including improvements thereto or personal property which is necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property or interests therein, including improvements thereto or personal property already devoted to public use.
§20-5C-19. Same—Acquisition under §20-5C-6, subdivision (10); property of public utilities and common carriers; relocation, restoration, etc., of highways and public utility facilities.

The authority may acquire, pursuant to subdivision ten, section six of this article, any land, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any water development project.

This section does not authorize the authority to take or disturb property or facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority.

When the authority finds it necessary to change the location of any portion of any public road, state highway, railroad or public utility facility in connection with the construction of a water development project, it shall cause the same to be reconstructed at such location as the unit or division of government having jurisdiction over such road, highway, railroad or public utility facility deems most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility shall be paid by the authority as a part of the cost of such water development project.

When the authority finds it necessary that any public highway or portion thereof be vacated by reason of the acquisition or construction of a water development project, the authority shall request the West Virginia commissioner of highways, in writing, to vacate such highway or portion thereof if the highway or portion thereof to be vacated is part of the state road system, or, if the highway or portion thereof to be vacated is under the jurisdiction of a county or a municipality, the authority shall
request the governing body of such county or municipality to vacate such public road or portion thereof. The authority shall pay to the West Virginia commissioner of highways or to the county or municipality, as the case may be, as part of the cost of such water development project, any amounts required to be deposited with any court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

The authority may make reasonable rules and regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of railroad or public utility facilities in, on, over or under any water development project. Whenever the authority determines that it is necessary that any such facilities installed or constructed in, on, over or under property of the authority pursuant to such rules and regulations be relocated, the railroad or public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands or any rights or interests in lands and the cost of any other rights acquired to accomplish such relocation or removal, may be paid by the authority as a part of the cost of such water development project. In case of any such relocation or removal of facilities, the railroad or public utility owning or operating them, and its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances in the new location in, on, over or under the property of the authority for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location.

§20-5C-20. Financial interest in contracts prohibited; penalty.

No officer, member or employee of the authority shall be financially interested, directly or indirectly, in any contract of any person with the authority, or in the sale of any property, real or personal, to or from the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and
7 any governmental agency. If any officer, member or
8 employee of the authority has such financial interest in
9 a contract or sale of property prohibited hereby, he shall
10 be guilty of a misdemeanor, and, upon conviction thereof,
11 shall be fined not more than one thousand dollars, or
12 imprisoned in the county jail not more than one year, or
13 both fined and imprisoned.

§20-5C-21. Meetings and records of authority to be kept public.
1 All meetings of the authority shall be open to the pub-
2 lic and the records of the authority shall be open to pub-
3 lic inspection at all reasonable times, except as otherwise
4 provided in this section. All final actions of the authority
5 shall be journalized and such journal shall also be open
6 to the inspection of the public at all reasonable times.
7 Any records or information relating to secret processes
8 or secret methods of manufacture or production which
9 may be obtained by the authority or other persons acting
10 under authority of this article are confidential and shall
11 not be disclosed.

§20-5C-22. Liberal construction of article.
1 The provisions of this article are hereby declared to be
2 remedial and shall be liberally construed to effectuate its
3 purposes and intents.

§20-5C-23. Severability.
1 If any section, part or provision of this article or the
2 application thereof to any person or circumstance is held
3 unconstitutional or invalid, such unconstitutionality or
4 invalidity shall not affect any other section, part or pro-
5 vision of this article or its application and to this end
6 the provisions of this article are declared to be severable.

CHAPTER 85

(House Bill No. 717—By Mr. Kopp and Mr. Buck)

(Passed March 10, 1972; in effect ninety days from passage. Approved by the
Governor.)

AN ACT to amend chapter twenty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by
adding thereto a new article, designated article six-b, relating to the entry of the state of West Virginia into an interstate mining compact; findings and purposes in relation to said compact; definitions pertaining thereto; establishment and maintenance of state programs; creation and powers of the interstate mining commission; expenses of said commission; entry into and withdrawal from said compact; effect on other laws; construction and severability; creation, composition, compensation and terms of members of mining council; filing of bylaws and amendments thereto; and setting an effective date.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6B. INTERSTATE MINING COMPACT.

§20-6B-1. Enactment of compact.

§20-6B-2. Mining council.


§20-6B-4. Effective date.

§20-6B-1. Enactment of compact.

1 The "Interstate Mining Compact" is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE MINING COMPACT

Article I. Findings and Purposes.

1 (a) The party states find that:

2 (1) Mining and the contributions thereof to the economy and well-being of every state are of basic significance.

3 (2) The effects of mining on the availability of land, water and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes and the public.

4 (3) Measures for the reduction of the adverse effects of mining on land, water and other resources may be
costly and the devising of means to deal with them are of both public and private concern.

(4) Such variables as soil structure and composition, physiography, climatic conditions and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaption or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

(5) The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles, and with due regard for local conditions.

(b) The purposes of this compact are to:

(1) Advance the protection and restoration of land, water and other resources affected by mining.

(2) Assist in the reduction or elimination or countering of pollution or deterioration of land, water and air attributable to mining.

(3) Encourage, with due recognition of relevant regional, physical and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.

(4) Assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration or protection of such land and other resources.

(5) Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.
Article II. Definitions.

As used in this compact, the term:

(a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores and other solid matter from its original location, and the preparation, washing, cleaning or other treatment of minerals, ores or other solid matter so as to make them suitable for commercial, industrial or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction.

(b) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico or a territory or possession of the United States.

Article III. State Programs.

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws or the continuing of the same in force, to accomplish:

(a) The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.

(b) The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational or aesthetic value and utility of land and water.

(c) The institution and maintenance of suitable programs for adaption, restoration and rehabilitation of mined lands.
(d) The prevention, abatement and control of water, air and soil pollution resulting from mining, present, past and future.

Article IV. Powers.

In addition to any other powers conferred upon the interstate mining commission, established by Article V of this compact, such commission shall have power to:

(a) Study mining operations, processes and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes and techniques on land, soil, water, air, plant and animal life, recreation and patterns of community or regional development or change.

(b) Study the conservation, adaptation, improvement and restoration of land and related resources affected by mining.

(c) Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.

(d) Gather and disseminate information relating to any of the matters within the purview of this compact.

(e) Cooperate with the federal government and any public or private entities having interests in any subject coming within the purview of this compact.

(f) Consult, upon the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact.

(g) Study and make recommendations with respect to any practice, process, technique or course of action that may improve the efficiency of mining or the economic yield from mining operations.

(h) Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate
use of land and other resources containing minerals or
otherwise connected with actual or potential mining sites.

Article V. The Commission.

(a) There is hereby created an agency of the party
states to be known as the "Interstate Mining Commission,"
hereinafter called "the commission." The commission
shall be composed of one commissioner from each party
state who shall be the governor thereof. Pursuant to the
laws of his party state, each governor shall have the as-
sistance of an advisory body (including membership from
mining industries, conservation interests and such other
public and private interests as may be appropriate) in
considering problems relating to mining and in discharg-
ing his responsibilities as the commissioner of his state
on the commission. In any instance where a governor is
unable to attend a meeting of the commission or perform
any other function in connection with the business of the
commission, he shall designate an alternate from among
the members of the advisory body required by this para-
graph, who shall represent him and act in his place and
stead. The designation of an alternate shall be communi-
cated by the governor to the commission in such manner
as its bylaws may provide.

(b) The commissioners shall be entitled to one vote
each on the commission. No action of the commission mak-
ing a recommendation pursuant to Articles IV (c), IV (g)
and IV (h) or requesting, accepting or disposing of funds,
services or other property pursuant to this paragraph,
Articles V (g), V (h), or VII shall be valid unless taken
at a meeting at which a majority of the total number
of votes on the commission is cast in favor thereof. All
other action shall be by a majority of those present and
voting: Provided, That action of the commission shall be
only at a meeting at which a majority of the commis-
sioners, or their alternates, is present. The commission
may establish and maintain such facilities as may be nec-
essary for the transacting of its business. The commission
may acquire, hold and convey real and personal property
and any interest therein.
(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission. The executive director, the treasurer and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain, independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The commission may borrow, accept or contract for the services of personnel from any state, the United States or any other governmental agency, or from any person, firm, association or corporation.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this para-
graph or services borrowed pursuant to paragraph (g) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor, Legislature and advisory body required by Article V (a) of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

Article VI. Advisory, Technical and Regional Committees.

The commission shall establish such advisory, technical and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development or use of mined land or any other matters of concern to the commission.

Article VII. Finance.

(a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the Legislature thereof.

(b) Each of the commission's budgets of estimated
expenditures shall contain specific recommendations of
the amount or amounts to be appropriated by each of the
party states. The total amount of appropriations request-
ed under any such budget shall be apportioned among
the party states in equal shares.

(c) The commission shall not pledge the credit of any
party state. The commission may meet any of its obli-
gations in whole or in part with funds available to it
under Article V (h) of this compact: Provided, That the
commission takes specific action setting aside such funds
prior to incurring any obligation to be met in whole or
in part in such manner. Except where the commission
makes use of funds available to it under Article V (h)
hereof, the commission shall not incur any obligation
prior to the allotment of funds by the party states
adequate to meet the same.

(d) The commission shall keep accurate accounts of
all receipts and disbursements. The receipts and disburse-
ments of the commission shall be subject to the audit
and accounting procedures established under its bylaws.
All receipts and disbursements of funds handled by the
commission shall be audited yearly by a qualified public
accountant and the report of the audit shall be included
in and become part of the annual report of the commis-
sion.

(e) The accounts of the commission shall be open at
any reasonable time for inspection by duly constituted
officers of the party states and by any persons authorized
by the commission.

(f) Nothing contained herein shall be construed to
prevent commission compliance with laws relating to
audit or inspection of accounts by or on behalf of any
government contributing to the support of the commis-

Article VIII. Entry Into Force and Withdrawal.

(a) This compact shall enter into force when enacted
into law by any four or more states. Thereafter, this
compact shall become effective as to any other state upon
its enactment thereof.

(b) Any party state may withdraw from this com-
pact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX. Effect On Other Laws.

Nothing in this compact shall be construed to limit, repeal or supersede any other law of any party state.

Article X. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§20-6B-2. Mining council.

(a) The "Mining Council," hereinafter called "the council," is hereby established in the office of the governor. The council shall be the advisory body referred to in Article V (a) of the interstate mining compact. No member of the council shall receive any compensation on account of his service thereon, but any such member shall be entitled to reimbursement for expenses actually incurred by him in connection with his service as the governor's alternate on the interstate mining commission or in attending meetings of the council.

(b) The council shall be composed of seven members. The governor shall appoint two members who shall be
representative of mining industries and three members
with a demonstrated and continuing interest in conserv-
ation matters. Of the five members so appointed by the
governor, no more than three shall be of the same political
party. The director of the department of natural re-
sources and the dean of the West Virginia University
school of mines shall be the sixth and seventh members.
The council shall elect its own chairman from among
its members.

(c) Except for the director of the department of
natural resources and the dean of the West Virginia Uni-
versity school of mines, who shall serve ex officio, each
member shall serve for a term of five years. Of the five
members of the council first appointed, one shall be ap-
pointed for a term ending on the thirtieth day of June,
one thousand nine hundred seventy-three, and one each
for terms ending one, two, three and four years there-
after.


In accordance with Article V (i) of the interstate min-
ing compact, the commission shall file copies of its bylaws
and any amendments thereto in the office of the secre-
tary of state of West Virginia.

§20-6B-4. Effective date.

This article shall be effective on the first day of July,
one thousand nine hundred seventy-two.

CHAPTER 86
(Com. Sub. for Senate Bill No. 404—Mr. McCourt, Mr. President,
and Mr. Wallace)

(Passed March 11, 1972; in effect from passage. Approved by the Governor.)

AN ACT to amend chapter twenty of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,
by adding thereto a new article, designated article six-c,
relating to the Coal Refuse Disposal Control Act; definition of terms used in article; legislative findings concerning coal refuse disposal piles; duties of director; aerial and on-site inspection; findings and conclusions of director; remedial action by director in cases of imminent danger; recovery of cost; orders of director; injunctive relief; administrative hearing and appeal; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6C. COAL REFUSE DISPOSAL CONTROL ACT.

§20-6C-1. Short title.
§20-6C-2. Definitions.
§20-6C-3. Legislative findings.
§20-6C-4. Administrative findings respecting coal refuse disposal piles.
§20-6C-5. Remedial action respecting dangerous coal refuse disposal piles.
§20-6C-6. Orders of director; injunctive relief.
§20-6C-7. Hearing upon orders of director; costs and bond; judicial review; appeal; legal assistance for director.
§20-6C-8. Severability.

§20-6C-1. Short title.

1 This article may be known and cited as the “Coal Refuse Disposal Control Act.”

§20-6C-2. Definitions.

1 As used in this article:
2 (a) “Director” means the director of the department of natural resources;
3 (b) “Coal refuse” means any waste coal, rock, shale, slurry, culm, gob, honey, slate, clay and related materials, associated with or near a coal seam, which are either brought above ground or otherwise removed from a coal mine in the process of mining coal, or which are separated from coal during the cleaning or preparation operations;
4 (c) “Coal refuse disposal pile” means any deposit of coal refuse on or buried in the earth and intended as
13 permanent disposal or long-term storage of such material;
14 (d) "Operator" means any person operating any coal
15 refuse disposal pile, or part thereof; and
16 (e) "Operate" means to enter upon a coal refuse dis­
17 posal pile, or part thereof, for the purpose of disposing,
18 depositing or dumping coal refuse thereon, or to employ
19 a coal refuse disposal pile for retarding the flow of or the
20 impoundment of water.

§20-6C-3. Legislative findings.
1 The Legislature finds that in certain areas of the state
2 the disposition of materials displaced in the mining of
3 coal creates coal refuse disposal piles which have in the
4 past and may in the future:
5 (a) Endanger the lives and properties of persons resid-
6 ing in the hollows and valleys of the affected watersheds;
7 (b) Threaten streams, roads, schools and other public
8 properties and facilities; and
9 (c) Result in the creation of an emergency sit-
10 uation as to which there can be no delay in taking
11 remedial action to alleviate resulting perils to persons
12 and properties.

§20-6C-4. Administrative findings respecting coal refuse dis-
1 posal piles.
1 Within sixty days of the effective date of this article, the
2 director shall complete or have completed an aerial in-
3 spection and photographs of all coal refuse disposal piles
4 and any associated water impoundments; and within
5 one hundred twenty days thereafter, the director shall
6 make findings, based on competent engineering evalua-
7 tions and opinions, concerning the stability and adequacy,
8 including but not limited to the heaviest rainfall condi-
9 tions based on a return frequency of fifty years, of coal
10 refuse disposal piles which cause water impoundments;
11 and within one year thereafter, the director shall make
12 findings, based on competent engineering evaluations and
13 opinions, concerning the stability and safety of coal refuse
14 disposal piles which may cause water impoundments or
15 otherwise pose a hazard to human life. The director shall
have the right to enter upon the land where any coal refuse disposal piles are located in order to make such inspections, tests and surveys as he shall deem necessary.

Each such set of findings shall be accompanied by a priority listing of those coal refuse disposal piles which constitute the greatest danger to persons and properties by reason of potential instability, explosions, slippage, shifting or sliding of the refuse deposited on such piles or the discharge of a substantial quantity of water.

The director shall prepare a report, containing conclusions and recommendations, on all findings which shall be available to the public.

The authority, powers and duties of the director shall not be limited by any time periods stated herein but shall be on a continuing basis.

§20-6C-5. Remedial action respecting dangerous coal refuse disposal piles.

Whenever the director finds that a coal refuse disposal pile constitutes imminent danger to human life, he may, without the necessity of obtaining the permission of the operator or the landowners involved, enter upon the premises where any such coal refuse disposal pile exists and take all remedial action as may be necessary or expedient to secure such coal refuse disposal pile and to abate the conditions which cause the danger to human life.

The costs reasonably incurred in any remedial action taken by the director under this section shall be paid for initially by funds appropriated to the department of natural resources for such purposes, and such sums so expended shall be recovered from the operator by appropriate civil action to be initiated by the attorney general upon request of the director.

§20-6C-6. Orders of director; injunctive relief.

When the director makes a finding of a dangerous condition not imminently dangerous with respect to any new coal refuse disposal pile created hereafter or any part of an existing coal refuse disposal pile which is
presently being operated, then the director shall order
the operator to take all remedial action at his own ex-
 pense, as may be necessary or expedient to prevent or
correct the condition, and it shall be the duty of such
operator to take such action. Any such order shall be
served by certified or registered mail, return receipt re-
quested, on the operator involved.

The director may apply to the circuit court of the
county in which any such coal refuse disposal pile so
operated is located for an injunction to enforce the orders
of the director.

§20-6C-7. Hearing upon orders of director; costs and bond;
judicial review; appeal; legal assistance for
director.

Any operator adversely affected by any order of the
director shall have a right to a hearing thereon before
the director, providing that demand in writing for such
hearing is served upon the director, within ten days
following the receipt by such applicant or licensee of a
certified copy of said order. The service of such demand
for a hearing upon the director shall operate to suspend
the execution of the order with respect to which a hearing
is being demanded. The person demanding a hearing
shall either establish sufficient financial responsibility or
give security for the cost of such hearing in such form
and amount as the director may reasonably require. If
the person demanding such hearing does not substantially
prevail in such hearing or upon judicial review thereof
as hereinafter provided, then the costs of such hearing
shall be assessed against him by the director and may be
collected by an action at law or other proper remedy.

The director shall immediately set a date for such hear-
ing and notify the person demanding such hearing thereof,
which hearing shall be held within thirty days after
receipt of said demand. At such hearing the director
shall hear evidence and thereafter make and enter an
order, supported by findings of facts, affirming, modifying
or vacating the order with respect to which such hearing
was held, which order shall be final unless vacated or
modified upon judicial review thereof.
Such hearing and the administrative procedure prior to, during and following the same shall be governed by and be in accordance with the provisions of article five, chapter twenty-nine-a of this code in like manner as if the provisions of article five were set forth in extenso in this section.

Any person adversely affected by an order entered following such hearing shall have the right of judicial review thereof in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code with like effect as if the provisions of said section four were set forth in extenso herein.

The judgment of a circuit court reviewing such order of the director 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.

Legal counsel and services for the director in all such proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

§20-6C-8. Severability.

If any article, section, subsection, provision, clause or phrase of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other articles, sections, subsections, provisions, clauses or phrases or applications of the chapter, and to this end each and every article, section, subsection, provision, clause and phrase of this chapter is declared to be severable. The Legislature hereby declares that it would have enacted the remaining articles, sections, subsections, provisions, clauses and phrases of this chapter even if it had known that any articles, sections, subsections, provisions, clauses and phrases thereof would be declared to be unconstitutional or invalid, and that it would have enacted this chapter even if it had known that the application
16 thereof to any person or circumstance would be held to
17 be unconstitutional or invalid.

CHAPTER 87
(Senate Bill No. 280—By Mr. Hubbard)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section two, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to qualifications, etc., of conservation officers.

Be it enacted by the Legislature of West Virginia:

That section two, 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; MOTORBOATING.

§20-7-2. Qualifications, etc., of conservation officers.

1 In addition to civil service qualifications and requirements, persons selected as conservation officers shall have reached their eighteenth birthday and shall not have reached their fortieth birthday at the time of appointment, be of height between five feet nine inches and six feet six inches, with weight proportioned to height, in good physical condition and of good moral character, temperate in habits and without criminal record. Whenever possible and practicable, preference in selection of conservation officers shall be given honorably discharged United States military personnel. Each conservation officer, before entering upon the discharge of his duties, shall take and subscribe to the oath of office prescribed in article four, section five of the constitution of West Virginia, which executed oath shall be filed with the director.
With the exception of the chief conservation officer, each full-time, salaried conservation officer appointed under the provisions of this chapter shall upon attaining the age of sixty-five be required to accept a mandatory retirement from the division of law enforcement. The director shall notify such officer in writing at least ninety days prior to his sixty-fifth birthday of the effective date of his retirement and all such benefits and privileges that such officer has accrued. The provisions of this section shall not be construed to mean that a conservation officer cannot accept at his own request an earlier retirement, or that he cannot continue to be employed by some other division or department of state government.

The director shall prescribe the kind, style and material of uniforms to be worn by conservation officers. Uniforms and other equipment furnished to the conservation officers shall be and remain the property of the state.

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CHAPTER 88

(House Bill No. 936—By Mr. Daugherty and Mr. White, of Cabell)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article two by adding thereto a new section, designated section five-a, prohibiting the practice of law and other specified activities or representations in connection with the practice of law or the rendering of legal services by corporations, other than legal corporations, or voluntary associations; providing for criminal offenses and criminal penalties; negating certain defenses; providing certain exceptions; providing for the organization of legal corporations for the practice of law; maintaining the attorney-client relationship and any liability arising therefrom; specifying that the creation of a legal corporation shall not
affect ethical standards of conduct; specifying that a legal corporation may issue its capital stock only to duly licensed attorneys; relating to authorization for legal corporations by the West Virginia State Bar; relating to fees; authorizing the West Virginia State Bar to adopt rules and regulations in connection with legal corporations; relating to issuance of certificate of incorporation for a legal corporation; establishing restrictions upon the transfer of shares of stock in a legal corporation; and relating to corporate names of legal corporations.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. ATTORNEYS AT LAW.

§30-2-5. Practice by corporations or voluntary associations; penalties; limitations of section.

§30-2-5a. Legal corporations.

§30-2-5. Practice by corporations or voluntary associations; penalties; limitations of section.

1 Except as provided by section five-a of this article, it shall be unlawful for any corporation or voluntary association to practice or appear as an attorney at law for any person in any court of this state or before any judicial body, or to hold itself out to the public as being entitled to practice law, or to render or furnish legal services or advice, or to furnish an attorney or counsel to render legal services of any kind in actions or proceedings of any nature, or in any other manner to assume to be entitled to practice law, or assume, use or advertise the title of lawyer in such manner as to convey the impression that it is entitled to practice law or to furnish legal advice, services or counsel, or to advertise that, either alone or together with or by or through any person, whether a duly and regularly admitted attorney at law or not, it has, owns, conducts or maintains a law office for the practice of law, or for furnishing legal advice, services or counsel. It shall be unlawful further for any corporation or vol-
untary association to solicit, itself or by or through its officers, agents or employees, any claim or demand for the purpose of bringing an action thereon, or of settling the estate of any insolvent debtor, or of representing as attorney at law, or of furnishing legal advice, services or counsel to, a person sued or about to be sued in any action or proceeding, or against whom an action or proceeding has been or is about to be brought, or who may be affected by any action or proceeding which has or may be instituted in any court or before any judicial body, or for the purpose of so representing any person in the pursuit of any civil or criminal remedy. Any corporation or voluntary association violating the provisions of this section, or any officer, trustee, director, agent or employee of such corporation or voluntary association who directly or indirectly engages in any of the acts herein prohibited, or assists such corporation or voluntary association to do such prohibited acts, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars. The fact that any such officer, trustee, director, agent or employee shall be a duly and regularly admitted attorney at law shall not be held to permit or allow any such corporation or voluntary association to do the acts prohibited herein, nor shall such fact be a defense upon the trial of any of the persons mentioned herein for a violation of the provisions of this section.

This section shall not apply to a partnership composed of licensed attorneys, or to a corporation or voluntary association lawfully engaged in examining and insuring the titles to real property, nor shall it prohibit a corporation or voluntary association from employing an attorney or attorneys in and about its own immediate affairs or in any litigation to which it is or may be a party, nor shall it apply to organizations organized for benevolent or charitable purposes, or for the purpose of assisting persons without means in the pursuit of any civil remedy.

§30-2-5a. Legal corporations.

One or more individuals, each of whom is licensed to practice law within this state, may organize and become
a shareholder or shareholders of a legal corporation. Individuals who may be practicing law as an organization created otherwise than pursuant to the provisions of this section may incorporate under and pursuant to this section. This section is not intended to amend the statutory or common law as it relates to associations or partnerships, except to allow partnerships of lawyers to organize as a legal corporation.

A legal corporation may render professional service only through officers, employees and agents who are themselves duly licensed to render legal service within this state. The term "employee" or "agent" as used in this section, does not include secretaries, clerks, typists, paralegal personnel or other individuals who are not usually and ordinarily considered by custom and practice to be rendering legal services for which a license is required.

This section does not modify the law as it relates to the relationship between a person furnishing legal services and his client, nor does it modify the law as it relates to liability arising out of such a professional service relationship. Except for permitting legal corporations, this section is not intended to modify any legal requirement or court rule relating to ethical standards of conduct required of persons providing legal service.

A legal corporation may issue its capital stock only to persons who are duly licensed attorneys.

When not inconsistent with this section, the organization and procedures of legal corporations shall conform to the requirements of article one, chapter thirty-one of this code.

The West Virginia State Bar may require that lawyers under its licensing authority must obtain its prior authorization before beginning to act as a legal corporation and may require a fee of not more than fifty dollars for each application for authorization to form a legal corporation. The state bar may adopt rules and regulations: (1) To set reasonable standards for granting or refusing prior approval, (2) to require appropriate information therefor from a legal corporation applicant, and (3) to
43 notify the secretary of state that certain persons have been
44 given authorization by the state bar to form a legal
45 corporation.

46 Upon notification by the West Virginia State Bar of its
47 approval, the secretary of state, upon compliance by the
48 incorporators with this section and the applicable pro-
49 visions of chapter thirty-one of this code, may issue to
50 the incorporators a certificate of incorporation for the
51 legal corporation which then may engage in practice
52 through duly licensed or otherwise legally authorized
53 stockholders, employees and agents.

54 A shareholder of a legal corporation may sell or trans-
55 fer his shares of stock in such corporation only to another
56 individual who is duly licensed to practice law in this
57 state or back to the corporation.

58 The corporate name of a legal corporation shall contain
59 the last name or names of one or more of its shareholders:
60 Provided, That if the rules or regulations of the state bar
61 so permit the corporate name may contain or include
62 the name or names of former shareholders or of persons
63 who were associated with a predecessor partnership or
64 other organization. The corporate name shall also contain
65 the words “legal corporation” or the abbreviation “L. C.”
66 The use of the word “company,” “corporation,” or “incor-
67 porated,” or any other words or abbreviations in the
68 name of a corporation organized under this article which
69 indicates that such corporation is a corporation, other
70 than the words “legal corporation” or the abbreviation
71 “L. C.” is specifically prohibited.

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CHAPTER 89

(Senate Bill No. 281—By Mr. Wallace)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one and two, article
three, chapter thirty 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 three-b, all relating to the practice of medicine and surgery in the state of West Virginia, and mobile intensive care paramedics.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article three, chapter thirty 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 three-b, all to read as follows:

Article
3. Physicians and Surgeons.
3B. Mobile Intensive Care Paramedics.

ARTICLE 3. PHYSICIANS AND SURGEONS.
§30-3-1. Evidence of qualification to practice; license required.

Any person practicing or offering to practice medicine and surgery in this state, with the exception of an assistant to a licensed physician, licensed podiatrist or mobile intensive care paramedic, shall be required to submit evidence that he is qualified to practice and shall be licensed as hereinafter provided.

§30-3-2. Who deemed practitioner; limitations of article.

The term “practice medicine and surgery”, as used in this article, shall be construed to mean the treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted shall be deemed to engage in the practice of medicine and surgery within the meaning of this article: Provided, That the provisions of this article, with the exceptions of sections eight and ten, shall not apply to dentists, dental hygienists, nurses, optometrists, osteopathic physicians and surgeons, midwives, or chiropractors, regularly licensed or registered as such under the provisions of this chapter applicable to such professions and occupations, in the
14 practice of their respective professions and occupations;  
15 nor to assistants to physicians, podiatrists or mobile intensive care paramedics; nor to physicians or surgeons  
16 living in other states and duly qualified to practice medicine therein who shall be called in consultation into this  
17 state by a physician or surgeon legally entitled to practice medicine and surgery in this state; nor to commissioned  
18 officers of the United States army, navy or marine hospital service when in the actual discharge of their duties  
19 as such; nor to the practice of the religious tenets of any  
20 church in the administration to the sick or suffering by  
21 mental or spiritual means, whether gratuitously or for  
22 compensation: Provided, however, That sanitary and  
23 public health laws shall be complied with: Provided further, That no practices shall be used which may be  
24 dangerous or detrimental to life or health and that no  
25 person shall be denied the benefits of accepted medical  
26 and surgical practices.

ARTICLE 3B. MOBILE INTENSIVE CARE PARAMEDICS.

§30-3B-1. Programs for ambulance and rescue squad personnel.

§30-3B-2. Definition of mobile intensive care paramedics.

§30-3B-3. Services that may be performed.

§30-3B-4. Immunity from civil liability.

§30-3B-1. Programs for ambulance and rescue squad personnel.

1 Any company, partnership, individual or governmental  
2 body operating an ambulance service or rescue squad may  
3 conduct a program utilizing mobile intensive care para-  
4 medics for the delivery of emergency care to the sick and  
5 injured at the scene of an emergency and during transport  
6 to a hospital, while in the hospital emergency quarters,  
7 and until care responsibility is assumed by the hospital  
8 staff.

§30-3B-2. Definition of mobile intensive care paramedics.

1 As used in this article, “mobile intensive care para-  
2 medics” means personnel who have been specially trained  
3 in emergency care in a training program certified and  
4 supervised by the unit of emergency health services of  
5 the West Virginia state department of health, and who  
6 are certified by the West Virginia medical licensing board
§30-3B-3. Services that may be performed.

1 Notwithstanding any other provision of law, mobile intensive care paramedics may do any of the following:
2 (1) Render rescue, first aid and resuscitation services;
3 (2) Perform cardiopulmonary resuscitation and defibrillation in a pulseless patient; and
4 (3) Where voice contact is maintained with a physician or surgeon, may, upon order of such physician, administer parenteral or intravenous solutions and injections of any of the following drugs:
5    (a) Lidocaine,
6    (b) Atropine,
7    (c) Pentazocine,
8    (d) Any other drug or solution approved by the applicable bureaus or divisions of the state department of health.
9 Each paramedic must be individually certified to administer each specific drug or solution.

§30-3B-4. Immunity from civil liability.

1 No physician or surgeon, who in good faith gives emergency instructions to such paramedic, nor any such paramedic who renders such emergency treatment as provided for herein, shall be liable for any civil damages resulting from such emergency treatment.

CHAPTER 90
(Senate Bill No. 190—By Mr. Poffenbarger)

[Passed March 4, 1972; in effect ninety days from passage. Approved by the Governor.]
nine hundred thirty-one, as amended, relating to the number of physicians and surgeons necessary to form a medical corporation.

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

That section four-b, 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.**

§30-3-4b. Medical corporations—Application for registration; fee; notice to secretary of state of issuance of certificate; action by secretary of state.

1 When one or more physicians or surgeons duly licensed to practice medicine in the state of West Virginia wish to form a medical corporation, such physician or surgeon, or 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 the signer, or all of the signers of such application is or are a duly licensed physician or surgeon or physicians or surgeons. A fee of twenty-five dollars shall accompany each such application, no part of which shall be returnable.

2 If the board finds that the signer or all of the signers of such application are duly licensed, the board shall notify the secretary of state that a certificate of authorization has been issued to the individual or individuals signing such application.

3 When the secretary of state receives notification from the state medical licensing board that a certain person or persons has or 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 a duly licensed physician or surgeon or duly licensed physicians and surgeons, may engage in the practice of medicine and surgery.
AN ACT to amend and reenact sections two, three, five, six, ten, thirteen, fourteen, fifteen, sixteen and seventeen-a, article four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to giving the dental board authority to prescribe rules or regulations to achieve more effective utilization of the services of dental hygienists and dental assistants, making all fees nonrefundable, and granting the board authority to select testing bodies.

Be it enacted by the Legislature of West Virginia:

That sections two, three, five, six, ten, thirteen, fourteen, fifteen, sixteen and seventeen-a, article four, 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 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL CORPORATIONS.

§30-4-2. Who deemed practitioner of dentistry; limitations of article.
§30-4-3. Who deemed practitioner of dental hygiene; scope of practice.
§30-4-5. License required as prerequisite to practice dentistry; exceptions; temporary and special permits.
§30-4-6. Qualifications of applicant for license; examinations; examination fee; licensing.
§30-4-10. Fees for licenses and certificates issued under §§30-4-8 and 30-4-9.
§30-4-13. Dental hygienists; permitted operations; revocation of license.
§30-4-14. Prerequisites to practice dental hygiene; examination fee; licensing.
§30-4-15. Permitted intraoral tasks for dental hygienists and assistants.
§30-4-16. Dental hygienists from other states who desire to practice in this state; qualifications.
§30-4-17a. Specialties; qualifications; application for certificate; fee; limitation of practice.
§30-4-2. Who deemed practitioner of dentistry; limitations of article.

Any person shall be regarded as practicing dentistry within the meaning of this article, who shall diagnose or profess to diagnose or treat or profess to treat, any of the diseases or malformations or lesions of the oral cavity, teeth, gums, or maxillary bones, or shall prepare or fill cavities in human teeth, correct malposition of teeth or jaws or supply artificial teeth as substitutes for natural teeth, or administer anesthetics, general or local, in connection with any of said work, or shall make, produce, reproduce, construct, repair, alter, or restore any prosthetic denture, crown, bridge, or other prosthetic appliance to be used in, upon, in connection with, or as a substitute for, any human tooth, or in, upon, or in connection with the human jaw or associated structure or tissue of the human mouth, or to be used in the treatment of any condition thereof, or perform any other work included in the curricular of recognized dental colleges. To open an office for the practice of dentistry, or to announce to the public in any way a readiness to do any act defined herein as the practice of dentistry, shall be construed as engaging in the practice of dentistry, within the meaning of this article: Provided, however, That this section:

(1) Shall not apply to a duly licensed physician or surgeon in the practice of his profession when rendering dental relief in emergency cases, unless he undertakes to reproduce or reproduces lost parts of the human teeth, or to restore or replace lost or missing teeth in the human mouth.

(2) Shall not apply to a dental laboratory in the performance of dental technological work as that term is defined in section two-a of this article so long as the dental laboratory, in the performance of such work, conforms in all respects to the requirements of section two-a of this article, and further shall not apply to persons performing dental technological work, as so defined, under the direct and personal supervision of a licensed dentist or under the direct and personal supervision of a person.
authorized under the authority of this article to perform any of the acts in this article defined to constitute the practice of dentistry so long as such work is performed in connection with, and as a part of, the dental practice of such licensed dentist or other authorized person and for his dental patients.

(3) Shall not apply to students enrolled in and regularly attending any dental college recognized by the state board of dental examiners, provided their acts are done in said dental college and under the direct and personal supervision of their instructor.

(4) Shall not apply to licensed or registered dentists of another state temporarily operating a clinic under the auspices of a duly organized and reputable dental college or reputable dental society, or to one lecturing before a reputable society composed exclusively of dentists.

(5) Shall not apply to licensed dental hygienists or dental assistants in the performance of their duties as otherwise provided by law.

(6) Shall not apply to the practice of dentistry by dentists whose practice is confined exclusively to the service of the United States army, the United States navy, the United States public health service, or the United States veteran's bureau, or any other authorized United States government agency or bureau.

§30-4-3. Who deemed practitioner of dental hygiene; scope of practice.

A person shall be deemed to be practicing dental hygiene within the meaning of this article, who, under the supervision of a licensed dentist, removes deposits, accretions and stains from the surface of the teeth, makes topical applications of drugs to the exposed surfaces of the teeth, takes dental X rays and instructs patients in the practice of dental hygiene procedures: Provided, That the board of dental examiners may establish additional criteria by rules and regulations promulgated by it.
§30-4-5. License required as prerequisite to practice dentistry; exceptions; temporary and special permits.

Except as otherwise provided in this section, no person shall practice or offer to practice dentistry or dental hygiene in this state until a license for such purpose shall be issued to him by the board of dental examiners, nor shall any person so practice after the first anniversary of the issuance of such license until he shall have in his possession a current renewal certificate issued by the board.

The board of dental examiners under such regulations as it may prescribe may issue a temporary permit to practice dentistry or dental hygiene to graduates of schools of dentistry or dental hygiene approved by the board who are certified to the board of directors of dental clinics established by law, by the chief executive of any hospital or sanitarium licensed or operated by the state or by the chief dental officer of the health department of the state. Such permits shall expire thirty days after the date of the next examination given by the board for licenses in dentistry or dental hygiene and shall not be subject to renewal. Such permits shall terminate when the holder thereof ceases to be employed by the person certifying him. A fee of five dollars shall be paid to the board upon issuance of such permit by the person certifying the applicant.

The board of dental examiners under such regulations as it may prescribe may issue a dental intern or dental residency permit to graduates of dental schools approved by the board who are not licensed to practice dentistry in this state and who have not failed an examination for a license to practice dentistry in this state. Applicants for such permits shall be certified to the board by the director of a hospital operated or licensed by the state which maintains a dental intern or residency program. Such permits shall authorize the holder thereof to serve as a dental intern or a dental resident for a period of not more than one year in any hospital licensed or operated by the state which maintains an established dental department under the supervision of a licensed dentist. The holder of such
a permit shall function under the supervision of the dental staff of the hospital and shall limit his practice to patients selected by the hospital. The holder of such a permit shall not be entitled to receive any fee or other compensation other than such salary as may be paid by such hospital. Permits may be revoked by the board for cause and shall expire at the end of one year or on the date the dental internship or residency is discontinued, whichever first occurs. A fee of five dollars shall be paid to the board upon the issuance of such a permit by the hospital nominating him.

The board of dental examiners under such regulations as it may prescribe may issue teaching permits to persons who are graduates of a school of dentistry or dental hygiene approved by the board where such persons are not licensed to practice dentistry or dental hygiene in this state. Such permits shall be issued only upon the certification of the dean of a dental school located in this state that the applicant is a bona fide member of the staff of that school. Such permits shall be valid for one year and may be reissued by the board in its discretion. The holder of such a permit shall be entitled to perform all operations which a person licensed to practice dentistry or dental hygiene in this state would be entitled to perform, but only within the facilities of the dental school and as an adjunct to his teaching functions in such school. A fee of five dollars shall be paid to the board on the issuance of a teaching permit or upon each renewal thereof by the school nominating the applicant.

Nothing in this article shall be deemed to prohibit the practice of dentistry or dental hygiene by persons licensed in another state who, at the request of an approved dental school or any regularly organized dental society may give a clinic at such school or at a scientific meeting of such dental society for the purpose of advancing the professional knowledge of members of the dental profession or members of the student body of a dental school.

An applicant for a permit under this section shall transmit with his application a fee of thirty-five dollars which sum the board is authorized to expend in an investigation
§30-4-6. Qualifications of applicant for license; examinations; examination fee; licensing.

An applicant for a dental license shall be of good moral character, a citizen of the United States or an individual who has declared his intention to become and who shows progress toward becoming a citizen of the United States, at least twenty-one years of age at the time of making application, and be a graduate of, and possess an acceptable dental diploma from the faculty of a dental school approved by the board. The board may require the application to be accompanied by sufficient evidence of these qualifications.

The applicant shall transmit with his application an examination fee of thirty-five dollars, which sum the board is authorized to expend in an investigation of the applicant's qualifications. No portion of this fee is refundable.

An applicant whose application has been accepted by the board shall be given an examination on subjects selected by the board from among those currently being taught in approved dental schools which shall test the qualifications of the applicant to practice dentistry. The testing body for such examinations shall be decided by the board under rules and regulations promulgated by it.

The board may recognize a certificate granted by the national board of dental examiners in lieu of the written portion of the required examination.

An applicant obtaining a satisfactory grade on such examination and otherwise fulfilling the requirements of the board shall be granted a license by the board to practice dentistry, which license shall bear a serial number, the full name of the licensee, the date of issuance of the license, the seal of the board and the signatures of a majority of the members of the board.

The board shall not issue a license to any person found guilty of cheating, deception or fraud in the examination or on any part of the application. All manuscripts used in any examination and all applications for licensure shall
be filed for a period of two years by the secretary of the board for the purpose of reference and inspection.

§30-4-10. **Fees for licenses and certificates issued under §§30-4-8 and 30-4-9.**

1 The fee for issuing the license to a legal practitioner from another state, as provided in section eight of this article, shall be fifty dollars, and the fee for issuing a certificate to a legal practitioner in this state, as provided in section nine of this article, shall be five dollars, and in each case the fee shall be paid before the license or certificate, respectively, is issued. No portion of these fees are refundable.

§30-4-13. **Dental hygienists; permitted operations; revocation of license.**

1 A licensed dentist, or the director of any industrial clinic, school clinic or state industrial clinic, having a dental program under the supervision of a licensed dentist, may employ dental hygienists who shall practice under the supervision of a licensed dentist.

6 Under such supervision, a dental hygienist may (1) remove deposits, accretions and stains from the surfaces of the teeth, (2) make topical application of drugs to the exposed surface of the teeth, (3) take dental X rays, and (4) instruct patients in the practice of dental hygiene procedure: Provided, That the board of dental examiners may establish additional criteria by rules and regulations promulgated by it.

14 The state board of dental examiners may suspend or revoke the license of any dental hygienist who shall perform any operation other than those permitted under the provisions of this section, who shall violate any provision of this article relating to dental hygienists or who shall be found guilty of any of the acts enumerated in section seven of this article.

§30-4-14. **Prerequisites to practice dental hygiene; examination fee; licensing.**

1 No person who has not been licensed as a dental hygienist in this state on or before the first day of
September, one thousand nine hundred thirty-seven, shall practice as a dental hygienist until he has first passed an examination or examinations selected by the West Virginia board of dental examiners and otherwise qualifies under such rules and regulations as the board may establish. Such examination or examinations shall be both practical and theoretical. The fee for the examination shall be twenty dollars and shall accompany the application. An applicant failing to pass the first examination shall be entitled to one reexamination at the next regular meeting of the board without additional cost. The fee for every reexamination after that shall be ten dollars. No portion of these fees are refundable.

The board of dental examiners shall issue a license to practice dental hygiene in this state to any person who has passed such an examination and who has otherwise qualified to practice dental hygiene under the rules and regulations established by the board: Provided, however, that no person shall be entitled to such dental hygiene license unless he be: (a) At least eighteen years of age, (b) of good moral character, (c) a graduate of a first class high school of this state or its equivalent and (d) be a graduate of, and possess an acceptable diploma in dental hygiene from a school having a course in dental hygiene approved by the board of dental examiners.

§30-4-15. Permitted intraoral tasks for dental hygienists and assistants.

Licensed dentists may assign to their employed dental hygienists or assistants intraoral tasks that do not require the professional competence or skill of the employer-dentist, subject to the following conditions:

1. The performance of intraoral tasks by dental hygienists or assistants shall be under the direct supervision of the employer-dentist.

2. None of the following procedures may be assigned to a dental hygienist or assistant or to any other person not licensed to practice dentistry:
(a) Diagnosis, treatment planning and prescription
(including prescriptions for drugs and medicaments or
authorizations for restorative, prosthodontic or ortho-
dontic appliances).

(b) Surgical procedures on hard and soft tissues with-
in the oral cavity or any other intraoral procedure that
contributes to or results in an irremediable alteration of
the oral anatomy.

The board of dental examiners shall promulgate rules
or regulations specifying the tasks that licensed dentists
may, under the authority of this article assign to (1)
dental hygienists and (2) dental assistants: Provided,
That licensed dental hygienists may perform those tasks
provided for in this article.

The practice of dental hygiene shall consist of those
prophylatic, preventive and other procedures that licensed
dentists are authorized by this article and dental examin-
ing board rules or regulations to assign only to their em-
ployed licensed dental hygienists. The dental examining
board shall issue rules or regulations defining the proce-
dures that may be performed by licensed dental hygienists
engaged in school health activities or employed by public
agencies.

§30-4-16. Dental hygienists from other states who desire to
practice in this state; qualifications.

The board of dental examiners may, at its discretion,
without the examination herein provided, issue a license
to practice dental hygiene to any applicant therefor, who
shall furnish proof satisfactory to the board that he has
been duly licensed to practice as a dental hygienist in
another state after full compliance with the requirements
of its dental laws: Provided, however, That his profes-
sional and preliminary education shall not be less than
that required in this state, and that he shall have been
in active practice at least two years previous to his ap-
lication for a license. The fee for issuing a license to a
legal practitioner of dental hygiene from another state
shall be twenty-five dollars, which shall be paid before
the license is issued. No portion of this fee is refundable.
§30-4-17a. Specialties; qualifications; application for certificate; fee; limitation of practice.

1 No licensee shall announce or otherwise hold himself out to the public as a specialist or as being specially qualified in any particular branch of dentistry, or as giving special attention to any branch of dentistry, or as limiting his practice to any branch of dentistry, unless he has first complied with the requirements established by the board of dental examiners for such specialty and has been issued a certificate of qualification authorizing him so to do.

2 The board of dental examiners may establish higher standards and additional requirements for any licensee who desires to announce or otherwise hold himself out to the public as being specially qualified in a branch or specialty of dentistry recognized by the board. The board may give such examinations and secure such assistance as it may deem necessary in determining the qualifications of applicants.

3 The state board of dental examiners may appoint not more than three specialists to examine the credentials of applicants, and each specialist so appointed shall receive ten dollars for each day actually spent in examining the credentials of applicants and shall be entitled to be reimbursed for all reasonable and necessary expenses actually incurred in discharging such duties. The state board of dental examiners may appoint not more than three specialists to administer and grade the specialty examination given to applicants, and each specialist so appointed shall receive forty dollars for each day actually spent in administering and grading such examinations.

4 Application to the board for a certificate of qualification in a specialty of dentistry shall be upon such form and contain such information as the board may require and shall be accompanied by a fee of seventy-five dollars. No portion of this fee is refundable. A licensee found by the board to be qualified under the standards and other requirements promulgated by the board in the specialty indicated in his application shall be issued a certificate of qualification authorizing the licensee to announce or otherwise hold himself out to the public as specially
AN ACT to amend and reenact section three, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the membership of the West Virginia board of embalmers and funeral directors; salaries; board organization; powers and duties; instruction and inspection.

Be it enacted by the Legislature of West Virginia:

That section three, article six, 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 6. EMBALMERS AND FUNERAL DIRECTORS.

§30-6-3. Oath of members of board; officers; salary and expenses; bond of treasurer; meetings; powers and duties; notice; rules and regulations; school of instruction; inspection.

1 Members of said board, before entering upon their duties, shall take and subscribe to the oath of office prescribed by the secretary of state.

2 Said board shall select from its own members a president, a secretary and a treasurer. Each member shall be reimbursed for his traveling expenses, incident to his attendance upon the business of the board, and in addition thereto, the sum of fifty dollars per day for each day actually spent by such member upon the business of the board; except that the state health director shall receive only such compensation as he is entitled to receive for his services as state health director, together with
actual and necessary traveling expenses while engaged
upon the business or in attendance of the board, with
such compensation and expenses to be payable from
the funds of the state health department. The secretary
shall receive an annual salary of not to exceed one
thousand dollars, the amount and payment of which shall
be fixed by said board, and in addition thereto shall
receive traveling and other incidental expenses incurred
in the performance of his duties.

The board may employ an executive secretary and such
clerks, inspectors and assistants as it shall deem neces-
sary to discharge the duties imposed by the provisions
of this article and the duly promulgated rules and regu-
lations of the board and to effect its purposes, and the
board shall determine the duties and fix the compensa-
tion of such executive secretary, clerks, inspectors and
assistants, subject to the general laws of the state. Any
inspector employed by the board shall have either a West
Virginia embalmer's license or a West Virginia funeral
director's license. Any inspection shall be conducted in
such a manner so as not to interfere with the conduct of
business within the funeral establishment, and the in-
spector shall be absolutely prohibited from examining
any books and records of the funeral establishment.

All such expenses, per diem and compensation shall be
paid out of the receipts of the board, except such ex-
enses and compensation as may be payable to the state
health director, but such allowances shall at no time
exceed the receipts of the board.

The treasurer of the board shall give bond to the State
of West Virginia in such sum as the board shall direct
with two or more sureties or a reliable surety company
approved by the board, and such bond shall be condi-
tioned for the faithful discharge of the duties of such
officer. Such bond, with approval of the board endorsed
thereon, shall be deposited with the treasurer of the
state of West Virginia.

The board shall hold not less than two meetings during
each calendar year, one during the month of April and
one during the month of November for the purpose of
examining applicants for licenses, such meeting or meetings to be held at such time and place as the board shall determine. The time and place of such meeting shall be announced by publication in three daily newspapers of general circulation in different locations in the state, and publication to be once a week for two consecutive weeks immediately preceding each such meeting.

The board may hold such other meetings as it may deem necessary and may transact any business at any such meeting. Three or more members shall comprise a quorum authorizing the board to transact such business as is prescribed under this article.

The board shall have power and it shall be its duty to make and enforce all necessary rules and regulations, not inconsistent with this article, for the examination and licensing of funeral directors, and the general practice of funeral directing; the examination and licensing of embalmers and the general practice of embalming and the registration and regulation of apprentices; the licensing of funeral establishments and the general operation of funeral establishments, except that no rules and regulations issued by the board shall require that an applicant for a license to operate a funeral establishment shall be required to have either an embalmer's or funeral director's license.

The board shall publish in its rules and regulations the subjects to be covered in the said examinations and the standards to be attained thereon. Changes in the rules and regulations shall be published and shall be given due publicity at least ninety days before becoming effective.

The board shall conduct annually a school of instructions to apprise funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. Qualified lecturers and demonstrators may be employed by the board for this purpose. The board shall give notice of the time and place at which such school will be held for all licensed funeral directors and embalmers, and it shall be the duty of every licensed funeral director and embalmer to attend at least one such school in every three years.
The board or any of its members or any duly authorized employee of the board shall have the authority to enter at all reasonable hours for the purpose of inspecting the premises in which the business or profession of funeral directing is conducted or practiced or where embalming is practiced.

CHAPTER 93

(House Bill No. 978—By Mr. Myles and Mr. Seibert)

[Passed March 2, 1972; in effect from passage. Approved by the Governor]

AN ACT to amend sections three, six and eight, article seven, chapter thirty, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to registered professional nurses; qualifications of a member of the board of examiners for registered professional nurses; fees for licensing and renewals of licenses of registered professional nurses.

Be it enacted by the Legislature of West Virginia:

That sections three, six and eight, 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. REGISTERED PROFESSIONAL NURSES.

§30-7-3. Board of examiners for registered professional nurses; appointment, term and qualifications of members; reappointment; vacancies; removal; compensation.

§30-7-6. Qualifications and examinations of persons seeking licensure; applications; practitioners licensed in another state; present practitioners; fees; temporary permits.

§30-7-8. Renewal of licenses; reinstatement; fees; penalties; inactive list.

§30-7-3. Board of examiners for registered professional nurses; appointment, term and qualifications of members; reappointment; vacancies; removal; compensation.

1 The governor shall appoint, by and with the advice 2 and consent of the Senate, a board consisting of five
members who shall constitute and be known as the West Vir-
iginia board of examiners for registered professional nurses.

Appointments hereunder shall be made by the gov-
ernor, by and with the advice and consent of the Senate, from lists submitted to the governor by the West Vir-
ginia 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. Appointments 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 instance. 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 univer-
sity with a major in the field of nursing, (c) be a grad-
uate 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 experience in teaching in an educational program for the preparation of practitioners of registered pro-
fessional nursing, or in a combination of such teaching and either nursing service administration or nursing education administration, and (f) have been actually engaged in registered professional nursing for at least three within the past five years preceding 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.

§30-7-6. Qualifications and examinations of persons seeking licensure; applications; practitioners licensed in another state; present practitioners; fees; temporary permits.

1 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.

Any person holding a valid license designated as a "waiver license" may 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 under the provisions of this article
shall, with his or her application, pay to the board a fee
of forty dollars, except that the fee to be paid by any
person applying for a license by endorsement hereunder
shall be thirty dollars: Provided, That the board in its
discretion may, by rule or regulation, decrease either
or both said license fees. In the event it shall be neces-
sary for the board to reexamine any applicant for a
license, an additional fee of ten dollars shall be paid to
the board by the applicant for each subject in which
reexamination shall be necessary: Provided, however,
That the total of such additional fees shall in no case
exceed forty dollars for any one examination.

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
forty dollars, issue a temporary permit to practice regis-
tered professional nursing to any applicant who has re-
ceived 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, 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.
§30-7-8. 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. At such time or times as the board in its discretion may determine, 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 five dollars within thirty days after receipt of said renewal application: Provided, That the board in its discretion may increase or decrease said renewal fee. In no event shall said fee exceed ten dollars. 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 five 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.
CHAPTER 94
(Senate Bill No. 142—By Mr. Hubbard and Mr. Wallace)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections four and five, article fourteen, chapter thirty 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 fourteen-a, all relating to the establishment of qualifications and certification of assistants to licensed osteopathic physicians and surgeons; definition of terms; fees.

Be it enacted by the Legislature of West Virginia:

That sections four and five, article fourteen, chapter thirty 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 fourteen-a, all to read as follows:

Article
14A. Assistants to Osteopathic Physicians and Surgeons.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-4. Application for examination.

§30-14-5. Examination; certificate of license; certification and establishment of standards for employment of assistants; fee.

§30-14-4. Application for examination.

1. Each applicant for examination by the board, with the exception of assistants to osteopathic physicians and surgeons, as hereinafter provided, shall submit an application therefor on forms prepared and furnished by the board, accompanied by evidence verified by oath and satisfactory to the board, establishing that the applicant 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 has graduated from an approved osteopathic college; and (d) that he has paid to the board a fee of fifty dollars for examination.
§30-14-5. Examination; certificate of license; certification and
establishment of standards for employment of assistants; fee.

1 The examination for a license to practice medicine and
2 surgery as an osteopathic physician and surgeon shall be
3 written and oral and shall cover all the essential branches
4 of medicine and surgery including anatomy, physiology,
5 chemistry, pharmacology, pathology, public health—pre-
6 ventive medicine, surgery, obstetrics and gynecology,
7 osteopathic medicine, materia medica principles and
8 practice of osteopathy; and this list of subjects may be
9 expanded or regrouped at the discretion of the board.

10 The board shall issue certificates of license to all appli-
11 cants who shall successfully pass the said examination
12 and shall present evidence showing that they have served
13 an internship in a hospital approved for intern training.

14 The board shall have the power to certify and establish
15 standards for employment of assistants to osteopathic
16 physicians and surgeons.

17 But no license shall be issued under the provisions of
18 this section until the person applying therefor shall have
19 paid to the board a fee of five dollars.

ARTICLE 14A. ASSISTANTS TO OSTEOPATHIC PHYSICIANS
AND SURGEONS.

§30-14A-1. Definition; supervision.
§30-14A-3. Fees.
§30-14A-4. Limitation on scope of duties.

§30-14A-1. Definition; supervision.

1 The term "assistant to an osteopathic physician and
2 surgeon," as used in this chapter, shall mean a person
3 employed in the office of an osteopathic physician and
4 surgeon, licensed hospital or any licensed health care in-
5 stitution who performs selected osteopathic medical tasks
6 and functions in accordance with an approved job de-
7 scription, and who possesses the qualifications which have
8 been established for the described job. The assistant to an
9 osteopathic physician and surgeon shall be under the
10 supervision of a permanently licensed osteopathic physi-
11 cian and surgeon in West Virginia.

1 Approval of a job description and establishment of qualifications for employment as an assistant to an osteopathic physician and surgeon must be obtained from the board of osteopathy. The board of osteopathy shall certify each qualified applicant for employment as an assistant to an osteopathic physician and surgeon upon submission of a job description, and shall provide for annual renewal of certification. The board shall have the power to revoke or suspend any certification of an assistant to an osteopathic physician and surgeon, for cause, after having given the person an opportunity to be heard in the manner provided by sections eight and nine, article one of this chapter.

§30-14A-3. Fees.

1 Each job description submitted by a permanently licensed osteopathic physician and surgeon shall be accompanied by a fee of fifty dollars. A fee of five dollars shall be charged for each annual renewal of certification.

§30-14A-4. Limitation on scope of duties.

1 Assistants to osteopathic physicians and surgeons shall not sign prescriptions or perform any service which his employing osteopathic physician and surgeon is not qualified to perform.

CHAPTER 95

(House Bill No. 576—By Mr. Speaker, Mr. McManus)

(Passed February 28, 1972; in effect from passage. Approved by the Governor.)

AN ACT to amend and reenact sections seven, eight and nine, article twenty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to qualifications of applicants; exceptions; applications; fees; issuance of license; renewal of license; renewal fee; display of license; and temporary permits of psychologists.
Be it enacted by the Legislature of West Virginia:

That sections seven, eight and nine, article twenty-one, 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 21. PSYCHOLOGISTS.

§30-21-7. Qualifications of applicants; exceptions; applications; fee.
§30-21-8. Issuance of license; renewal of license; renewal fee; display of license.

§30-21-7. Qualifications of applicants; exceptions; applications; fee.

1 (a) To be eligible for a license to engage in the practice of psychology, the applicant must:
2 (1) Be at least twenty-one years of age;
3 (2) Be of good moral character;
4 (3) Be a holder of a doctor of philosophy degree or its equivalent or a master’s degree in psychology from an accredited institution of higher learning, with adequate course study at such institution in psychology, the adequacy of any such course study to be determined by the board;
5 (4) When the degree held is a doctor of philosophy degree or its equivalent, have at least two years’ experience subsequent to receiving said degree in the performance of any of the psychological services described in subdivision (e), section two of this article, including those activities excluded from the definition of the term “practice of psychology” in said subdivision (e), and, when the degree held is a master’s degree, have at least eight years’ experience subsequent to receiving said degree in the performance of any of the psychological services described in said subdivision (e), including those activities excluded from the definition of the term “practice of psychology” in said subdivision (e);
6 (5) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of psychology and psychological skills and techniques;
28 (6) Not have been convicted of a felony or crime involving moral turpitude; and
29 (7) Not, within the next preceding six months, have taken and failed to pass the examination required by subdivision (5), subsection (a) of this section.
30 (b) The following persons shall be eligible for a license to engage in the practice of psychology without examination:
31 (1) Any applicant who holds a doctor of philosophy degree or its equivalent from an institution of higher learning, with adequate course study at such institution in psychology and who is a diplomate of the "American Board of Examiners in Professional Psychology"; and
32 (2) Any person who holds a license or certificate to engage in the practice of psychology issued by any other state, the requirements for which license or certificate are found by the board to be at least as great as those provided in this article.
33 (c) Any person who is engaged in the practice of psychology in this state, or is engaged in any of the activities described in subparagraphs (1), (2) or (3), subdivision (e), section two of this article, in this state, on the effective date of this article and has been so engaged for a period of two consecutive years immediately prior thereto shall be eligible for a license to engage in the practice of psychology without examination and without meeting the requirements of subdivision (4), subsection (a) of this section, if application for such license is made within six months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3) and (6), subsection (a) of this section: Provided, That an equivalent of a masters degree in psychology may be considered by the board, only for the purpose of this subsection (c), as meeting the requirements of subdivision (3) of subsection (a) of this section.
34 (d) Any applicant for any such license shall submit an application therefor at such time (subject to the time limitation set forth in subsection (c) of this section), in such manner, on such forms and containing such in-
§30-21-8. Issuance of license; renewal of license; renewal fee; display of license.

Whenever the board finds that an applicant meets all of the requirements of this article for a license to engage in the practice of psychology, it shall forthwith issue to him such license; and otherwise the board shall deny the same. The license shall be valid for a period of two years from the date issued and may be renewed for a period of two years without examination upon application for renewal on a form prescribed by the board and payment to the board of a renewal fee of thirty dollars: Provided, That the board may deny an application for renewal for any reason which would justify the denial of an original application for a license. The board shall prescribe the form of licenses and each license shall be conspicuously displayed by the licensee at his principal place of practice.


(a) Upon proper application the board may issue, without examination, a temporary permit to engage in the practice of psychology in this state:

(1) Pending examination, to an applicant who meets the qualifications of subdivisions (1), (2), (3), (4), (6) and (7), subsection (a), section seven of this article, which temporary permit shall expire thirty days after the board gives written notice of the results of the examination held next following the issuance of such temporary permit, and such permit may not be renewed nor another thereof issued to the same person; and

(2) To a psychologist who is not a resident of this state and who meets the requirements of subdivisions (1), (2), (3), (4), (6) and (7), subsection (a), section seven of this article, which temporary permit shall be valid only for a period of ninety days in the calendar year in which issued, and such permit may not be renewed nor another thereof issued to the same person in the same calendar year.
20 (b) The fee for any temporary permit shall be fifty dollars.

CHAPTER 96
(House Bill No. 1115—By Mr. Seibert)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the institutions under the authority of the commissioner of public institutions and the establishment of work and study release units as extensions and subsidiaries of public institutions.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.

§25-1-3. Institutions managed by commissioner of public institutions.

1 The state commissioner of public institutions shall manage, direct, control and govern the West Virginia Penitentiary, Huttonsville Correctional Center, West Virginia State Prison for Women, West Virginia Industrial Home for Girls, West Virginia Industrial School for Boys, West Virginia Forestry Camp for Boys at Davis, West Virginia Forestry Camp for Boys at Leckie, Anthony Correctional Center, Andrew S. Rowan Memorial Home, West Virginia Children's Home, Denmar State Hospital, Hopemont State Hospital, Pinecrest Hospital, Fairmont Emergency Hospital, Welch Emergency Hospital and such other state institutions, other than mental or educational, as now are or may hereafter be created by law.
The commissioner is hereby authorized to establish work and study release units as extensions and subsidiaries of those state institutions under his control and authority. Such work and study release units shall be managed, directed and controlled as provided for in this article.

CHAPTER 97

(House Bill No. 689—By Mr. Burke and Mr. Shaffer)

[Passed March 9, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article one, chapter twenty-five; section one, article five, section one, article six, section one, article eight, and section one, article nine, chapter twenty-six; section seven, article one, sections three, four and five, article one-a, and section two, article two, chapter twenty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the appointment of superintendents or wardens at the various state institutions; the qualifications of the superintendents at the various hospitals and benevolent institutions; the exemption of certain persons from complying with such qualification requirements; the separation of the fiscal, administrative and personnel functions from the clinical functions at such institutions; the appointment, qualifications, powers and duties of the director of the department of mental health; the creation of the office of deputy director for administration within the department of mental health; the appointment, qualifications, powers and duties of such deputy director; the separation of the fiscal, administrative and personnel functions within the department of mental health from the clinical functions; the qualifications of the superintendents of the various hospitals within the department of mental health; and providing for exemption of certain persons from complying with such qualification requirements.
Be it enacted by the Legislature of West Virginia:

That section eleven, article one, chapter twenty-five; section one, article five, section one, article six, section one, article eight, and section one, article nine, chapter twenty-six; section seven, article one, sections three, four and five, article one-a, and section two, article two, chapter twenty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Chapter

25. Commissioner of Public Institutions.
27. Mentally Ill Persons.

CHAPTER 25. COMMISSIONER OF PUBLIC INSTITUTIONS.

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITUTIONS.

§25-1-11. Officers and employees of certain state institutions.

1 The governor shall, by and with the advice and consent of the Senate, appoint a superintendent for each institution under the control of the commissioner of public institutions.

2 The superintendent of each institution shall have the power to appoint all assistants and employees required for the management of the institution in his charge; but the number of such assistants and employees, and their compensation, shall first be fixed by the state commissioner of public institutions. The superintendent of any institution may, with the exception of any person covered under the provisions of article six, chapter twenty-nine of this code, at his pleasure, discharge any other person employed in such institution. It shall be the duty of the commissioner of public institutions to investigate any complaint made against the superintendent of any institution, and also against any other officer or employee thereof, if the same has not been investigated. The commissioner shall have the power to recommend to the governor the removal of any such superintendent or other officer or employee, setting forth in such recommendation the reasons for the same.
The commissioner shall fix the salaries or compensation of the officers and employees of the institutions named in section three of this article. The salaries or compensation of all officers and employees of the several institutions under the control of the commissioner of public institutions shall be paid monthly, to include the last day of each month. The superintendents and other officers and employees of each of such institutions shall be paid salaries commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given or paid to such superintendents, officers or employees as all or part of their salary; however, such superintendents, officers and employees may be provided meals, household facilities and supplies as may be necessary for them to perform their duties, if such superintendents, officers and employees agree to pay the reasonable cost thereof as established by the commissioner of public institutions.

CHAPTER 26. STATE BENEVOLENT INSTITUTIONS.

Article
5. Pinecrest Hospital.
6. Denmar State Hospital.
8. Emergency Hospitals.
9. Hopemont State Hospital.

ARTICLE 5. PINECREST HOSPITAL.

§26-5-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) 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 Hospital, and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five and in section eight, article one, chapter sixteen of this code. The chief executive officer of such hospital shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with...
broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

ARTICLE 6. DENMAR STATE HOSPITAL.

§26-6-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) Denmar State Hospital, heretofore established, shall be continued as a hospital for the chronically ill which shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer thereof shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.
A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

ARTICLE 8. EMERGENCY HOSPITALS.

§26-8-1. Continuation; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) The hospitals heretofore established and known, respectively, as Welch Emergency Hospital and Fairmont Emergency Hospital shall be continued and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer of each of said hospitals shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.
(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.

ARTICLE 9. HOPEMONT STATE HOSPITAL.

§26-9-1. Establishment and continuation; name and location; management; superintendent; qualifications of superintendent; division of fiscal, administrative and clinical duties; certain persons exempted from qualification requirements.

(a) Hopemont State Hospital, heretofore established, shall be continued as a hospital for both chronically ill and infirm, which hospital shall be managed, directed and controlled as prescribed in article one, chapter twenty-five of this code. The chief executive officer thereof shall be the superintendent, who shall be a college graduate and have a minimum of two years' experience in either hospital administration, health services administration or business administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

(b) A superintendent is the person having the fiscal responsibility of the hospital and the authority to manage and administer the financial, business and personnel affairs of the hospital.

A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

(c) The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business manager on the effective date hereof, and who has served in such capacity for at least six consecutive months next preceding such effective date.
CHAPTER 27. MENTALLY ILL PERSONS.

Article
1. Words and Phrases Defined.
1A. Department of Mental Health.
2. Mental Health Facilities.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§27-1-7. Superintendent and clinical director.

1 (a) A superintendent is the person having the fiscal responsibility of a state institution and the authority to manage and administer the financial, business and personnel affairs of the institution.

2 (b) A clinical director is the person having the responsibility for decisions involving clinical and medical treatment of patients, and who shall be a duly qualified physician licensed to practice medicine in the state of West Virginia.

ARTICLE 1A. DEPARTMENT OF MENTAL HEALTH.

§27-1A-3. Appointment of director; qualifications; term; oath; bond; salary and expenses.

§27-1A-4. Powers and duties of the director; power of eminent domain.

§27-1A-5. Division of administration; deputy director; deputy director's qualifications, powers and duties.

§27-1A-3. Appointment of director; qualifications; term; oath; bond; salary and expenses.

1 The governor shall appoint the director of the department of mental health by and with the consent of the Senate; he shall be known as the director of mental health. Before entering upon the duties of his office, the director shall take and subscribe the oath of office prescribed by section five, article four of the constitution of this state, the certificate whereof shall be filed in the office of the secretary of state, and he shall give bond in the penalty of ten thousand dollars, conditioned as required by law. The director shall serve at the will and pleasure of the governor. The salary of the director shall be the salary specified in section two-a, article seven, chapter six of the code and in addition thereto he shall be reimbursed for all necessary travel and other expenses incurred in the performance of his duties. The director shall be a qualified psychiatrist with both clinical and administrative experience.
§27-1A-4. Powers and duties of the director; power of eminent domain.

1 The director shall be the executive head of the department, and as such shall have the following powers and duties:

1. To develop and maintain a state plan which sets forth needs of the state in the areas of mental health and mental retardation; goals and objectives for meeting those needs; plan of operation for achieving the stated goals and objectives, including organizational structure; and statement of requirements in personnel funds and authority for achieving the goals and objectives.

2. To appoint deputies and assistants to supervise the departmental programs, including hospital and residential services, and such other assistants and employees as may be necessary for the efficient operation of the department and all its programs.

3. To promulgate rules and regulations clearly specifying the respective duties and responsibilities of program directors and fiscal administrators, making a clear distinction between the respective functions of these officials.

4. To delegate to any of his appointees, assistants or employees all powers and duties vested in the director, including the power to execute contracts and agreements in the name of the department as provided in this article, but the director shall be responsible for the acts of such appointees, assistants and employees.

5. To supervise and coordinate the 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.

6. To transfer a patient from any state hospital to any other state hospital or clinic under his control and, by agreement with the state commissioner of public institutions, transfer a patient from a state hospital to an institution, other than correctional, under the supervision of the state commissioner of public institutions.

7. To make periodic reports to the governor and to
the Legislature on the condition of the state hospitals, or
on other matters within his authority, which shall include
recommendations for improvement of the state hospitals
and any other matters affecting the mental health of the
people of the state.

The director of mental health shall have all of the au-
authority vested in the divisions of the department, as here-
inafter provided.

The director is hereby authorized and empowered to
accept and use for the benefit of a state hospital or hos-
pitals, or for any other mental health purpose specified
in 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. 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 privi-
lege, land or improvement, which in its opinion may be
necessary, in the manner provided by law, for the ac-
quision by this state of property for public purposes.

§27-1A-5. Division of administration; deputy director; deputy
director's qualifications, powers and duties.

There shall be a division of administration in the de-
partment of mental health. The chief executive of this
division shall be the deputy director for administration.
The deputy director shall be a college graduate with not
less than two years' experience in business administration,
health services administration or hospital administration,
with broad knowledge of accounting, purchasing and per-
sonnel practices as related to the rendition of health and
health related services. He shall have the following
duties:

1. To keep the records in the department.
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 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 job classifications and standards for employees of the department.

10. To perform any other duties assigned to the division by the director of the department.

ARTICLE 2. MENTAL HEALTH FACILITIES.

§27-2-2. Superintendents; qualifications and exceptions therefrom; salaries of superintendents and other officers and employees; furnishing of meals, household facilities, etc.

The superintendent of a state hospital shall be appointed for an indefinite period. He shall be a college graduate and have a minimum of two years' experience in business administration, health services administration or hospital administration with broad knowledge of accounting, purchasing and personnel practices as related to the rendition of health and health related services.

The provisions of this section relating to the qualification of persons eligible to serve as superintendent shall not apply to any person serving in the capacity of business
manager on the effective date hereof, and who has served
in such capacity for at least six consecutive months next
preceding such effective date.

The superintendents and other officers and employees
of each state hospital or center shall be paid salaries
commensurate with their duties and responsibilities, but
no meals or other emoluments of any kind shall be fur-
nished, given or paid to such superintendents, officers
or employees as all or part of their salary; however, such
superintendents, officers and employees may be provided
meals, household facilities and supplies as may be neces-
sary for them to perform their duties, if such superinten-
dents, officers and employees agree to pay the reason-
able cost thereof as established by the director of the
department of mental health.

CHAPTER 98

(House Bill No. 1109—By Mr. Seibert)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section sixteen, article one, chap-
ter twenty-five of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, dealing with the
transfer of inmates of state institutions or facilities.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. SUPERVISION AND CONTROL OF STATE INSTITU-
ITIONS.

§25-1-16. Transfer of inmates of state institutions or facilities.

The state commissioner of public institutions shall have
authority to cause the transfer of any patient or inmate
from any state institution or facility to any other state or
federal institution or facility which is better fitted for the
care or treatment of such patient or inmate, or for other
good cause or reason.
Whenever a convict in a state prison becomes mentally ill, the warden shall proceed in accordance with section thirty-one, article five, chapter twenty-eight of this code. Whenever a convict in a state prison needs medical attention, other than mental care, not available at said prison, the warden or superintendent of said prison shall immediately notify the commissioner of public institutions, who, after proper investigation, shall cause the transfer of said convict to a hospital within the state of West Virginia properly equipped to render the medical attention necessary. Such a convict, while receiving treatment in said hospital, shall be under guard at all times and shall forthwith be returned to prison upon his recovery.

CHAPTER 99
(House Bill No. 1108—By Mr. Seibert)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article four, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to assignment of offenders to camp, period of camp confinement, return to court, sentence or probation, revocation of probation and transfer of inmates by commissioner of public institutions.

Be it enacted by the Legislature of West Virginia:

That section six, article four, 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 4. FORESTRY CAMPS FOR HOUSING YOUTHFUL MALE LAW OFFENDERS.

§25-4-6. Assignment of offenders to camp; period of camp confinement; return to court; sentence or probation; revocation of probation; transfer of inmates by commissioner of public institutions.

The judge of any court with original criminal jurisdiction may suspend the imposition of sentence of any male
youth convicted of or pleading guilty to a criminal offense, other than an offense punishable by life imprisonment, who has attained his sixteenth birthday but has not reached his twenty-first birthday at the time of the commission of the crime, and commit him to the custody of the West Virginia commissioner of public institutions to be assigned to a forestry camp. The period of confinement in the forestry camp shall be for a period of one year, or longer if it is deemed advisable by the camp superintendent, but in any event such period of confinement shall not exceed two years. If, in the opinion of the superintendent, such male offender proves to be an unfit person to remain in such a camp, he shall be returned to the court which committed him to be dealt further with according to law. In such event, the court may place him on probation or sentence him for the crime for which he has been convicted.

In his discretion, the judge may allow the defendant credit on his sentence for time he has spent in the forestry camp. When, in the opinion of the superintendent, any boy has satisfactorily completed the camp training program and the term for which he was assigned has expired, such male offender shall be returned to the jurisdiction of the court which originally committed him. He shall be eligible for probation for the offense with which he is charged, and the judge of the court shall immediately place him on probation. In the event his probation is subsequently revoked by the judge, he shall be given the sentence he would have originally received had he not been committed to the camp and subsequently placed on probation. The court shall, however, give the defendant credit on his sentence for the time he spent in the camp.

Any male youth between the ages of ten and eighteen committed by the judge of any juvenile or domestic relations court of competent jurisdiction for any of the causes, and in the manner prescribed in article five, chapter forty-nine of this code, may, if such youth is or has attained the age of sixteen, be placed in a forestry camp or transferred from the industrial school or like facility to a forestry camp and back to such facility by the com-
43 missioner of public institutions, if he deems it proper for
44 the youth's detention and rehabilitation.

CHAPTER 100
(Senate Bill No. 194—By Mr. Barnett)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section three, article one, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to motor carriers and exempting from the provisions of this chapter, motor vehicles used exclusively by commission agents and oil distributors.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. PURPOSE, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

1 The provisions of this chapter, except where specifically otherwise provided, shall not apply to:

3 (1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers;

6 (2) Motor vehicles owned and operated by the United States of America, the state of West Virginia or any county, municipality, or county board of education, or by any department thereof, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or such other legitimate transportation for the schools as the commission may specifically authorize;

14 (3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock,
poultry and dairy products from the farm or orchard on
which they are raised or produced to markets, processing
plants, packing houses, canneries, railway shipping
points and cold storage plants, and in the transportation
of agricultural or horticultural supplies to such farms or
orchards to be used thereon;
(4) Motor vehicles used exclusively in the transporta-
tion of human or animal excreta;
(5) Motor vehicles used exclusively in ambulance
service;
(6) Motor vehicles used exclusively for volunteer fire
department service;
(7) Motor vehicles used exclusively in the transporta-
tion of coal from mining operations to loading facilities
for further shipment by rail or water carriers; and
(8) Motor vehicles used by petroleum commission
agents and oil distributors solely for the transportation
of petroleum products and related automotive products
when such transportation is incidental to the business of
selling said products: Provided, however, That the owner
of said vehicle or vehicles shall have in effect at all times
a public liability insurance policy with respect to said
vehicle or vehicles and the driver or drivers thereof in
an amount equal to or in excess of that required by the
public service commission of West Virginia for similar
vehicles under its jurisdiction, evidence of which insur-
ance shall be filed with the motor carrier division of said
public service commission. All such motor vehicles not
so insured shall be subject to the provisions of this
chapter.

CHAPTER 101
(Senate Bill No. 151—By Mr. McCourt, Mr. President,
and Mr. Deem)

[Passed March 9, 1972; in effect July 1, 1972. Approved by the Governor.]
thousand nine hundred thirty-one, as amended; to amend and reenact section two, article three, chapter twenty of said code; and to amend and reenact section one, article four of said chapter twenty, all relating to transferring the responsibility for the construction and maintenance of roads on publicly owned lands within state parks and forests from the director of the department of natural resources to the commissioner of highways; and relating to the authority of the department of natural resources to cut and plant vegetation along rights-of-way of the roads in state parks, state forests and public hunting and fishing areas.

Be it enacted by the Legislature of West Virginia:

That sections one and two, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article three, chapter twenty of said code be amended and reenacted; and that section one, article four of said chapter twenty be amended and reenacted, all to read as follows:

Chapter
17. Roads and Highways.
20. Natural Resources.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-1. Classification of state roads; control over state roads; control by county courts of roads, bridges and landings; roads in state parks, forests and public hunting and fishing areas made part of state road system.

§17-4-2. Definitions of roads comprising state road system.

§17-4-1. Classification of state roads; control over state roads; control by county courts of roads, bridges and landings; roads in state parks, forests and public hunting and fishing areas made part of state road system.

1 The state road system shall consist of roads functionally 2 classified into five categories as follows: (1) Express- 3 way; (2) trunkline; (3) feeder; (4) state local service; 4 and (5) park and forest. The authority and control over
the state roads shall be vested in the commissioner of
highways.

The county courts shall retain the superintendence and
administration of roads, bridges and landings that remain
under their jurisdiction as provided in section one, article
ten of this chapter.

The commissioner of highways shall take control of
all existing roads which are publicly owned within the
state parks system and in the state forests including pub-
lic hunting and fishing areas, formerly the responsibility
of the director of the department of natural resources, on
the effective date of this section and shall assume control
of their further construction, reconstruction and main-
tenance as a part of the state road system. The commis-
sioner is responsible for construction, reconstruction and
maintenance as a part of the state road system of any new
roads for public usage that may be constructed with the
approval of the director of the department of natural re-
sources, in existing state parks, state forests, public hunt-
ing and fishing areas or any such roads for public usage
which may be established on publicly owned lands in any
future state park, state forest, public hunting or fishing
areas.

The director of the department of natural resources has
the authority and responsibility to do the necessary cut-
ting and planting of vegetation along road rights-of-way
in state parks, state forests and public hunting and fishing
areas.

§17-4-2. Definitions of roads comprising state road system.

The following meanings shall be ascribed to roads
comprising the state road system:

(a) "Expressway."—Serves major intrastate and inter-
state travel, including federal interstate routes.

(b) "Trunkline."—Serves major city to city travel.

(c) "Feeder."—Serves community to community travel
or collects and feeds traffic to the higher systems or both.

(d) "State local service."—Localized arterial and spur
roads which provide land access and socioeconomic bene-
fits to abutting properties.
11 (e) "Park and Forest."—Serves travel within state parks, state forests and public hunting and fishing areas.

CHAPTER 20. NATURAL RESOURCES.

Article
3. Forests and Wildlife Areas.
4. Parks and Recreation.

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

PART I. FORESTS AND WILDLIFE AREAS.

§20-3-2. Acquisition of suitable lands by director; maintenance thereof as state forests or wildlife areas; relinquishment of construction and maintenance of roads to the commissioner of highways.

The director may with the consent of the governor purchase, in the name of the state, out of funds set aside for the purpose, or out of any unused funds in his hands, lands suitable for forest culture, state forests or wildlife refuges. Such funds may also be used for the construction of dams for fish refuges on lands so acquired. Purchase may be made on terms requiring not less than one third of the purchase price to be paid at the time of the conveyance with the residue to be paid in not less than one or two years after date. Without the consent of the governor, not more than twenty-five dollars per acre shall be paid for lands to be used for the purpose of this article. The director may also receive the gift of such lands by deed or bequest. In all cases of transfers to the state, the fee simple title shall pass to the state, except minerals and mining rights to remove such minerals may be excepted or reserved.

The director shall protect, preserve and maintain lands so acquired as state forests and wildlife areas for the propagation and distribution of forest trees and for the protection, management, propagation and distribution of the fish, wild animals and birds thereon. He may prescribe and enforce rules and regulations consistent with the laws of the state to carry out that objective. The director may prescribe and enforce rules prohibiting all hunting and fishing, pursuing, catching, trapping, capturing and killing of fish, wild animals and birds upon such
state forests and wildlife areas for such length of time
as he may deem proper.

The director may provide special regulations and open
seasons for the taking of any wild birds, wild animals or
fish on such lands in the manner provided in this chapter.

Except for the authority and responsibility to do the
necessary cutting and planting of vegetation along road
rights-of-way in state parks, state forests and public
hunting and fishing areas, the director of the department
of natural resources shall, upon the effective date of this
section, relinquish to the commissioner of highways his
authority over publicly owned roads in state parks, state
forests and public hunting and fishing areas, and shall
thereafter neither construct, reconstruct nor maintain
any road or vehicular bridge for public usage in such
areas except as is specifically authorized by this chapter.

This relinquishment shall not be construed to alter the
responsibilities assigned to the director of the department
of natural resources in section eleven, article four, chapter
twenty of the code of West Virginia.

ARTICLE 4. PARKS AND RECREATION.

§20-4-1. Duties and functions of division of parks and rec-
recreation.

1 The division of parks and recreation herein created and
2 established shall have within its jurisdiction and super-
3 vision:

4 (a) All state parks and state recreation areas, includ-
5 ing all lodges, cabins, swimming pools, motorboating and
6 all other recreational facilities therein, except the roads
7 therein which, by reason of section one, article four,
8 chapter seventeen, are transferred to the state road sys-
9 tem and to the responsibility of the commissioner of high-
10 ways with respect to the construction, reconstruction and
11 maintenance of the roads or any future roads for public
12 usage on publicly owned lands in future state parks, state
13 forests and public hunting and fishing areas;

14 (b) The authority and responsibility to do the neces-
15 sary cutting and planting of vegetation along road rights-
16 of-way in state parks and recreational areas;
(c) The functions and services of the following commissions which are hereby made activities of the department of natural resources:

1. Point Pleasant battle monument commission, created by Joint Resolution No. 24 adopted by the Legislature of West Virginia on the sixth day of December, one thousand eight hundred seventy-five;

2. The Prickett's Fort state park commission, created by chapter forty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven;

3. Droop Mountain battlefield commission, created by House Joint Resolution No. 8 adopted by the Legislature of West Virginia on the twenty-fifth day of January, one thousand nine hundred twenty-seven;

4. Philippi battlefield commission, created by House Joint Resolution No. 15 adopted by the Legislature of West Virginia on the thirtieth day of March, one thousand nine hundred twenty-seven; and

5. Carnifex Ferry battleground park commission, created by chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-one; and

(d) Administration of all laws and regulations relating to the establishment, development, protection, use and enjoyment of all state parks and state recreational facilities consistent with the provisions of this chapter.

Berkeley Springs sanitarium in Morgan county shall be continued as a state recreational facility under the jurisdiction and supervision of the division of parks and recreation and shall be managed, directed and controlled as prescribed in articles one and four, chapter twenty of the code.

The director shall have and is hereby granted all of the powers and authority and shall perform all of the functions and duties with regard to Berkeley Springs sanitarium that were previously vested in and performed by the state commissioner of public institutions, who shall no longer have such power and authority and whose power and authority with regard to Berkeley Springs
sanitarium is hereby abolished. The title to all property consisting of or belonging to Berkeley Springs sanitarium is hereby transferred to and shall be vested in the director who shall be the custodian of all deeds and other muniments of title to all of that property and shall cause those deeds and muniments susceptible of recordation to be recorded in the proper office.

The chief of the division shall be primarily responsible for the execution and administration of the provisions of this article as an integral part of the natural resources program of the state and shall organize and staff his division for the orderly, efficient and economical accomplishment of these ends.

CHAPTER 102

(Assembly Bill No. 1032—By Mr. Speaker, Mr. McManus)

[Passed February 26, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section one, chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred seventy-one, as last amended and reenacted by chapter fifteen, acts of the Legislature, first extraordinary session, one thousand nine hundred seventy-one, relating to the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the Roads Development Amendment of 1968, in an amount not exceeding ninety million dollars during the fiscal year ending June thirtieth, one thousand nine hundred seventy-two, 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; the amount of bonds that may be issued at one time.

Be it enacted by the Legislature of West Virginia:
That section one, chapter one hundred forty, acts of the Legislature, regular session, one thousand nine hundred
seventy-one, as last amended and reenacted by chapter fifteen, acts of the Legislature, first extraordinary session, one thousand nine hundred seventy-one, be amended and reenacted to read as follows:

**ISSUANCE AND SALE OF ROAD BONDS.**

§1. Road bonds; amount; when may issue.

1. Bonds of the state of West Virginia, under authority of the Roads Development Amendment of 1968, of the par value not to exceed ninety million dollars during the fiscal year ending June thirty, one thousand nine hundred seventy-two, 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 coupons or registered form, in such denominations, at such time, bearing such date or dates, as the governor may determine, based upon an examination of the West Virginia department of highways' yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially, annually or semiannually, in such amounts and mature in such years as the governor may determine: *Provided,*

2. That such bonds shall mature within and not exceeding twenty-five years from their date: *Provided, however,*

3. That the governor shall not offer for sale more than forty million dollars of bonds at any one time: *Provided further,* That the governor must offer said bonds for competitive bids from recognized financial investment institutions before said bonds may be sold.

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**CHAPTER 103**

(Com. Sub. for Senate Bill No. 74—By Mr. Hubbard)

[Passed March 9, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT authorizing the issuance and sale by the governor of bonds of the state of West Virginia, under authority of the
Better Roads Amendment of 1964, in an amount not exceeding twenty million dollars during the fiscal year ending June thirtieth, one thousand nine hundred seventy-three, for the sole purpose of raising funds for the building and construction of 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 account; 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; providing for the state treasurer to be financial advisor; providing for the attorney general or his duly appointed legal representative to serve as bond counsel; and providing that all necessary expenses, including legal expenses approved by the attorney general, 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.

Be it enacted by the Legislature of West Virginia:

ISSUANCE AND SALE OF ROAD BONDS.

§1. Road bonds; amount; when may issue.
§2. Transfer fee; registration fee; where payable; interest rate; tax exempt.
§3. Form of bond.
§4. Form of coupon.
§5. Listing by auditor.
§6. State road sinking fund sources used to pay bonds and interest; investment of remainder.
§7. Covenants of state.
§8. Sale by governor; minimum price.
§9. Proceeds paid into separate account in state road fund; expenditures.
§10. Plates, etc., property of state.
§11. Auditor to be custodian of unsold bonds.
§12. Interim certificates.
§13. State treasurer to be financial advisor.
§14. Attorney general or his duly appointed legal representative to serve as bond counsel.
§15. Approval and payment of all necessary expenses.

§1. Road bonds; amount; when may issue.

1. Bonds of the state of West Virginia, under authority of the Better Roads Amendment of 1964, of the par value not to exceed twenty million dollars during the fiscal year ending June thirty, one thousand nine hundred seventy-three, are hereby authorized to be issued and sold for the sole purpose of raising funds for the building and construction of 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 denominations, at such time, bearing such date or dates as the governor may determine, based upon an examination of the West Virginia department of highways' yearly program which justifies the issuance by the governor of said bonds, and shall become due and payable serially, annually or semi-annually, in such amounts and mature in such years as the governor may determine: Provided, That such bonds shall mature within and not exceeding twenty-five years from their date: Provided further, That the governor must offer said bonds for competitive bids from recognized financial investment institutions before said bonds may be sold.

§2. Transfer fee; registration fee; where payable; interest rate; tax exempt.

1. 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 a bank in the city of New York to be designated by the governor, or, at the option of the holder at such other bank or banks, within the state, as may be designated or approved by the governor. The bonds shall bear interest, 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 banks designated and approved 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 made 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.

§3. Form of bond.

The bonds shall be executed on behalf of the state of West Virginia, by the manual or facsimile signature of the treasurer thereof, under the great seal of the state or a facsimile thereof, and countersigned by the manual or facsimile signature of the auditor of the state: Provided, That one of said signatures on said bonds shall be a manual signature and said bonds 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)
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 ____________________ bank in the city of New York, or, at ____________________ bank, at the option of the holder, the sum of ________________ dollars, with interest thereon at ______ per centum per annum from the date, payable semiannually in like lawful money of the United States of America at the treasurer's office or banks 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.

(Redemption provisions, if any, to be inserted here)

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
52 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 manual or facsimile signature of the treasurer of the state of West Virginia, and the manual or facsimile countersignature 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 or a facsimile thereof.

Treasurer of the State of West Virginia

(SEAL)

Countersigned:

Auditor of the State of West Virginia

§4. Form of coupon.

1 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 _________________ bank in the city of New York, or, at _________________, at the option of the holder, 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 numbered in the order of their maturity, from number one consecutively. The bonds and coupons may be signed, as provided in this act, 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.

§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 post-office address of the person, firm or corporation registered as the owner thereof.

§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 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: 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 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.

§7. Covenants of state.

1 The state of West Virginia covenants and agrees with the holders of the bonds issued pursuant hereto as follows: (1) That such bonds shall constitute a direct and general obligation 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 principal 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 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 said bonds becoming due and payable in such year are insufficient therefor.

§8. Sale by governor; minimum price.

1 The governor 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 state roads and highways, as herein provided, upon the recommendation of the West Virginia commissioner of highways, and after reviewing the program of the West Virginia department of highways and subject to the limitations contained in this act. 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 ineffective, before the de-
delivery of the bonds so sold.

§9. Proceeds paid into separate account in state road fund;
expenditures.
1 The proceeds of all sales of bonds herein authorized
2 shall be paid into a separate and distinct account in
3 the state road fund and shall be used and appropriated
4 solely for the building and construction of state roads
5 and highways provided for by the state constitution and
6 the laws enacted thereunder. Except for such sums nec-
7 essary for current operating balances, such accounts shall
8 be invested and reinvested in short-term obligations of
9 the United States treasury: Provided, That no such in-
10 vestment or reinvestment shall adversely affect the cur-
11 rent operating balances of such account.

§10. Plates, etc., property of state.
1 The plates, casts, dies or other forms from which the
2 bonds authorized by this act are produced or made shall
3 be the property of the state of West Virginia.

§11. Auditor to be custodian of unsold bonds.
1 The state auditor shall be the custodian of all unsold
2 bonds issued pursuant to the provisions of this act.

§12. Interim certificates.
1 The governor may authorize the issuance of interim
2 certificates to be issued to the purchasers of such bonds
3 to be held by them in lieu of permanent bonds. When
4 interim certificates are so issued, they shall become full
5 and legal obligations of the state of West Virginia under
6 all of the provisions of this act just as fully and completely
7 as the permanent bonds.

§13. State treasurer to be financial advisor.
1 The state treasurer shall serve as financial advisor to
2 the governor for the issuance and sale of such bonds.

§14. Attorney general or his duly appointed legal representa-
tive to serve as bond counsel.
1 The attorney general, or his duly appointed legal rep-
2 resentative, shall serve as bond counsel and shall be re-
§15. Approval and payment of all necessary expenses.

All necessary expenses, including legal expenses approved by the attorney general, 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.
ARTICLE 6. DRIVER EDUCATION.

§18-6-1. Purpose and objectives of article.

§18-6-2. Where provided; implementation deadlines; priorities for course availability.

§18-6-3. State board to establish minimum course standards; students with mental or physical defects; minimum standards specified.

§18-6-4. Rules and regulations.

§18-6-5. Establishment and maintenance of driver education course; who may enroll; exemption from learner's permit requirement.

§18-6-6. Expenditure of school funds for driver education courses; appropriations.

§18-6-7. Automobile liability insurance covering vehicles used in driver education.

§18-6-8. Driver education course to be made available to all secondary school pupils prior to their graduation; exemption; application by pupil for unrestricted operator's license.

§18-6-9. Commercial driver education schools—Course of instruction; issuance and renewal of license; fee; application for license; inspections and revocation of license; lists of schools offering approved courses.

§18-6-10. Same—Posting of licenses; assignment or transfer; certificates to persons completing course; maximum tuition fee.

§18-6-1. Purpose and objectives of article.

The purpose of this article is to ensure that every secondary school pupil has the opportunity, at or about the time he reaches licensing age, to enroll in a course of driver education designed to train him to drive skillfully and safely under all traffic and roadway conditions and circumstances; to make the driver education course available to out-of-school youths and to adults; and to ensure that commercial driver education schools achieve and maintain a level of driver education equal to the minimum standards that are prescribed for secondary schools.

§18-6-2. Where provided; implementation deadlines; priorities for course availability.

No later than the first day of the public school term beginning in the year one thousand nine hundred seventy-three, there shall be offered in all public secondary schools within the state an approved, comprehensive course in driver education.

As the first priority, the driver education course shall be made available at no cost to all secondary school pupils at or about the time they reach licensing age.
As the second priority, the driver education course shall be made available to all persons who do not attend secondary schools who have reached their sixteenth birthday and are under eighteen years of age. County boards of education may require the persons described in this paragraph who enroll in a public secondary school driver education course to pay tuition not to exceed fifty dollars.

As the third priority, the driver education course shall be made available to all persons who do not attend secondary school who are eighteen years of age or older, but first consideration for persons in this age group shall be given to those who are applying for their first operator's license. County boards of education may require the persons described in this paragraph who enroll in a public secondary school driver education course to pay tuition not to exceed seventy-five dollars.

In those counties where sufficient public secondary school driver education courses are not available to meet all requests for the course, county boards of education shall, as quickly as possible, make sufficient courses available to fill those requests.

§18-6-3. State board to establish minimum course standards; students with mental or physical defects; minimum standards specified.

The state board of education shall establish minimum standards for all driver education courses offered and made available to persons within the state, regardless of whether the courses are offered by public, private, parochial, denominational or commercial schools, but no person shall be permitted to enroll in any driver education course who has a known mental or physical defect that would prevent the person from qualifying for an operator's license, unless the mental or physical defect is controlled or corrected so the person could so qualify.

The minimum standards shall provide at least that:

(a) All driver education courses offered within the state are taught by instructors certified by the state board as qualified for these purposes.
(b) Each person enrolled in a driver education course shall receive practice driving and observation in a dual control automobile and instruction in at least the following:

1. Basic and advanced driving techniques, including techniques for handling emergencies.
2. Traffic regulations and laws of the road as provided in chapter seventeen-c of this code, and other applicable state and local laws and ordinances.
3. Critical mechanical parts of vehicles requiring preventive maintenance for safety.
4. The vehicle, highway and community features that aid the driver in avoiding crashes; protect him and his passengers in crashes; and maximize the salvage of the injured.
5. Signs, signals, highway markings and highway design features which require understanding for safe operation of motor vehicles.
6. Differences in characteristics of urban and rural driving, including safe use of modern expressways.
7. Pedestrian safety.

In addition, in driver education courses participating students shall be encouraged to acquire first aid skill.

§18-6-4. Rules and regulations.

In accordance with chapter twenty-nine-a of this code, the state board shall, with the advice of the state superintendent and the superintendent of the department of public safety, adopt rules and regulations governing the establishment, conduct and scope of driver education for use in the public, private, parochial and denominational secondary schools located within this state, subject to the requirements and exceptions set forth in this article.

§18-6-5. Establishment and maintenance of driver education course; who may enroll; exemption from learner's permit requirement.

The state superintendent shall promote and direct the establishment and maintenance of courses of instruction in driver education in secondary schools in accordance with the provisions of this article and the rules and
regulations that the state board adopts pursuant to section four of this article. Directors, trustees or other persons having control or authority over private, parochial or denominational secondary schools, who establish and maintain such courses in the schools under their control or supervision, shall comply with the rules and regulations that the state board adopts pursuant to section four of this article.

In the case of a pupil who will not reach his sixteenth birthday before he completes the driver education course in which he is enrolled, instruction shall be limited to the classroom. Pupils who will reach their sixteenth birthday before they complete the driver education course and those who are sixteen years of age and older shall receive instruction and practical training in the operation of motor vehicles on the public streets and highways, and the pupil need not have the learner's permit required by section five, article two, chapter seventeen-b of this code, if he is operating a dual control automobile and a duly appointed instructor is actually occupying a seat beside the pupil.

§18-6-6. Expenditure of school funds for driver education courses; appropriations.

County boards of education, subject to the rules and regulations of the state board, may expend school funds to maintain and repair vehicles used for instructional purposes, to purchase fuel, lubricants, parts and accessories therefor, to pay the compensation of teachers or instructors and to procure automobile insurance, where the expenditures are for the purpose of establishing or maintaining driver education courses in public secondary schools pursuant to this article. These expenditures, including compensation of teachers or instructors, may be made over a period of twelve months.

Each county board of education shall receive from funds specially appropriated for the driver education courses provided in public secondary schools a sum which shall be proportionate to the total amount available for distribution for that purpose to all county boards in the state in the ratio which the number of pupils who are enrolled in driver education courses in public secondary schools
19 in the county bears to the total number of pupils who are
20 enrolled in driver education courses in all public second-
21 ary schools within the state, but the payment shall not
22 exceed the sum of thirty-five dollars for each such pupil
23 per school year.

§18-6-7. Automobile liability insurance covering vehicles used
in driver education.

1 County boards of education shall procure or require
2 automobile liability insurance in the amount the state
3 board shall prescribe covering motor vehicles owned or
4 operated for driver education courses. The board having
5 control of the financial and business affairs of any other
6 state educational institution which offers driver educa-
7 tion courses shall procure or require automobile liability
8 insurance in like amount covering motor vehicles owned
9 or operated for any driver education course. The insur-
10 ance shall be against any liability arising out of the use of
11 vehicles in connection with any driver education course.

§18-6-8. Driver education course to be made available to all
secondary school pupils prior to their graduation;
exemption; application by pupil for unrestricted
operator's license.

1 Before any pupil is graduated from a secondary school
2 after the first day of September, one thousand nine hun-
3 dred seventy-five, he shall first be provided an oppor-
4 tunity and encouraged to successfully complete a driver
5 education course approved by the state board in a public,
6 private, parochial or denominational secondary school
7 within the state. If a pupil has successfully completed a
8 similar course in a secondary school of another state and
9 the course is accepted by the state board as adequately
10 meeting and complying with the course standards es-
11 tablished by the state board, then the aforementioned re-
12 quirement shall be deemed fulfilled regarding that pupil.
13 Any secondary school pupil sixteen years of age or
14 older, but under eighteen years of age, who has success-
15 fully completed a driver education course approved by
16 the state board in a public, private, parochial or denomina-
17 tional secondary school within the state or a similar
18 course in a secondary school of another state and ac-
cepted by the state board as adequately meeting and com-
plying with the course standards established by the state
board, shall, upon proper application and successful com-
pletion of all examination and driving tests required by
law for issuance of an operator's license to a person
eighteen years of age or older, be issued an operator's
license without any restriction rather than the junior or
probationary operator's license provided for in section
three, article two, chapter seventeen-b of this code.

§18-6-9. Commercial driver education schools—Course of in-
struction; issuance and renewal of license; fee; ap-
plication for license; inspections and revocation of
license; lists of schools offering approved courses.

The state board shall prescribe a course of instruction
for commercial driver education schools in West Vir-
ginia. The requirements and quality of the course of
instruction prescribed for commercial driver education
schools shall be at least equal to the minimum standards
that are prescribed for secondary schools. The state su-
perintendent shall issue licenses to commercial driver
education schools which offer courses of instruction in
driver education which comply with the course of study
approved by the state board.

A fee of fifty dollars shall be charged by the state
superintendent for the issuance of any such license, which
may be renewed annually, for a fee of fifty dollars, so
long as the licensee complies with the requirements of
this article. Sums so received shall be deposited into the
state treasury and credited to an account of the depart-
ment of education for the administration of the provisions
of this article.

An application for a license to operate a licensed com-
mercial driver education school shall be made upon an
official form prescribed by the state superintendent, and
licenses shall be granted only when the state superin-
tendent is satisfied that the school offers a course of
driver education which complies with the requirements
approved by the state board.

The state superintendent shall periodically cause an
inspection to be made of all licensed schools. He shall
revoke and require the surrender of the license of any school that fails to achieve and maintain the minimum course standards prescribed therefor or that he finds is not conducting a driver education course that is in conformity with the requirements approved by the state board.

The state superintendent shall maintain, file and make available at his office and at other places he selects lists of all public and nonpublic schools offering approved courses of driver education and all commercial schools holding licenses and those whose licenses have been revoked. The state superintendent shall keep the list current and shall furnish a copy of the list to the commissioner of motor vehicles and to the commissioner of insurance.

§18-6-10. Same—Posting of licenses; assignment or transfer; certificates to persons completing course; maximum tuition fee.

No license for a commercial driver education school shall be assigned, transferred or used at any location other than that therein designated, and every license shall be posted in a conspicuous place at the school location designated.

Persons operating a licensed school shall issue a certificate upon an official form prescribed by the state superintendent to persons completing its driver education course. A record shall be kept of every certificate so issued.

Tuition of not more than one hundred dollars may be charged by a licensed commercial driver education school for each person enrolled therein.

CHAPTER 105

(Senate Bill No. 183—By Mr. McCourt, Mr. President, and Mr. Palumbo)

[Passed March 11, 1972; in effect July 1, 1972. 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-six, relating to the establishment of multi-county regional educational service agencies and the governing boards 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-six, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.


1 In order to consolidate and more effectively administer existing regional education programs and in order to equalize and extend educational opportunities, the state board of education is authorized and empowered to establish multi-county regional educational service agencies for the purpose of providing educational services to the county school systems, and to make such rules and regulations as may be necessary for the effective administration and operation of such agencies.

10 A regional board shall be empowered to receive and disperse funds from the federal government, member counties, gifts and grants.

CHAPTER 106

(Senate Bill No. 201—By Mr. McCourt, Mr. President, and Mr. Palumbo)

[Passed February 25, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact sections one, two, four, five and eight, article two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to textbook adoption for public elementary schools.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. TEXTBOOK ADOPTION.
§18-2A-1. Classification of school subjects into adoption groups; adoption schedule.
§18-2A-2. Request for samples and bids; deposit by bidder; selection, approval and publication of multiple list.
§18-2A-4. Execution of contracts; bond.
§18-2A-5. Selection by county boards.
§18-2A-8. Textbooks must be approved and listed; when changes of textbooks may be effected; rules and regulations.

§18-2A-1. Classification of school subjects into adoption groups; adoption schedule.

1 On or before July first, one thousand nine hundred seventy-two, the state board of education shall classify the elementary school subjects now required to be taught in the schools of our state into five adoption groups. The five adoption groups shall be grouped by related subject fields as nearly as possible.

2 The schedule for the periods of adoption shall be as follows:

3 (a) Adoptions in Group I shall be made in one thousand nine hundred seventy-three for a period of five years.

4 (b) Adoptions in Group II shall be made in one thousand nine hundred seventy-four for a period of five years.

5 (c) Adoptions in Group III shall be made in one thousand nine hundred seventy-five for a period of five years.

6 (d) Adoptions in Group IV shall be made in one thousand nine hundred seventy-six for a period of five years.

7 (e) Adoptions in Group V shall be made in one thousand nine hundred seventy-seven for a period of five years.

8 Upon the expiration of the periods of adoption, as set out in the aforesaid adoption schedule, the period of adoption and contract of each adoption group in which
24 textbooks for all the subjects are adopted shall be for a period of five years.

§18-2A-2. Request for samples and bids; deposit by bidder; selection, approval and publication of multiple list.

Prior to each adoption year after the one thousand nine hundred seventy-two adoption, and not later than August first, the state board by written request or otherwise shall ask the various publishers of textbooks in the United States to submit samples and prices on all textbooks required to be taught in the public elementary schools of the state for the current adoption period.

All bids or proposals shall be under seal, and each bidder shall deposit in the state treasury such sum of money as the state board may designate, such deposit to be not less than one thousand dollars, and not more than three thousand dollars; and such deposit shall be forfeited to the general school fund if such bidder shall fail or refuse to make and execute such contract and bond as are herein required in case of acceptance of all or part of his bid, and otherwise shall be returned to such bidder after the contract has been made.

All bids shall be opened by the state board in public session. After considering the subject matter, printing, binding, general suitableness, and prices of books submitted, the board shall, prior to March first of the year in which the multiple adoptions are made by the state board of education, establish a committee of teachers and other educational specialists not to exceed fifteen members and with the aid of said committee, shall on or before December first, prior to county adoptions, select, approve and publish a list of at least five books or series of books in each subject and grade in the elementary subjects required to be taught. If less than five books or series of books in any subject and grade are offered, the state board may list fewer than five. The committee of teachers and other educational specialists shall report their recommendations to the state board on or before November first of the year preceding the adoption by the county board.
§18-2A-4. Execution of contracts; bond.

1 When the selection and approval of the multiple list
2 have been properly made, it shall be the duty of the state
3 board to execute contracts for the selected books with the
4 publishers within thirty days of the approval and adop-
5 tion of the multiple list, prepare a list of the adopted
6 books on the multiple list and publish same, and send a
7 copy to each county superintendent not later than Janu-
8 ary first of the year of the county adoption. Such con-
9 tracts for adoption by the state board of education shall
10 run for five years.

Each publisher awarded a textbook contract by the
state shall enter into a bond payable to the state of West
Virginia in the penal sum of not less than two thousand
dollars and not more than five thousand dollars to be
approved by the state board of public works, such bond
to be executed as surety by some responsible surety com-
pany authorized to carry on its business in West Vir-

18 ginia. Such contract shall be prepared by the attorney
general in accordance with the terms and provisions of
this article. Such contract shall be executed in duplicate,
one copy to be held by the publisher and one by the state
board of education.

Bonds required of successful publishers shall provide
that:

(a) The publisher will furnish any of the books on the
multiple list which he publishes for the period of the
adoption, from the date of the bond, to any county school
unit, or to a dealer appointed by the county, at the lowest
wholesale price contained in the bid, f.o.b. publisher's
nearest shipping point;

(b) The publisher will automatically reduce such
prices in West Virginia when prices are reduced anywhere
in the United States, so that no such book shall at any
time be sold in West Virginia at a higher wholesale price
than received for that book elsewhere in the United
States, like conditions prevailing;

(c) All books sold in West Virginia will be identical
with the official samples filed with the state board of edu-
cation as regards size, paper, binding, print, illustrations,
subject matter, and other particulars which may affect the value of the books. The state board of education may, however, during the period of the contract approve revised editions of an adopted book or series, which will authorize a publisher to furnish such revisions.

§18-2A-5. Selection by county boards.

Textbook publishers, upon requests of county superintendents, shall furnish to county boards of education the requested sample copies of books that were selected and placed on the state multiple list of textbooks by the state board of education. The textbook publishers shall ship and bill to the county boards of education at the lowest wholesale prices with shipping charges prepaid. After the counties have made their textbook adoptions and certified them to the state board of education, all sample copies of books may be returned to the publishers from whom obtained, shipping charges to be paid by the publisher. County boards may, if they elect to do so, retain the sample books, but shall pay the publishers the lowest wholesale prices for them.

The county board of education shall, upon recommendation of the county superintendent with the aid of a committee of teachers not to exceed five members and not later than April first of the year following that in which the multiple list for the group was made and approved, have the option to select from the state multiple list one or more book(s) or series of books for each subject and grade to be used as exclusive basal textbooks in the county for a period of five years.

After the county board of education has adopted the basal textbooks for use in the county, and not later than April fifteenth, the county superintendent shall send to the state board of education and the respective publishers a complete list of books adopted, properly certified by the president of the county board of education, in such form as the state board of education shall prescribe.

§18-2A-8. Textbooks must be approved and listed; when changes of textbooks may be effected; rules and regulations.

No textbook shall be used in any public elementary
2 school in West Virginia as a basal textbook unless it has
3 been approved and listed on the state multiple list of
4 textbooks by the state board of education. Any changes
5 of textbooks made by the state board of education shall
6 not become effective until grades and classes of the re-
7 spective county school districts have completed work for
8 which the adopted book then in use was originally in-
9 tended. The state board of education may upon request
10 by a county board of education and upon justification of
11 that request, and subsequent to the adoption by a county
12 board of education, approve the adoption of additional
13 books to meet the needs of specific children which were
14 not provided for in the original adoption. Nothing in this
15 section shall apply to the supplementary books that are
16 needed from time to time.
17 The state board of education is authorized to make such
18 rules and regulations as it may deem necessary and
19 expedient to carry out the provisions of this article.

CHAPTER 107
(House Bill No. 878—By Mr. Hatfield and Mr. Goodwin)

[Passed February 21, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section nine, article four, chap-
ter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to reim-
bursements of traveling expenses of county superintendents
of schools.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-9. Reimbursement for traveling expenses; voucher.

1 The board may reimburse the superintendent from
2 the current expense fund for all reasonable and necessary
travel expenses actually incurred in the performance of his official duties. But no allowance shall be made except upon sworn itemized statements.

CHAPTER 108

(House Bill No. 578—By Mr. Moats, of Taylor)

[Passed March 8, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section four, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compensation of members of county boards of education.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-4. Meetings; quorum; employment and assignment of teachers; compensation of members; affiliation with state and national associations; dues and traveling expenses.

1 The board shall meet on the first Monday in January, and upon the dates provided by law for the laying of levies, and at such other times as the board may fix upon its records. At any meeting as authorized above and in compliance with the provisions of article four of this chapter, the board may employ such qualified teachers, or those who will qualify by the time of entering upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. At a meeting of the board, on or before the first Monday in May, the superintendent shall furnish in writing to the
board a list of those teachers to be considered for transfer
and subsequent assignment for the next ensuing school
year; all other teachers not so listed shall be considered
as reassigned to the positions held at the time of this
meeting. Such list of those recommended for transfer
shall be included in the minute record and the teachers
so listed shall be notified in writing, which notice shall
be delivered in writing, by certified mail, return receipt
requested, to such teachers’ last-known addresses within
ten days following said board meeting, of their having
been so recommended for transfer and subsequent assign-
ment.

Special meetings may be called by the president or any
three members, but no business shall be transacted other
than that designated in the call.

A majority of the members shall constitute the quorum
necessary for the transaction of official business.

Board members may receive compensation at a rate
not to exceed forty dollars per meeting attended. But they
shall not receive pay for more than thirty-six meetings in
any one fiscal year.

Members shall also be paid, upon the presentation of
an itemized sworn statement, for all necessary traveling
expenses, including all authorized meetings, incurred on
official business, at the order of the board.

When, by a majority vote of its members, a county
board of education deems it a matter of public interest,
such board may join the West Virginia school board as-
association and the national school board association, and
may pay such dues as may be prescribed by said associa-
tions and approved by action of the respective county
boards. Membership dues and actual traveling expenses
of board members for attending meetings of the West
Virginia school board association may be paid by their
respective county boards of education out of funds avail-
able to meet actual expenses of the members, but no
allowance shall be made except upon sworn itemized
statements.
CHAPTER 109

(Senate Bill No. 118—By Mr. McKown and Mr. Hubbard)

[Passed February 8, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing transportation across county lines to children of school age.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.


1 The boards, subject to the provisions of this chapter and the rules and regulations of the state board, shall have authority:

4 (1) To control and manage all of the schools and school interests for all school activities and upon all school property, whether owned or leased by the county, including the authority to require that records be kept of all receipts and disbursements of all funds collected or received by any principal, teacher, student or other person in connection therewith, any programs, activities or other endeavors of any nature operated or carried on by or in the name of the school, or any organization or body directly connected with the school, to audit such records and to conserve such funds, which shall be deemed quasi-public moneys, including securing surety bonds by expenditure of board moneys;

17 (2) To establish schools, from preschool through high school, inclusive of vocational schools; and to establish schools and programs, or both, for post high school in-
(3) To close any school which is unnecessary and to assign the pupils thereof to other schools: Provided, That such closing shall be officially acted upon and teachers and service personnel involved notified on or before the first Monday in May, in the same manner as provided in section four of this article, except in an emergency, subject to the approval of the state superintendent, or under subdivision (5);

(4) To consolidate schools;

(5) To close any elementary school whose average daily attendance falls below twenty pupils for two months in succession, and send the pupils to other schools in the district or to schools in adjoining districts. If the teachers in the schools so closed are not transferred or reassigned to other schools, they shall receive one month's salary;

(6) (a) To provide at public expense adequate means of transportation, including transportation across county lines, for all children of school age who live more than two miles distance from school by the nearest available road and to provide at public expense and according to such regulations as the board may establish, adequate means of transportation for school children participating in board-approved curricular and extracurricular activities; and provide in addition thereto, by rules and regulations and within the available revenues, transportation for those within two miles distance: Provided, That in all cases the buses or other transportation facilities owned by the board of education shall be driven or operated only by drivers regularly employed by the board of education: Provided, however, That buses shall be used for extracurricular activities as herein provided only when the insurance provided for by this section shall have been effected;

(b) To enter into agreements with one another to provide, on a cooperative basis, adequate means of transportation across county lines for children of school age
subject to the conditions and restrictions of subdivisions (6) and (7) of this section;

(7) To provide at public expense for insurance against the negligence of the drivers of school buses, trucks or other vehicles operated by the board; and if the transportation of pupils be let out to contract, then the contract therefor shall provide that the contractor shall carry insurance against negligence in such an amount as the board shall specify;

(8) To employ and to provide in-service training for teacher aides, the training to be in accordance with rules and regulations of the state board;

(9) To establish and conduct a self-supporting dormitory for the accommodation of the pupils attending a high school or participating in a post high school program and of persons employed to teach therein;

(10) To employ legal counsel;

(11) To provide, at public expense, adequate public liability insurance;

(12) No policy or contract of public liability insurance providing coverage for public liability shall be purchased as provided herein, unless it shall contain a provision or endorsement whereby the company issuing such policy waives, or agrees not to assert as a defense to any claim covered by the terms of such policy, the defense of governmental immunity. In any action against the board, its officers, agents or employees, in which there is in effect liability insurance coverage in an amount equal to or greater than the amount sued for, the attorney for such board, the attorney for such insurance carrier, or any other attorney who may appear on behalf of the board, its agents, officers or employees shall not set up the defense of governmental immunity in any such action.

"Quasi-public funds" as used herein are defined as any money received by any principal, teacher, student or other person for the benefit of the school system as a result of curricular or noncurricular activities.

The board of any district shall expend under such regulations as it establishes for each child an amount
not to exceed the proportion of all school funds of the
district that each child would be entitled to receive if all
the funds were distributed equally among all the children
of school age in the district upon a per capita basis.

CHAPTER 110

(House Bill No. 540—By Mrs. Merritt)

[Passed February 23, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section fifteen, article five,
chapter eighteen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, relating to
length of instructional term.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15. School term; employment term; instructional term;
extension of terms; levies; ages of persons to whom
schools are open.

1 The board shall provide a school term for its schools
2 which shall be comprised of (a) an employment term
3 for teachers, and (b) an instructional term for pupils.
4 The employment term for teachers shall be no less
5 than ten months, a month to be defined as twenty em-
6 ployment days exclusive of Saturdays and Sundays:
7 Provided, That the board may contract with all or part
8 of the personnel for a longer term. The employment
term shall be fixed within such beginning and closing
dates as established by the state board: Provided, how-
ever, That the time between the beginning and closing
dates does not exceed forty-three weeks.
Within the employment term there shall be an instructional term for pupils of not less than one hundred eighty nor more than one hundred eighty-five instructional days. Instructional and noninstructional activities may be scheduled during the same employment day. The instructional term shall commence no earlier than the first Tuesday following Labor Day and shall terminate no later than the eighth day of June and shall not cover a period greater than two hundred seventy-eight calendar days.

Noninstructional days in the employment term may be used for curriculum development, preparation for opening and closing of the instructional term, in-service and professional training of teachers, teacher-pupil-parent conferences, professional meetings and other related activities.

Where the employment term overlaps a teacher's participation in a summer institute or institution of higher learning for the purpose of professional growth, the teacher may substitute, with the approval of the county superintendent, such participation for not more than four of the noninstructional days of the employment term.

The board may extend the instructional term beyond one hundred eighty-five instructional days provided the employment term is extended an equal number of days. If the state revenues and regular levies, as provided by law, are insufficient to enable the board of education to provide for the school term, the board may at any general or special election, if petitioned by at least five percent of the qualified voters in the district, submit the question of additional levies to the voters. If at the election sixty percent of the qualified voters cast their ballots in favor of the additional levy, the board shall fix the term and lay a levy necessary to pay the cost of the additional term. The additional levy fixed by the election shall not continue longer than five years without submission to the voters. The additional rate shall not exceed by more than one hundred percent the maximum school rate prescribed by article eight, chapter eleven of the code, as amended.
The public schools shall be open for the full instructional term to all persons who have attained the entrance age as stated in section five, article two and section eighteen, article five, chapter eighteen of this code: Provided, That persons over the age of twenty-one may enter only those programs or classes authorized by the state board of education and deemed appropriate by the county board of education conducting any such program or class: Provided, however, That authorization for such programs or classes shall in no way serve to affect or eliminate programs or classes offered by county boards of education at the adult level for which fees are charged to support such programs or classes.

CHAPTER 111
(Senate Bill No. 303—By Mr. Palumbo)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to computation of certain tax sheltered annuities under the state teachers retirement system.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

1 Annuitants whose annuities were approved by the retirement board effective before July first, one thousand nine hundred seventy, shall be paid the annuities which were approved by the retirement board, subject to the supplemental benefits authorized in this article.
Annuities approved by the board effective after June thirty, one thousand nine hundred seventy, shall be computed as provided herein.

Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be the sum of either Plan A or Plan B, whichever provides the larger annuity.

Plan A shall be computed as follows:

(a) The actuarial equivalent of the contributions and deposits of the member in his individual account up to the time of his retirement, with regular interest;

(b) The actuarial equivalent of the contributions of the employer up to the time of the member's retirement, which shall equal the sum in subdivision (a) of Plan A minus deposits with regular interest on such deposits;

(c) Where prior service credit has been granted, an allowance of one and one-half percent of the member's average final salary multiplied by the number of years of prior service credited to him;

(d) The actuarial equivalent of the amounts that would have accumulated under subdivisions (a) and (b) of Plan A, if the member had contributed to his individual account until he was fifty years old, at the annual rate of his past actual contributions, but this subdivision shall apply only as additional income to members who qualify for disability retirement before they are fifty years old;

(e) Twelve dollars multiplied by his total service credit as a teacher;

(f) The member shall receive in addition to the allowances under subdivisions (c) and (d) an amount equal to six dollars multiplied by his total service credit: Provided, That the maximum allowance under this subdivision shall be one hundred ninety-two dollars: Provided, however, That this subdivision shall be effective on and after July first, one thousand nine hundred fifty-seven;

(g) Twelve dollars multiplied by the member's total service credit as a teacher.

For the purpose of subdivision (c) in Plan A:
(1) An allowance for prior service shall in no case exceed three fifths of the member's average final salary;

(2) Average final salary for this purpose shall in no case exceed two thousand five hundred dollars, nor shall it be less than twelve hundred dollars.

Plan B shall be computed as follows:

(a) Two percent of the member's average salary multiplied by his total service credit as a teacher. In this paragraph "average salary" shall mean the average of the highest annual salaries received by the member during any five years contained within his last fifteen years of total service credit: Provided, That the highest annual salary used in this calculation for members employed by the West Virginia board of regents at institutions of higher education under its control, shall be four thousand eight hundred dollars;

(b) The actuarial equivalent of the deposits of the member in his individual account up to the time of his retirement, with regular interest.

The disability annuities of all teachers retired for disability shall be based upon a disability table prepared by a competent actuary approved by the retirement board.

Upon the death of an annuitant who qualified for an annuity as a surviving spouse or because of permanent disability, the estate of the deceased or beneficiary designated for such purpose, shall be paid the difference, if any, between the member's contributions with regular interest thereon, and the sum of the annuity payments.

Upon the death of an annuitant or the beneficiary of an annuitant who had purchased a tax sheltered annuity through the teachers retirement system, the estate of the deceased or beneficiary designated for such purpose, shall be paid the difference, if any, between the member's total tax sheltered annuity deposits and the sum of tax sheltered annuity payments under the option chosen at retirement.

All annuities shall be paid in twelve monthly payments. In computing such monthly payments, fractions of a cent
shall be deemed a cent. Such monthly payments shall cease with the payment for the month within which the beneficiary dies, and shall begin with the payment for the month succeeding the month within which the annuitant became eligible under this article for the annuity granted; in no case, however, shall an annuitant receive more than four monthly payments which are retroactive after the board receives his application for annuity.

In case the retirement board receives data affecting the approved annuity of a retired teacher, the annuity shall be changed in accordance with such data, the change being effective with the payment for the month within which the board received the new data.

Any person who has attained the age of sixty-five and who has served at least twenty-five years as a teacher prior to July one, one thousand nine hundred forty-one, shall be eligible for prior service credit and for prior service pensions as prescribed in this section.

CHAPTER 112

(House Bill No. 1048—By Mrs. Smirl and Mr. Ballouz)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section eleven, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to statewide appraisal of nonutility real property; computation of the local share of the cost thereof; reimbursement to counties.

Be it enacted by the Legislature of West Virginia:

That section eleven, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


On the basis of the most recent survey of property valuations in the state, completed as to all classes of property in all counties determined by the tax commissioner under present or former provisions of this article, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which such levies would produce if levied upon one hundred percent 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 state board shall first take ninety-seven and one-half percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county. (2) The state board shall then apply these rates to the appraised value of other property in each classification in the county as determined by the tax commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. Fifty percent of the amount so determined shall be added to the ninety-seven and one-half percent of public utility taxes computed as provided above and this total shall be the local share of the particular county.

The tax commissioner shall make or cause to be made an appraisal 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.
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 percent 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, 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; and

3. Property owner's index consisting of an alphabetical listing of all property owners, setting forth brief descriptions of each parcel or lot owned and cross-indexed with the property record cards and the tax map.
The tax commissioner is hereby authorized and empowered to enter into such contracts as may be necessary, and for which funds may be available, to establish the permanent records system herein provided for, or may through his staff and employees, prepare and complete such system.

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 in the county jail not less than thirty days nor more than one year, or both fined and imprisoned. 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 reproduction 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 annually an amount sufficient to maintain the appraisal in all counties of the state. Each county shall furnish, through its county court, not more than ten percent of the cost of such appraisal or reappraisal and permanent records system for each 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 re-
quired by this section has been paid by the tax commis-

tioner 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. In those instances where a county has hereto-
fore employed a professional appraisal firm to conduct
an appraisal or reappraisal of all or part of nonutility
property within the past seventeen years, and such ap-
praisal has been accepted by the tax commissioner, with
the county having borne in excess of ten percent of the
cost of such appraisal, reappraisal, and permanent records
system; monetary reimbursement of one third of such
excess costs shall be made by the tax commissioner from
funds appropriated for such purpose, to such county,
yearly, for a period of three years, in order to establish
the joint sharing of such costs as hereinbefore set forth.

The county assessor and the county court shall comply
with the provisions of chapter eleven of this code in de-
termining 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 as-
sessor and county court shall be considered, pro tanto,
as compliance with said chapter eleven.

CHAPTER 113

(Senate Bill No. 361—By Mr. McCourt, Mr. President)

(Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact section six, article nine-b, chap-
ter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to submission and approval of county board of education budgets.

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

That section six, article nine-b, 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 9B. STATE BOARD OF SCHOOL FINANCE.**

§18-9B-6. Submission and approval of budget.

1 A county board of education shall, on or before the day fixed by the budget calendar, submit its proposed budget to the board of finance together with such supporting schedules as the board may require.

2 A county board shall not finally adopt its budget until after the written approval of the board of finance has been received, and the levy estimate has been approved by the tax commissioner as required by law. If the tax commissioner finds that the levy estimate, based upon the budget, does not conform to the requirements of law, the board shall authorize and require such further revision of the budget as may be necessary for the correction of the levy estimate as required by the tax commissioner.

3 A county board of education shall submit a preliminary budget upon requirement of the board of finance, which approved budget shall be considered by the tax commissioner when approving levy estimates.

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**CHAPTER 114**

*(House Bill No. 664—By Mr. Speaker, Mr. McManus)*

[Passed February 24, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section six, article twenty-two-b, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to
recipients and awards of scholarships established and au-thorized by said article twenty-two-b, and providing that scholarship awards shall be limited to the payment of tuition and academic fees and shall not exceed for an acade-mic year the lesser of nine hundred dollars or the actual amount of tuition and academic fees payable by the scholarship recipient, which amount shall not exceed the tuition and academic fees generally charged by the insti-tution to all resident undergraduate students.

Be it enacted by the Legislature of West Virginia:

That section six, article twenty-two-b, 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 22B. STATE SCHOLARSHIP PROGRAM.

§18-22B-6. Recipients and awards of scholarships.

1 The scholarship recipient shall be free to attend any approved institution of higher education in this state.

2 The institution is not required to accept the scholarship recipient for enrollment, but is free to exact compliance with its own admission requirements, standards and policies.

3 Scholarship grants shall be made to undergraduate students only.

4 Each scholarship is renewable until the course of study is completed, but not to exceed an additional three acade-mic years beyond the first year of the award. These may not necessarily be consecutive years and the scholar-ship will be terminated if the student receives his degree in a shorter period of time. Qualifications for re-newal will include maintaining satisfactory academic standing, making normal progress toward completion of the course of study and continued eligibility, as deter-mined by the commission.

5 Scholarship awards shall be made without regard to the applicant's race, creed, color, sex, national origin or ancestry; and in making scholarship awards, the com-mission shall provide a fair and equitable geographical distribution of the awards and shall treat all approved
24 institutions of higher education in a fair and equitable manner.

26 Scholarship awards shall be limited to the payment of tuition and academic fees and shall not exceed for an academic year the lesser of nine hundred dollars or the actual amount of tuition and academic fees payable by the scholarship recipient, which amount shall not exceed the tuition and academic fees generally charged by the institution to all resident undergraduate students.

33 Payments of scholarships shall be made directly to the institution.

35 In the event that a scholarship recipient transfers from one approved institution of higher education to another, his scholarship shall be transferable only with the approval of the commission.

39 Should the recipient terminate his enrollment for any reason during the academic year, the unused portion of the scholarship shall be returned to the commission by the institution according to the institution's own policy for issuing refunds.

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CHAPTER 115

(House Bill No. 618—By Mr. Seibert)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend article twenty-six, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-c, relating to empowering the West Virginia board of regents to establish a new graduate college.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-13c. Establishment and operation of graduate college; transfer of programs, etc., of Kanawha Valley Graduate Center of West Virginia University.

1. The board of regents is hereby authorized and empowered to establish, effective July one, one thousand nine hundred seventy-two, name, maintain and operate a graduate college whose major administrative offices shall be located in Kanawha county. The board of regents shall employ a president and such staff and faculty as determined appropriate for the college, appoint an advisory board consistent with section nine of this article and shall exercise general determination, control, supervision and management of the financial, business and educational policies and affairs of the graduate college. The college shall be authorized to offer, in their entirety or in cooperation with other institutions, such curricula, programs, courses and services and confer such graduate degrees as may be approved by the board of regents. The regents shall fix tuition and establish and set other fees to be charged students as it deems appropriate, including the establishment of special fees for specific purposes. Special fees shall be paid into special funds and used only for the purposes for which collected. The board of regents may allocate from the appropriations for the state system of higher education for the operation and capital improvement of the graduate college.

2. Effective with the establishment of the graduate college, all programs, activities, operations, accounts, and resources of the Kanawha Valley Graduate Center of West Virginia University shall transfer to the graduate college. The title to all property of the Kanawha Valley Graduate Center of West Virginia University and the graduate college, shall be and remain vested in the board of regents.

3. The board of regents is authorized to enter into contracts on behalf of the graduate college with public and private educational institutions, agencies and boards; with governmental agencies; and with corporations, partnerships
and individuals for the use of physical facilities, equipment and for the performance of instructional or other services.

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CHAPTER 116
(Senate Bill No. 62—By Mr. Palumbo)

[Passed February 26, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article five-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine, article five-b of said chapter, requiring the payment over every ninety days during the life of any suggestee execution or renewal suggestee execution of any money payable, held or retained under such suggestee execution or renewal suggestee execution.

Be it enacted by the Legislature of West Virginia:

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

Article

5A. Suggestions of Salary and Wages of Persons Engaged in Private Employment.

5B. Suggestion of the State and Political Subdivisions; Garnishment and Suggestion of Public Officers.

ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.

§38-5A-5. Service of suggestee execution upon suggestee; payments in satisfaction of execution; action for failure or refusal to pay; payments to be made every ninety days.

1 A suggestee execution issued under this article against salary or wages shall be served upon the suggestee in the
same manner as a summons commencing an action is served. It shall be the duty of any person upon whom such an execution, bearing the notation required by section four hereof, shall be served, and who shall at that time be indebted or who shall thereafter become indebted to the judgment debtor named in the execution for salary or wages, and while the execution shall remain a lien upon said indebtedness, to pay over to the officer serving the same or to the judgment creditor such amount of said indebtedness as is required by section three hereof during the life of the execution until it shall be wholly satisfied. The sums so paid shall be deducted from the amounts payable to the judgment debtor and such payment shall be a bar to any action by him therefor.

The suggestee upon whom the execution or any renewal execution is served shall once every ninety days during the life of such execution and any renewal execution pay over to the officer who served the same or to the judgment creditor the full amount of money held or retained pursuant to such execution or renewal execution during the preceding ninety days.

If the suggestee upon whom the execution shall be served, shall fail or refuse to pay over to the officer serving the execution or to the judgment creditor the required percentage of the indebtedness, as aforesaid, he shall be liable to an action therefor by the judgment creditor named in the execution and the amount recovered in the action shall be applied in satisfaction of the execution.

ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL SUBDIVISIONS; GARNISHMENT AND SUGGESTION OF PUBLIC OFFICERS.

§38-5B-9. Payments in satisfaction of execution; liability of officer for payment or failure to pay; action against political subdivision failing to pay; declaratory judgment as to right against state.

It shall be the duty of the proper officer, after service of an execution under this article, bearing the notation required by section four hereof if directed against salary
or wages, to pay to the court or the clerk of the court who issued the execution or to the officer presenting the same such sums as may be or shall thereafter become due to the judgment debtor from the suggestee, or the amount thereof prescribed in section three of this article in the case of salary or wages, during the life of the execution until it shall be wholly satisfied.

The proper officer or suggestee upon whom the execution or any renewal execution is served shall once every ninety days during the life of such execution and any renewal execution pay over as aforesaid the full amount of money payable, held or retained pursuant to such execution or renewal execution during the preceding ninety days.

A public officer who shall either pay over or fail or refuse to pay over, in satisfaction of such execution, money due the judgment debtor shall be personally liable therefor only if he shall have acted in bad faith, even though such payment or failure or refusal to pay shall have been in violation of the rights of one or more parties in interest.

If a political subdivision be the suggestee and shall fail or refuse to pay over to the officer who served the execution the amount due the judgment debtor or the required percentage thereof in the case of salary or wages, it shall be liable to an action therefor by the judgment creditor named in the execution and the amount recovered in the action shall be applied toward the payment of the execution.

No judgment may be recovered against the state as suggestee but a judgment creditor may bring an action against the proper officer for a declaratory judgment establishing his right to have sums due or to become due to his judgment debtor or from the state or a state agency applied in satisfaction of a suggestee execution issued on his judgment pursuant to this article. Such an action may be brought against the state auditor only in the circuit court of Kanawha county. Costs shall be in the discretion of the court.
AN ACT to amend and reenact sections twelve, thirteen and fifteen, article three; sections one, five, fourteen, seventeen and twenty, article four; and section four, article five, all of chapter eleven 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 one-a, relating to assessments of real and personal property generally; setting forth certain legislative findings; defining terms; making provision for county courts to reject the provisions of said section one-a; relating to the assessment of corporate property and to verified reports to assessors by corporations; specifying the assessor to which such verified report is to be made in the event the corporation involved does not have a principal office or chief place of business in this state; relating to the assessment and entry of corporate property by assessor for taxation and to the county of assessment; relating to the assessment of capital used in trade or business by any individual or firm not incorporated and to verified reports with respect to such capital; relating to the assessment and entry of same by assessor for taxation; relating to land books and the composition thereof; eliminating references to independent school districts; relating to information to be obtained from land owners by assessors; relating to making corrections in land books; relating to the assessment of lands lying in more than one county and the payment of taxes with respect thereto; relating to the consolidation of contiguous tracts or other interests and the division of tracts for taxing purposes; relating to the assessment of ferries, the entry of the value thereof for taxing purposes and the district in which assessed; relating to the assessment of personal property and chattels real and the district in which assessed; changing references to magisterial district
or districts to tax district or districts; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections twelve, thirteen and fifteen, article three; sections one, five, fourteen, seventeen and twenty, article four; and section four, article five, all of chapter eleven 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 one-a, all to read as follows:

Article
3. Assessments Generally.
4. Assessment of Real Property.
5. Assessment of Personal Property.

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-la. Magisterial districts as tax districts; legislative findings; terms defined; county court may reject section.

§11-3-12. Assessment of corporate property; reports to assessor by corporations.


§11-3-15. Assessment of capital used in trade or business by natural persons.

§11-3-la. Magisterial districts as tax districts; legislative findings; terms defined; county court may reject section.

1 The Legislature recognizes that several counties have
2 redistricted their magisterial districts in order to achieve
3 as nearly as practicable equal numbers of population
4 within each such district; that if the land books and per-
5 sonal property books of any such county must be changed
6 following each such redistricting so as to reflect the
7 newly established districts, very substantial costs to the
8 counties would be occasioned thereby; that if the land
9 books must be changed following each such redistricting
10 so as to reflect the newly established districts, problems
11 would arise in searching and abstracting titles to real
12 property; and that there is no reason to require the land
13 books and personal property books of a county for tax
14 purposes to be on a magisterial district basis as such
15 districts are established for voting purposes. Conse-
16 quently, the terms “tax district” or “district,” or the plural
17 thereof, as used in this chapter, shall mean the magis-
terial district or districts and the subdivisions thereof as the same existed in any county on January one, one thousand nine hundred sixty-nine: Provided, That if a county court prefers to arrange its land books and personal property books so that the boundaries of districts for taxing purposes coincide with the boundaries of the magisterial districts of such county at any given time for voting purposes, such county court may by order entered of record reject the provisions of this section and the aforesaid terms shall mean so far as that particular county is concerned the magisterial district or districts and the subdivisions thereof as the same exist from time to time for voting purposes in such county.

§11-3-12. Assessment of corporate property; reports to assessor by corporations.

Each incorporated company, foreign or domestic, having its principal office or chief place of business in this state, or owning property subject to taxation in this state, except railroad, telegraph and express companies, telephone companies, pipeline, car line companies and other public utility companies, banking institutions, national banking associations, building and loan associations, federal savings and loan associations and industrial loan companies, shall annually, between the first day of the assessment year and the first day of November, make a written report, verified by the oath of the president or chief accounting officer, to the assessor of the county in which its principal office or chief place of business is situated or in which such property subject to taxation in this state is located if such corporation does not have a principal office or chief place of business in this state, showing the following items, viz: (a) The amount of capital authorized to be employed by it; (b) the amount of cash capital paid on each share of stock; (c) the amount of credits and investments other than its own capital stock held by it on said date, with their true and actual value; (d) the quantity, location and true and actual value of all of its real estate, and the tax district or districts in which it is located; and (e) the kinds, quantity and true and actual value of all its tangible property in each tax district in which it is located.
27 The oath required for this section shall be substantially
28 as follows, viz:
29 State of West Virginia, County of ______________ , ss:
30 I, _______________, president (treasurer or manager) of
31 (here insert name of corporation), do solemnly swear
32 (or affirm) that the foregoing is, to the best of my knowl-
33 edge and judgment, true in all respects; that it contains
34 a statement of all the real estate and personal property,
35 including credits and investments belonging to said cor-
36 poration; that the value affixed to such property is, in
37 my opinion, its true and actual value, by which I mean
38 the price at which it would sell if voluntarily offered for
39 sale on such terms as are usually employed in selling
40 such property, and not the price which might be realized
41 at a forced or auction sale; and said corporation has not,
42 to my knowledge, during the sixty-day period immedi-
43 ately prior to the first day of the assessment year con-
44 verted any of its assets into nontaxable securities or
45 notes or other evidence of indebtedness for the purpose
46 of evading the assessment of taxes thereon; so help me,
47 God.
48
49 The officer administering such oath shall append there-
50 to the following certificate, viz:
51 Subscribed and sworn to before me by ________________
52 this the ___ ___ day of ________________, 19 ___
53

1 Upon receiving the verified report required by the pre-
2 ceding section, the assessor, if satisfied with the correct-
3 ness thereof, shall assess the value of all the property of
4 such corporation liable to taxation, and enter the same
5 as follows, viz: All property in item (d) shall be entered
6 with its valuation in the land books of the county and in
7 the tax district in which the real estate is situated; all
8 property mentioned in item (c) shall, together with its
9 valuation, be entered in the personal property book of
10 the county and in the tax district wherein is the principal
11 office or chief place of business of such corporation, under
12 the appropriate heads; and all property mentioned in
item (e) shall, together with its valuation, be entered in the personal property book of the county and in the tax district wherein such property is on the first day of the assessment year; the property mentioned in items (c), (d) and (e) shall constitute all the property on which any such corporation shall be liable to pay taxes. If a company has branches, each branch shall be assessed separately in the county and tax district where its principal office for transacting its financial concerns is located; or, if there be no such office, then in the tax district where its operations are carried on. All locks and dams of navigation companies shall be assessed and taxed as real estate in the county and tax district wherein they are situated; and in case such locks and dams are located on any creek or river which is the dividing line between counties, or the dividing line between tax districts of the same county, one half of the value thereof shall be assessed in each of such counties or tax districts, as the case may be, and when the property of an incorporated company is assessed as aforesaid, no individual shareholder therein shall be required to list or be assessed with his share, portion or interest in the capital stock of such corporation.

§11-3-15. Assessment of capital used in trade or business by natural persons.

The value of the capital used by any individual or firm not incorporated, in any trade or business taxable by law, shall be ascertained in the following manner: The owner, agent, or chief accountant of every such trade or business, except the business of agriculture, carried on in any county of the state, shall, annually, between the first day of the assessment year and the first day of November of the current year, make a written report as of the first day of the assessment year, to the assessor, verified by his affidavit, showing the following matters and things, viz:

(a) The amount, the true and actual value and classification of all tangible personal property used in connection with such trade or business, otherwise than such as is regularly kept for sale therein, including chattels real;

(b) the true and actual value and classification of all
goods and property kept for sale and remaining unsold;
(c) the amount in value of all credits arising out of any
such business and remaining unpaid on that date, whether
due or not, and whether in or out of the state; (d) the
amount and true and actual value of all notes, bonds,
bills, accounts receivable, stocks and other intangible
property made by such person or firm whether in or out
of the state, other than those hereinbefore specified; (e)
the location, quantity, the true and actual value and
classification of all real estate owned by such individuals
or firm and used in such trade or business. The assessor
shall, upon the receipt of such report, properly verified,
if he is satisfied with the correctness thereof, enter the
real estate in the land book of the county in the tax dis-
trict wherein the same is situated, and assess the same
with taxes, if not otherwise assessed, to the owner there-
of; the personal property mentioned in such report he
shall enter in the personal property book of his county for
assessment with taxes as follows, viz: Items (a) and (b)
shall be entered in the tax districts where they are for
the greater part of the year kept or located; and items
(c), (d) and (e) shall be entered under their appropriate
headings, in the municipality or tax district wherein the
principal place of business of such individual or firm is;
and if the assessor is not satisfied with the correctness of
such report, he may proceed to ascertain a correct list of
the property on which such individual or firm is liable
to be assessed with taxes, and to value the same as in
other cases. The person making such report shall take
and subscribe an oath in substantially the following form:
I, ___________________________ , do solemnly swear (or affirm)
that the foregoing list is true and correct to the best of
my knowledge; that the value affixed to the property
therein listed I believe to be the true and actual value
thereof; that none of the assets belonging to (here state
the name of individual or firm) and used in the business
of (here describe the business) have to my knowledge,
since the first day of the assessment year, been converted
into nontaxable securities for the purpose of evading the
assessment of taxes thereon; so help me, God.
The officer administering said oath shall append thereto the following certificate, viz:

Subscribed and sworn to before me by (here insert affiant's name) this ___ day of __________, 19___.

ARTICLE 4. ASSESSMENT OF REAL PROPERTY.

§11-4-1. Land books to contain separate lists; entry of town lots; entry separately for districts.

§11-4-5. Information to be obtained from landowners by assessor; corrections in land book of previous year.

§11-4-14. Assessment of lands lying in more than one county.

§11-4-17. Consolidation of contiguous tracts or mineral or timber interests.

§11-4-20. Ferries.

§11-4-1. Land books to contain separate lists; entry of town lots; entry separately for districts.

The assessor shall make out the land books, including all extensions, in such form as the tax commissioner may prescribe. Such land books shall contain separate lists for the different tax districts and separate lists for the municipalities of the county. There shall, for the purpose of taxation, be entered on the land books the town lots in the alphabetical order of the names of the owners thereof in the list arranged for them, and the assessor shall designate such list as "town (or city) lots of the town (or city) of ________ ____________". There shall also be entered in like alphabetical order in the separate lists for the tax districts, the tracts of land, the whole or greater part of which is situated therein; but no tract or lot of land shall be entered in more than one of such lists, and no part of any tract or lot of land which does not lie within the incorporated limits of a town shall be entered in the list or charged with municipal taxes for such town.

§11-4-5. Information to be obtained from landowners by assessor; corrections in land book of previous year.

The assessor and his deputies shall annually, when listing and assessing personal and real property, make diligent inquiry of every resident landowner, and of the resident agents of any nonresident landowner, as to the
number of acres of land owned by them, the number of acres in each tract, and the number of town lots owned by them, and the value per acre of each tract and the local description thereof, and the value and location of the town lots.

They shall determine the nature and extent of the interest of the owner, whether in fee and undivided or otherwise, and the character of use to which the property is put, whether exclusively residential or agricultural or otherwise. They shall also inquire of such owners or agents whether the entries charged against them in the land books of the previous year are correct, whether any part thereof ought to be transferred to any other person, and if so to whom, and the nature of the evidence to authorize such transfer; also, whether any other land in the county ought to be charged to such resident or nonresident, and whether the description given to any tract of land or town lot in the book of the previous year is incorrectly given. It shall be the duty of such owners and agents to answer all of such inquiries on oath. The assessor shall provide for himself, and for each one of his deputies, a copy of so much of the land book of the previous year as contains a list of the land in the tax districts severally apportioned to them, and shall note in such copies such changes and corrections as ought to be made in the land book of the previous year, according to the information obtained. The deputy assessor shall report any such changes and corrections, as appear to them should be made, to the assessor at some of the stated meetings provided for. The assessor shall make such use of the information so obtained as he can properly make, consistent with the other provisions of this chapter, in making out the land book of the county for the current year.

§11-4-14. Assessment of lands lying in more than one county.

Every tract of land of one thousand acres or less, lying in more than one county, may be entered for taxation on the land book of the county where the greater part thereof in value lies, but the entry thereof and payment of taxes thereon, in any county where any part thereof
6 is situated, shall, for the time during which the same
7 is so entered and paid, be a discharge of the whole of the
8 taxes and levies charged and chargeable thereon. Every
9 tract of land of more than one thousand acres, lying in
10 two or more counties, shall, for the purpose of taxation,
11 be entered and charged with all taxes in each tax district
12 of the several counties in which any part of it is, to the
13 extent, as near as may be, that the same lies in such
14 district. When any such tract of more than one thousand
15 acres is thus assessed, partly in one county and partly in
16 another, the several officers of such counties whose duty
17 it is to make out the land books of the respective counties
18 shall value the part lying in his county without regard
19 to the value of the whole tract, and he shall ascertain its
20 value, as in other cases, according to the rule prescribed
21 in this chapter.

§11-4-17. Consolidation of contiguous tracts or mineral or
timber interests.

1 Any owner of two or more contiguous tracts of land, or
2 the surface of land, or of any estate in the coal, oil, gas,
3 ore, limestone, fireclay, or other minerals or mineral
4 substances, in and under the same, or of the timber
5 thereon, situated in whole or in part in the same tax dis-
6 trict of any county, may upon application to the county
7 court of such county and duly showing the relative loca-
8 tion of such tracts, their ownership and present descrip-
9 tion on the land book, have the same, by order of such
10 court, consolidated with other like tracts or parts of tracts,
11 and charged by aggregating the quantities thereof, so
12 far as lying in the same tax district, as one tract upon the
13 land book of such county for the succeeding year and
14 thereafter: Provided, That for the purpose of consolida-
15 tion of lands or the surface of lands or any estate in the
16 coal, oil, gas, ore, limestone, fireclay, or other minerals
17 or mineral substances in and under the same, or of the
18 timber thereon, on the land books, any tract heretofore
19 charged separately thereon, whether as fee (by which
20 is meant not only the estate of the owner therein, but also
21 the entire body of the land); or as one or more mineral
22 interests, or other interests herein specified, or surface, or
timber only, may be divided, and the divisions thereof
be charged separately or be consolidated with other like
tracts or parts of tracts.

In every case of consolidation the order directing the
consolidation to be made shall so describe the several
properties consolidated as to enable the same to be there-
in identified as separate parcels or to be so identified by
reference therein made to a recorded instrument, or
recorded instruments, or both by description and refer-
ence to such instrument or instruments.

The officer whose duty it is to make out the land books,
apon presentation to him of a certified copy of such order
showing the consolidation or designation of such several
tracts or parts of tracts of land, surface or timber, or
estates in the coal, oil, gas, ore, limestone, fireclay, or
other minerals or mineral substances herein mentioned,
shall enter the same as one upon the land book for the
year next ensuing, and make a proper note opposite the
last entry of each of such several tracts so consolidated
designated in whole or in part, referring to such order,
and a like note opposite the entry of the tract so consoli-
dated or designated. He shall value such tract at its
proper value according to the rule prescribed in this
chapter. Any such officer, failing to comply promptly
with any of the several duties imposed by this section,
shall be deemed guilty of a misdemeanor, and, upon con-
viction thereof, shall be fined not less than twenty-five
nor more than fifty dollars: Provided, however, That this
section shall not apply to any undivided interest in any
estate in any land, coal, oil, gas, ore, limestone, fireclay, or
other mineral substances in or under lands or of the tim-
ber on land.

§11-4-20. Ferries.

The assessor shall, upon the best information he can
obtain, ascertain for the purpose of taxation, the annual
value of all ferries upon which a toll or fare is charged,
located in his county, except such as are by law exempt
from taxation; he shall value each of such ferries each
year at ten times its annual value, and enter the same in
the land book in the name of the owner in the tax dis-
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Article 5. Assessment of Personal Property.

§11-5-4. In what district personalty assessed.

Every person required by law to list personal property for taxation shall list the tangible personal property in the tax district wherein it is on the first day of the assessment year, and chattels real in the tax district wherein the land to which they relate is located; and he shall list for taxation in the tax district in which he resides the notes, bonds, bills, and accounts receivable, stocks and other intangible personal property subject to taxation belonging to himself or under his charge or control, whether the same, or the evidence thereof be in or out of the state; but capital, and intangible property (except real estate and chattels real) employed in any trade or business (other than agriculture) belonging to a company whether it is incorporated or not, or to an individual, shall be assessed for taxation in the tax district wherein the principal office for the transaction of the financial concerns pertaining to such trade or business is located; or, if there be no such office, then in the district where the operations are carried on. Goods and chattels and other tangible personal property not exempt from taxation which may not be assessed for taxation in the tax district where the same were on the first day of the assessment year, but which have been removed therefrom, shall be assessed in the tax district where the same were on the first day of the assessment year; but the assessment and payment of taxes in any county or district in any year shall exonerate the owner of such property in any other county or district for such year: Provided, That in cases of the assessment of leasehold estates a sum equal to the valuations placed upon such leasehold estates shall be deducted from the total value of the estate, to the end that the valuation of such leasehold estate and the remainder shall aggregate the true and actual value of the estate.
CHAPTER 118
(House Bill No. 605—By Mr. Terry)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to repeal section twenty-eight, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition of an estate tax.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. INHERITANCE AND TRANSFER TAXES.

§1. Repeal of section relating to the imposition of an estate tax.

1 Section twenty-eight, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, is hereby repealed.

CHAPTER 119
(Com. Sub. for House Bill No. 687—By Mr. Speaker, Mr. McManus, and Mr. Seibert)

[Passed March 10, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact sections one and three, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, removing credit unions from the definition of the term “banking business” or “financial organization,” and providing an exemption therefor.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-
ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-1. Definitions.


§11-13-1. Definitions.

1 When used in this article, the term "person" or the term "company," herein used interchangeably, includes any individual, firm, copartnership, joint adventure, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

2 "Tax year" or "taxable year" means either the calendar year or the taxpayer's fiscal year when permission is obtained from the tax commissioner to use same as the tax period in lieu of the calendar year.

3 "Sale," "sales" or "selling" includes any transfer of the ownership of or title to property, whether for money or in exchange for other property.

4 "Taxpayer" means any person liable for any tax hereunder.

5 "Gross income" means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and including all interest, carrying charges, fees or other like income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of his business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor
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34 costs, taxes, royalties paid in cash or in kind or other-
35 wise, interest or discount paid or any other expenses
36 whatsoever. "Gross income" of a banking or financial
37 business is specified in section two-k of this article.
38 "Gross proceeds of sales" means the value, whether in
39 money or other property, actually proceeding from the
40 sale of tangible property without any deduction on ac-
41 count of the cost of property sold or expenses of any
42 kind.
43 The terms "gross income" and "gross proceeds of sales"
44 shall not be construed to include (1) cash discounts al-
45 lowed and taken on sales; (2) the proceeds of sale of
46 goods, wares or merchandise returned by customers when
47 the sale price is refunded either in cash or by credit;
48 (3) the amount allowed as "trade-in value" for any
49 article accepted as part payment for any article sold;
50 (4) excise taxes imposed by this state; or (5) money or
51 other property received or held by a professional person
52 for the sole use and benefit of a client or another person
53 or money received by the taxpayer on behalf of a bank
54 or other financial institution for the repayment of a debt
55 of another.
56 "Business" shall include all activities engaged in or
57 caused to be engaged in with the object of gain or eco-
58 nomic benefit, either direct or indirect. "Business" shall
59 not include a casual sale by a person who is not en-
60 gaged in the business of selling the type of property in-
61 volved in such casual sale. "Business" shall include the
62 production of natural resources or manufactured products
63 which are used or consumed by the producer or manu-
64 facturer and shall include the activities of a banking
65 business or financial organization.
66 The term "banking business" or "financial organiza-
67 tion" shall mean any bank, banking association, trust
68 company, industrial loan company, small loan company
69 or licensee, building and loan association, savings and
70 loan association, finance company, investment company,
71 investment broker or dealer, and any other similar busi-
72 ness organization at least ninety per centum of the assets
73 of which consists of intangible personal property and at
least ninety per centum of the gross receipts of which consists of dividends, interest and other charges derived from the use of money or credit.

"Service business or calling" shall include all activities engaged in by a person for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible property, but shall not include the services rendered by an employee to his employer. This term shall include, but not be limited to:

(a) Persons engaged in manufacturing, compounding or preparing for sale, profit or commercial use, articles, substances or commodities which are owned by another or others;

(b) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are severed, extracted, reduced to possession and produced;

(c) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible personal property or service, except as to persons taxed pursuant to the provisions of section two-k of this article.

"Selling at wholesale" or "wholesale sales" shall mean and include: (1) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property; (2) sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article or by article twelve-a of this chapter; and (3) sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the state of West Virginia, its institutions or political subdivisions.

"Contracting" shall include the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure,
112 or any part thereof, or for the alteration, improvement or
113 development of real property.


There shall be an exemption in every case of fifty dol-
2 lars in amount of tax computed under the provisions of
3 this article. A person exercising a privilege taxable here-
4 under for a fractional part of a tax year shall be entitled
5 to an exemption of the sum bearing the proportion to
6 fifty dollars that the period of time the privilege is exer-
7 cised bears to a whole year. Only one exemption shall be
8 allowed to any one person, whether he exercises one or
9 more privileges taxable hereunder.

The provisions of the article shall not apply to: (a) In-
11 surance companies which pay the state of West Virginia
12 a tax upon premiums: Provided, That said exemption
13 shall not extend to that part of the gross income of in-
14 surance companies which is received for the use of real
15 property, other than property in which any such company
16 maintains its office or offices, in this state, whether such
17 income be in the form of rentals or royalties; (b) non-
18 profit cemetery companies organized and operated for
19 the exclusive benefit of their members; (c) fraternal so-
20 cieties, organizations and associations organized and oper-
21 ated for the exclusive benefit of their members and not
22 for profit: Provided, however, That said exemption shall
23 not extend to that part of the gross income arising from
24 the sale of alcoholic liquor, food and related services, of
25 such fraternal societies, organizations and associations
26 which are licensed as private clubs under the provisions
27 of article seven, chapter sixty of this code; (d) corpora-
28 tions, associations and societies organized and operated
29 exclusively for religious or charitable purposes; (e) pro-
30 duction credit association, organized under the provisions
31 of the federal "Farm Credit Act of 1933"; (f) any credit
32 union organized under the provisions of chapter thirty-
33 one, or any other chapter of this code: Provided, further,
34 That the exemptions of this section shall not apply to
35 corporations or cooperative associations organized under
36 the provisions of article four, chapter nineteen of this
37 code.
AN ACT to amend and reenact article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing a gasoline and special fuel excise tax act; defining terms; levying a gasoline and special fuel excise tax; providing for the computation of such tax; providing exemptions from such tax; relating to such tax and gasoline or special fuel exported or in interstate commerce; requiring reports and records and specifying requirements with respect thereto and subpoena thereof; specifying the due date of such tax; establishing criminal offenses; providing criminal penalties; relating to refunds because of erroneous or illegal collections, casualty or other losses, exportation or a decrease in the rate of tax, and specifying procedures and the time for filing of petitions for such refunds; relating to refunds of such tax because of certain nonhighway uses of gas or special fuel and specifying procedures and the time for filing of petitions for such refunds; relating to partial refund of tax on tax-paid gallonage consumed in certain buses and procedures in connection therewith; relating to taxpayer surety bonds or pledges of property in lieu thereof; relating to the enforcement powers of the tax commissioner and his agents and employees and bonds of such agents and employees; authorizing deductions from such tax for the cost of administration and enforcement; providing for the uses to be made of the tax collected; authorizing certain prepaid tax adjustments; providing for assessment and collection of taxes, interest, and penalties; providing for hearings and appeals; providing for injunctions; providing for sales or discontinuance of business; and providing a severability clause.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.

§11-14-1. Short title; arrangement of sections or portions of article.
§11-14-2. Definitions.
§11-14-3. Imposition of tax.
§11-14-5. Exemptions from tax.
§11-14-6. Gasoline or special fuel exported or in interstate commerce; distributors or producers may pay tax shipments into state.
§11-14-7. Due date of reports; reports required; records to be kept; examination of records; subpoena powers; examination of witnesses.
§11-14-8. Tax due.
§11-14-9. False statements; penalty.
§11-14-10. Refund of taxes illegally collected, etc.; refund for gallonage exported or lost; change of rate; petition for refund.
§11-14-11. Refund of tax because of certain nonhighway uses.
§11-14-12. Partial refund of tax on tax-paid gallonage consumed in buses.
§11-14-13. Surety bonds required; release of surety; new bond.
§11-14-14. Enforcement powers.
§11-14-15. Amounts allowed for administration and enforcement; disposition of tax collected.
§11-14-16. Prepaid tax adjustment.
§11-14-17. Assessment of tax when insufficiently returned.
§11-14-19. Interest; additions to tax; penalties; fraudulent returns; willful failure to file.
§11-14-22. Sale or discontinuance of business of taxpayer.
§11-14-23. Notice from commissioner a prerequisite to issuance of certificate of dissolution or withdrawal of corporation.
§11-14-25. Collection by action or suit; injunction.
§11-14-26. Forms; rules and regulations.
§11-14-27. Secrecy of returns and reciprocal exchange of information.
§11-14-28. Tax a debt; lien of unpaid tax; recordation of lien.
§11-14-29. Severability.

§11-14-1. Short title; arrangement of sections or portions of article.

1 This article shall be known and may be cited as the 2 "Gasoline and Special Fuel Excise Tax Act." No in-
ference, implication or presumption of legislative construc-

or grouping of any particular section or portion of this

article.

§11-14-2. Definitions.

For purposes of this article:

(1) "Actual metered gallons" means, in addition to

amounts computed by mechanical devices which measure

and record directly in digital terms, all amounts computed

by other methods of computing quantities commonly em-

ployed by persons engaged in the sale of petroleum prod-

ucts, including, but not limited to, tank or barge strappings

and other graduated lineal devices.

(2) "Aircraft fuel" means gasoline and special fuel

suitable for use in any aircraft engine.

(3) "Commissioner" or "tax commissioner" means the
tax commissioner of the state of West Virginia or his

duly authorized agent.

(4) "Distributor" or "producer" means and includes

every person:

(a) Who produces, manufactures, processes or other-

wise alters gasoline or special fuel in this state for use or

for sale; or

(b) Who engages in this state in the sale of gasoline

or special fuel for the purpose of resale or for distribu-

tion; or

(c) Who receives gasoline or special fuel into the

cargo tank of a tank wagon in this state for use or sale by

such person.

(5) "Gallon" means two hundred thirty-one cubic

inches of liquid measurement, by volume: Provided, That

the commissioner may by rule and regulation prescribe

other measurement or definition of gallon.

(6) "Gasoline" means any product commonly or com-

mercially known as gasoline, regardless of classification,
suitable for use as fuel in an internal combustion engine,
except special fuel as hereinafter defined.

(7) "Highway" means every way or place of whatever

nature open to the use of the public as a matter of right
for the purpose of vehicular travel, which is maintained
by this state or some taxing subdivision or unit thereof
or the federal government or any of its agencies.

(8) "Importer" means every person, resident or non-
resident, other than a distributor, who receives gasoline or
special fuel outside this state for use, sale or consumption
within this state, but shall not include the fuel in the
supply tank of a motor vehicle, or a person paying the
motor carrier road tax as provided for in article fourteen-a
of this chapter.

(9) "Motor carrier" means any passenger vehicle
which has seats for more than nine passengers in addition
to the driver, or any road tractor, or any tractor truck,
or any truck having more than two axles which is oper-
ated or caused to be operated by any person on any high-
way in this state.

(10) "Motor vehicle" means automobiles, motor
carriers, motor trucks, motorcycles and all other vehicles
or equipment, engines or machines which are operated or
propelled by combustion of gasoline or special fuel.

(11) "Person" means and includes any individual, firm,
partnership, limited partnership, joint adventure, asso-
ciation, company, corporation, organization, syndicate,
receiver, trust, or any other group or combination acting
as a unit, in the plural as well as the singular number,
and means and includes the officers, directors, trustees, or
members of any firm, partnership, limited partnership,
joint adventure, association, company, corporation, or-
ganization, syndicate, receiver, trust, or any other group
or combination acting as a unit, in the plural as well as
the singular number, unless the intention to give a more
limited meaning is disclosed by the context.

(12) "Petroleum carrier" means any person who hauls
or transports gasoline or special fuel within this state
or on any navigable rivers which are within the jurisdic-
tion of this state.

(13) "Purchase" means and includes any acquisition
of ownership of property or of a security interest for a
consideration.
(14) "Receive" means any acquisition of ownership or possession of gasoline or special fuel.

(15) "Retail dealer" means any person not a distributor or producer who sells gasoline or special fuel from a fixed location in this state to users.

(16) "Sale" means any transfer, exchange, gift, barter, or other disposition of any property or security interest for a consideration.

(17) "Special fuel" means any gas or liquid, other than gasoline, used or suitable for use as fuel in an internal combustion engine. The term "special fuel" shall include products commonly known as natural or casing-head gasoline, but shall not include any petroleum product or chemical compound such as alcohol, industrial solvent, heavy furnace oil, lubricant, etc., not commonly used nor practicably suited for use as fuel in an internal combustion engine.

(18) "Supply tank" means any receptacle on a motor vehicle from which gasoline or special fuel is supplied for the propulsion of the vehicle or equipment located thereon, exclusive of a cargo tank. A supply tank includes a separate compartment of a cargo tank used as a supply tank, and any auxiliary tank or receptacle of any kind from which gasoline or special fuel is supplied for the propulsion of the vehicle, whether or not such tank or receptacle is directly connected to the fuel supply line of the vehicle.

(19) "Tank wagon" means and includes any motor vehicle or vessel with a cargo tank or cargo tanks ordinarily used for making deliveries of gasoline or special fuel or both for sale or use.

(20) "Tax" includes, within its meaning, interest, additions to tax and penalties, unless the intention to give it a more limited meaning is disclosed by the context.

(21) "Taxpayer" means any person liable for any tax, interest, additions to tax or penalty under the provisions of this article.

(22) "User" means any person who purchases gasoline or special fuel for use as fuel and uses such fuel in an
§11-14-3. Imposition of tax.

There is hereby levied an excise tax of eight and one-half cents per gallon on all gasoline or special fuel, which tax shall be computed in accordance with the appropriate measure of tax as hereinafter prescribed in this article.


A distributor or producer shall use as the measure of tax all actual metered gallons of gasoline, withdrawn from storage within this state for sale to any other person, or for delivery to any retail service station owned or operated by such distributor or producer, or used as fuel in an internal combustion engine.

A distributor or producer shall use as the measure of tax all actual metered gallons of special fuel, withdrawn from storage within this state for use, or sold for use, as fuel in an internal combustion engine, or sold, transferred or delivered to its company operated retail storage or any other retail station or user wherein said special fuel storage is for use or for the sale for use as fuel in an internal combustion engine.

A retail dealer, or importer, or user shall use as the measure of tax all actual metered gallons of gasoline, not previously included in the measure of tax, received into his storage within this state or used by him as fuel in an internal combustion engine.

A retail dealer, or importer, or user shall use as the measure of tax all actual metered gallons of special fuel, not previously included in the measure of tax, received into his storage within this state wherein said special fuel storage is for use or for the sale for use as fuel in an internal combustion engine, or used by him as fuel in an internal combustion engine.

A person not a distributor or producer, retail dealer, importer, or user shall use as the measure of tax all actual metered gallons of gasoline or special fuel subject
This article shall not be construed to require the inclusion in the measure of tax of any gasoline or special fuel previously included in the measure of tax upon which the tax has been previously paid.

The tax imposed by this article shall be in addition to all other taxes of whatever character imposed by any other provisions of law.

§11-14-5. Exemptions from tax.

There shall be exempted from the excise tax on gasoline or special fuel imposed by this article the following:

1. All gallons of gasoline or special fuel exported from this state to any other state or nation.

2. All gallons of gasoline or special fuel sold to and purchased by the United States or any agency thereof when delivered in bulk quantities of five hundred gallons or more.

3. All gallons of gasoline or special fuel sold pursuant to a government contract, in bulk quantities of five hundred gallons or more, for use in conjunction with any municipal, county, state or federal civil defense program, or to any person on whom is imposed a requirement to maintain an inventory of gasoline or special fuel for the purpose of any such program: Provided, That fueling facilities used for these purposes are not capable of fueling motor vehicles, and the person in charge of such program has in his possession a letter of authority from the tax commissioner certifying his right to such exemption.

4. All gallons of gasoline or special fuel imported into this state in the fuel supply tank or tanks of a motor vehicle, other than in the fuel supply tank of a vehicle being hauled. This exemption does not relieve a person owning or operating as a motor carrier of any taxes imposed by article fourteen-a of this chapter.

5. All gallons of gasoline and special fuel used and consumed in stationary off-highway turbine engines.
29  (6) All gallons of special fuel for heating any public
30 or private dwelling, building or other premises.
31  (7) All gallons of special fuel for boilers.
32  (8) All gallons of gasoline or special fuel used as a
dry cleaning solvent or commercial or industrial solvent.
33  (9) All gallons of gasoline or special fuel used as
lubricants, ingredients, or components of any manu-
34 factured product or compound.
35  (10) All gallons of gasoline or special fuel sold to any
municipality or agency thereof for use in vehicles or
equipment owned and operated by such municipality or
agency thereof and when purchased for delivery in bulk
quantities of five hundred gallons or more.
36  (11) All gallons of gasoline or special fuel sold to any
urban mass transportation authority, created pursuant
to the provisions of article twenty-seven, chapter eight
of this code, for use in an urban mass transportation
system.
37  (12) All gallons of gasoline or special fuel sold for use
as aircraft fuel.
38  (13) All gallons of gasoline or special fuel sold for
use or used as a fuel for commercial watercraft.
39  (14) All gallons of special fuel sold for use or con-
sumed in railroad diesel locomotives.

§11-14-6. Gasoline or special fuel exported or in interstate com-
merce; distributors or producers may pay tax ship-
m ents into state.

1 This article shall not be construed to require the in-
cclusion in the computation of tax of a distributor or pro-
ducer, retail dealer, or importer, of any gasoline or special
fuel when the same is exported by a person from this
state to another state or nation or territories or possessions
thereof, nor to require the inclusion in the computation
of tax of any gasoline or special fuel shipped in inter-
state commerce while the same is in transportation; but
the gallonage of gasoline or special fuel shipped from
another state shall be included in the computation of
tax as required by this article after the same shall have
been divested of its interstate character: Provided, That
distributors making shipments of gasoline or special fuel
into this state may, as a matter of convenience to pur-
chasers located in this state, assume and pay the tax
imposed by this article when written permission so to
do is first obtained from the commissioner.

§11-14-7. Due date of reports; reports required; records to be
kept; examination of records; subpoena powers;
examination of witnesses.

Every taxpayer subject to the tax imposed by this
article shall make, on or before the last day of each month,
to the commissioner a report of its operations during the
preceding month as the commissioner may require and
such other reports from time to time as the commissioner
may deem necessary. The reports prescribed herein are
required although a tax might not be due, or no business
transacted, for the period covered by the report. For good
cause shown, the commissioner may extend the time for
filing said reports for a period not exceeding thirty days.

The reports and taxes due, as imposed by this act, shall
be deemed as having been timely filed for the purpose
of avoiding interest, additions to tax and penalties only
if the postmark date thereon is clearly within the said
last day of the calendar month, or is received within such
period. If the last day falls on a Saturday or Sunday, or
a day which is a legal holiday in the state of West Vir-
ginia, filing will be considered timely if it is done on the
next succeeding day which is not a Saturday, Sunday or
legal holiday.

A taxpayer shall keep such records necessary to verify
the reports and returns required by this article, including
inventories, receipts, disbursements, and any other records
which the commissioner by regulation may prescribe, for
a period of time not less than three years.

Unless otherwise permitted, in writing, by the com-
missioner, each delivery ticket or invoice for each pur-
chase or sale of gasoline or special fuel shall be recorded
upon a serially numbered invoice showing the name and
address of the seller and the purchaser, point of delivery, 
the date, number of gallons, kind of fuel and the price of 
said fuel. The amount of tax shall be indicated separately 
or the invoice shall indicate whether or not the tax im-
posed by this article is included in the total price and 
such other information as the commissioner may require: 
Provided, That these invoicing requirements shall not 
apply to cash sales, and a person making such sales shall 
maintain such records as may be necessary to verify his 
return.

The commissioner may inspect or examine the records, 
books, papers, storage tanks, meters and any equipment 
records of a taxpayer or any other person to verify the 
truth and accuracy of any report or return to ascertain 
whether the tax imposed by this article has been properly 
paid.

As a further means of obtaining the records, books and 
papers of a taxpayer or any other person and ascertaining 
the amount of taxes and the reports due under this article, 
the commissioner shall have the power to examine wit-
nesses under oath; and if any witness shall fail or refuse 
at the request of the commissioner to grant access to the 
books, records and papers, the commissioner shall certify 
the facts and the names to the circuit court of the county 
having jurisdiction of the party and such court shall 
thereupon issue a subpoena duces tecum to such party 
to appear before the commissioner, at a place designated 
within the jurisdiction of such court, on a day fixed.

§11-14-8. Tax due.
1 The tax imposed by this article shall be paid by 
each taxpayer on or before the last day of each calendar 
month by check, bank draft, certified check or money 
order, payable to the commissioner, for the amount of 
tax due, if any, for the preceding month.

§11-14-9. False statements; penalty.
1 Any person who willfully and knowingly makes a false 
statement orally or in writing in reference to the pur-
chase or sale of gasoline or special fuel for the purpose 
of obtaining or attempting to obtain or to assist any other
5 person to obtain or attempt to obtain a credit, refund or 
6 reduction of liability for taxes under the provisions of 
7 this article, shall be guilty of a misdemeanor, and, upon 
8 conviction thereof, shall be fined not less than fifty nor 
9 more than one thousand dollars or imprisoned for not 
10 more than six months or both fined and imprisoned.

§11-14-10. Refund of taxes illegally collected, etc.; refund for 
gallonage exported or lost; change of rate; peti­
tion for refund.

1 The commissioner is hereby authorized to refund from 
2 the funds collected under the provisions of this article 
3 any tax, interest, additions to tax or penalties which have 
4 been erroneously or illegally collected from any person. 
5 If any distributor or producer, retail dealer or importer, 
6 while he shall be the owner thereof, loses any gallons of 
7 gasoline or special fuel through fire, lightning, breakage, 
8 flood, or other casualty, which gallons have been previ­
9 ously included in the tax by or for such person, he shall be 
10 refunded a sum equal to the amount of the tax paid upon 
11 such gallons so lost.

12 Any distributor or producer, retail dealer or importer 
13 or other person who purchases or receives gasoline or 
14 special fuel in this state upon which the tax imposed by 
15 this article has been paid and who subsequently exports 
16 the same from this state (except in a supply tank), shall 
17 be entitled to a refund for the amount of tax paid.

18 Every distributor or producer, retail dealer or importer 
19 shall be entitled to a refund from this state of the amount 
20 resulting from a change of rate decreasing the tax under 
21 the provisions of this article on gasoline and special fuel 
22 on hand and in inventory on the effective date of such 
23 rate change, which gasoline and special fuel shall have 
24 been included in any previous computation by which the 
25 tax imposed by this article has been paid by him.

26 No refund shall be made under this section unless a 
27 written petition therefor sets forth the circumstances upon 
28 which such refund is claimed. The claim shall be in such 
29 form and with such supporting records as the commis­sioner prescribes and shall be made under the penalty of 
30 perjury. Petitions for such refund shall be filed with the
commissioner within three years from the end of the month in which the tax was erroneously or illegally paid or the gallons were exported or lost by casualty or from change of rate, as provided in this section.

§11-14-11. Refund of tax because of certain nonhighway uses.

1 The tax imposed by this article shall be refunded to any person who shall buy in quantities of twenty-five gallons or more, at any one time, tax-paid gasoline or special fuel, when consumed for the following purposes:

(1) As a special fuel for internal combustion engines not operated upon highways of this state, or

(2) Gasoline consumed to operate tractors and gas engines or threshing machines for agricultural purposes, when such operation is not, in whole or in part, upon the highways of this state, or

(3) Gasoline used by any railway company, subject to regulation by the public service commission of West Virginia, for any purpose other than upon the highways of this state, or

(4) Gasoline consumed in the business of manufacturing or producing natural resources or in mining or drilling therefor, or in the transportation of natural resources solely by means of unlicensed vehicles or vehicles licensed under the motor vehicle laws of this state, either as a motor fuel or for any other purpose and which gasoline is not in any part used upon the highways of this state, or

(5) Gasoline consumed in motor boats or other watercraft operated upon the navigable waters of this state.

Such tax shall be refunded upon presentation to the commissioner of an affidavit accompanied by the original or top copy sales slips or invoices, or certified copies thereof, from the distributor or producer or retail dealer, showing such purchases, together with evidence of payment thereof, which affidavit shall set forth the total amount of such gasoline or special fuel purchased and consumed by such user, other than upon any highways of this state, and how used; and the commissioner upon the receipt of such affidavit and such paid sales slips or in-
voices shall cause to be refunded such tax paid on gaso-
line or special fuel purchased and consumed as aforesaid.

The right to receive any refund under the provisions
of this section shall not be assignable and any assignment
thereof shall be void and of no effect, nor shall any pay-
ment be made to any person other than the original
person entitled thereto using gasoline or special fuel as
hereinbefore in this section set forth. The commissioner
shall cause a refund to be made under the authority of
this section only when the application for such refund is
filed with the commissioner, upon forms prescribed by
the commissioner, within four months from the month of
purchase or delivery of the gasoline or special fuel. Any
claim for a refund not timely filed shall not be construed
to be or constitute a moral obligation of the state of West
Virginia for payment.

§11-14-12. Partial refund of tax on tax-paid gallonage con-
sumed in buses.

Any person regularly operating any vehicle under a
certificate of public convenience and necessity or under
a contract carrier permit for transportation of persons,
when such person purchases tax-paid gasoline or tax-
paid special fuel, as required by this article, in an amount
of twenty-five gallons or more, and complies with all the
requirements of section eleven, with the exception of
off-highway use, may be refunded an amount equal to
four and one-half cents per gallon under authority of
this section: Provided, That said gallons of gasoline or
special fuel shall have been consumed in the operation of
urban and suburban bus lines, and the majority of
passengers use the bus for traveling a distance not exceed-
ing forty miles, measured one way, on the same day
between their places of abode and their places of work,
shopping areas or schools. There shall be presented to
the commissioner an affidavit accompanied by proof of
such purchase and payment as required by section eleven
of this article. The right to a refund under this section
shall not be assignable, and any assignment so made shall
be void.
§11-14-13. Surety bonds required; release of surety; new bond.

1 The commissioner may require a taxpayer to file a continuous surety bond in an amount to be fixed by the commissioner, except that the amount shall not be less than one thousand dollars. Upon completion of the filing of such surety bond an annual notice of renewal, only, shall be required thereafter. The surety must be authorized to engage in business within this state. The bond shall be conditioned upon faithful compliance with the provisions of this article, including the filing of the returns and payment of all tax prescribed by this article. Such bond shall be approved by the commissioner as to sufficiency and by the attorney general as to form, and shall indemnify the state against any loss arising from the failure of the taxpayer to pay any tax imposed by this article for any cause whatever.

Any surety on a bond furnished hereunder shall be relieved, released and discharged from all liability accruing on such bond after the expiration of sixty days from the date the surety shall have lodged, by certified mail, with the commissioner a written request to be discharged. This shall not relieve, release or discharge the surety from liability already accrued, or which shall accrue before the expiration of the sixty-day period. Whenever any surety shall seek discharge as herein provided, it shall be the duty of the principal of such bond to supply the commissioner with another bond, or pledge of property equal in value to the original bond, such pledge to be in the form of a tax lien on the property pledged and said lien shall be duly perfected in the office of the clerk of the county court of the county wherein such property is situated and shall be submitted to the commissioner along with a certified appraisal statement as to the value of the property pledged prior to the expiration of the original bond.

§11-14-14. Enforcement powers.

1 (1) Any employee or agent of the commissioner so authorized by the commissioner shall have all the lawful powers delegated to members of the department of
public safety to enforce the provisions of this article, when bonded as hereinafter provided in this section.

(2) Each employee or agent so authorized by the commissioner shall execute a bond with security in the sum of thirty-five hundred dollars, payable to the state of West Virginia, and conditioned for the faithful performance of his duties, as such, and such bond shall be approved as to form by the attorney general, and the same shall be filed with the secretary of state and preserved in his office.

§11-14-15. Amounts allowed for administration and enforcement; disposition of tax collected.

The commissioner, for the administration and enforcement of this article, shall be allowed to expend out of the tax collected thereunder, a sum not to exceed one percent of the tax collected pursuant to the provisions of this article.

All tax collected under the provisions of this article, after deducting the costs of administration and enforcement as aforesaid, shall be paid into the state treasury and shall be used only for the purpose of construction, reconstruction, maintenance and repair of highways, and payment of the interest and sinking fund obligations on state bonds issued for highway purposes.

Unless necessary for such bond requirements, five fourteenths of the tax collected under the provisions of this article shall be used for feeder and state local service highway purposes.

§11-14-16. Prepaid tax adjustment.

A distributor or producer may file a claim with the commissioner on forms provided by the commissioner for eight and one-half cents per gallon on the total gallons of gasoline held in storage by the distributor and upon which the tax imposed by the former provisions of this article had been paid at the first moment of the effective date of this act. The claim of the distributor or producer will be processed as a tax credit on succeeding monthly tax returns filed by the distributor with the commissioner for the amount of one forty-eighth of the
total amount of tax filed as a claim with the commissioner for the tax-paid gasoline in storage on the effective date of this act.

§11-14-17. Assessment of tax when insufficiently returned.
1 If the commissioner believes that the tax imposed by this article is insufficiently returned by a taxpayer, either because the taxpayer has failed to properly remit the tax or has failed to make a return, or has made a return which is incomplete, deficient or otherwise erroneous, he may proceed to investigate and determine or estimate the tax liability of the taxpayer and make an assessment therefor.

1 If the commissioner believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment, such an assessment becomes final. A petition for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the commissioner may deem necessary to insure compliance with this article.

§11-14-19. Interest; additions to tax; penalties; fraudulent returns; willful failure to file.
1 (1) Interest.—Taxes imposed by this article, if not paid when due, shall bear interest at the rate of six percent per annum from the due date of the return. Each assessment or deficiency notice made by the commissioner shall bear interest at the rate of six percent per annum. In all cases of delinquency or extensions of time, interest shall be assessed and collected.

(2) Additions to tax; penalty.—In the case of any failure to make or file a return or whenever the full amount of the tax or any portion or deficiency thereof
has not been paid, as required by this article, unless it be shown that such failure is due to reasonable cause and not due to willful neglect, there may be added to the tax five per centum if a failure is for not more than thirty days, with an additional five per centum for each additional thirty days or fraction thereof during which failure shall continue, not to exceed twenty-five per centum in the aggregate. If no tax is due, the penalty shall be twenty-five dollars per month or fraction thereof for failure to file a tax return.

(3) Fraudulent returns; willful failure to file.—In the case of the filing of any false or fraudulent return with intent to evade the tax imposed by this article, or in the case of a willful failure to file a return with intent to evade the tax, or the filing of a false claim for credit or refund, there shall be added to the tax due a penalty in an amount equal to one hundred per centum of the tax due. The burden of proving fraud, willfulness, or intent to evade tax shall be upon the commissioner.


The commissioner shall give to the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom a notice of assessment is directed shall, within thirty days after service thereof (twenty days in the case of jeopardy assessments), either personally or by certified mail, file with the commissioner a petition in writing, verified under oath by said taxpayer or his duly authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for objections, said assessment shall become final and conclusive, not subject to administrative or judicial review, and the amount thereof shall be payable at the end of the thirty-day period (twenty days in the case of a jeopardy assessment). A petition for reassessment shall be deemed to be timely filed if the postmark date thereon is clearly within said thirty days (twenty days in case of jeopardy assessment) of receipt of said assessment by the taxpayer or is received within such period. If the

1. In every case where a petition for reassessment as above described is filed, the commissioner shall assign a time and place for the hearing of same and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof, and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the commissioner for good cause. The hearing shall be informal and may be conducted by an examiner designated by the commissioner. At such hearing the assessment shall constitute prima facie evidence of the claim of the state and the burden of proof shall be upon the taxpayer assessed to show that the assessment is incorrect and contrary to law. In every case where a petition or request for refund as above described is filed and the commissioner has refused to allow said refund in whole or in part, the petitioner may file within thirty days after receipt of the commissioner's decision a written request for hearing. In every case where a request for hearing is filed, the commissioner shall proceed to assign and hold such hearing in accordance with the methods herein prescribed for a petition for reassessment. After any such hearing, the commissioner shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice, the commissioner's decision shall be final.

Every assessment made by the commissioner under this article which becomes final and conclusive shall constitute a judgment and may be collected as judgments are collected.

An appeal may be taken by the taxpayer to the circuit court of the county in which the activity taxed was engaged, or in which the taxpayer resides, or in the circuit court of Kanawha county, within thirty days after he
shall have received notice from the commissioner of his determination as provided in this section.

The appeal shall be taken by written notice to the commissioner and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of the circuit court and docketed as other cases with the taxpayer as plaintiff and the commissioner as defendant. Before the appeal is heard, the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by said clerk, the penalty of the bond to be not less than the total amount of the tax, interest, additions to tax and penalties appealed from, and conditioned that the plaintiff shall perform the orders of the court.

The court shall hear the appeal and determine anew all questions submitted to it on appeal from the determination of the commissioner. In such appeal a certified copy of the commissioner's assessment shall be admissible and shall constitute prima facie evidence of the tax due under the provisions of this article. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with the commissioner who shall then correct the assessment in accordance with said decree. An appeal may be taken by the taxpayer or the commissioner to the supreme court of appeals of this state.

§11-14-22. Sale or discontinuance of business of taxpayer.

Whenever any person liable for the tax imposed by this article, by reason of sale or discontinuance, ceases business at any location, the taxes, interest, additions to tax and penalties imposed by this article shall become due and payable immediately and such person shall make a final return within fifteen days after the date of sale or discontinuance. The taxes, interest, additions to tax and penalties shall be a lien upon the property of such person. In the event of sale, the person purchasing said business shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, additions to tax and penalties due and unpaid until such time as the former owner shall produce a receipt from the commissioner
§11-14-23. Notice from commissioner a prerequisite to issuance of certificate of dissolution or withdrawal of corporation.

The secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state, until the receipt of a notice from the commissioner to the effect that the tax levied under this article against any such corporation has been paid or provided for, if any such corporation is a taxpayer under this article, or until he shall be notified by the commissioner that the applicant is not subject to pay a tax hereunder.


The commissioner may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness, of any taxpayer delinquent under this article for the amount of all taxes, interest, additions to tax and penalties accrued and unpaid hereunder. The commissioner may require the assistance of the sheriff of any county of the state in levying such distress in the county of which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all additions to tax collected over and above the principal amount of the tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes, interest, additions to tax and penalties so collected shall be reported within ten days after collection to the commissioner, who shall prescribe by general regulation the manner of remittance of such funds and of allowing
the collecting officer the compensation due him under this section.

The sheriff shall within five days after receipt of the warrant file with the clerk of the county court a copy thereof and thereupon the clerk shall enter in the judgment docket the name of the taxpayer mentioned in the warrant and the amount of the tax, interest, additions to tax and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount so docketed shall become a lien upon the title to an interest in real property or chattels real of the person against whom it is issued, in the same manner as a judgment duly docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record. If a warrant be returned not satisfied in full, the commissioner shall have the same remedies to enforce the claim for the taxes against the taxpayer as if the state had recovered judgment against the taxpayer for the amount of the tax.

§11-14-25. Collection by action or suit; injunction.

1 The commissioner may collect any tax, interest, additions to tax and penalties due and unpaid under the provisions of this article by appropriate legal proceedings in the county in which the activity taxed was engaged or the taxpayer resides, or by a suit to enforce the lien therefor in any county in which property of the taxpayer may be found; or, if the tax due and unpaid under this article is three hundred dollars or less, by suit in the court of any justice having jurisdiction of the taxpayer or his property. If the failure of any taxpayer to comply with the provisions of this article shall have continued sixty days, the commissioner may proceed to obtain an injunction restraining the taxpayer from doing business in this state until he fully complies with the provisions of this article. In any proceeding under this section upon judgment or decree for the plaintiff he shall be awarded his costs.
18 In the event that a business of a person subject to
19 the tax imposed by this article shall be operated in con-
20 nection with a receivership or insolvency proceeding, the
21 court under whose direction such business is operated or
22 was caused to be operated shall, by entry of a proper
23 order in the cause, make provisions for the regular
24 payment of such taxes as the same become due.

§11-14-26. Forms; rules and regulations.
1 The commissioner is hereby invested with full power
2 and authority and it is hereby made his duty to prescribe
3 the necessary forms and to promulgate rules and regula-
4 tions necessary to ascertain, assess and collect the taxes
5 imposed by this article and to enforce the provisions
6 thereof.

§11-14-27. Secrecy of returns and reciprocal exchange of in-
1 formation.
1 (1) Except when required in an official investigation,
2 administrative tax hearing or proceedings in court in-
3 volving taxes payable under this article, and except as
4 provided in subsection two of this section, it shall be
5 unlawful for any officer or employee of the state to divulge
6 or make known in any manner the amount of income or
7 any particulars set forth or disclosed in any report, state-
8 ment, or return required to be filed with the commissioner
9 by this article or any regulation of the commissioner
10 issued hereunder.

11 (2) The commissioner or his duly authorized agent
12 may upon request permit the proper officer or representa-
13 tive of the United States or any state, territory or political
14 subdivision of the United States, to inspect reports, state-
15 ments, or returns filed with the commissioner or may
16 furnish to such officer or representative a copy of any such
17 document, provided such other jurisdiction grants sub-
18 stantially similar privileges to the commissioner of this
19 state. Subsection one of this section shall not be construed
20 to prohibit the publication of statistics so classified as to
21 prevent the identification of particular reports, state-
22 ments, and returns and the items therein.
(3) Any taxpayer under this article may, in writing, waive the secrecy rules provided in subsection one of this section for such purpose and such period as he shall therein state, and the commissioner, if he so determines, may thereupon release to designated recipient(s) said taxpayer's tax return or other particulars filed under the provisions of this article.

§11-14-28. Tax a debt; lien of unpaid tax; recordation of lien.

1 A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer: Provided, That such lien shall be subject to the restrictions and conditions embodied in article ten-c, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, and any amendment made or which may hereafter be made thereto.

§11-14-29. Severability.

1 If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

CHAPTER 121

(Com. Sub. for Senate Bill No. 112—By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Passed March 11, 1972; in effect July 1, 1972. Approved by the Governor.]
reports; specifying the due date of such tax; relating to registration cards and identification markers for motor carriers and fees therefor; providing exceptions as to such cards and markers in the event of an emergency; establishing criminal offenses; providing criminal penalties; providing exemptions from such tax; relating to credits against such tax; relating to refunds of such tax and specifying procedures and the time for filing of petitions for such refunds; relating to taxpayer surety bonds or pledges of property in lieu thereof; relating to the enforcement powers of the tax commissioner and his agents and employees and bonds of such agents and employees; authorizing deductions from such tax for the cost of administration and enforcement; providing for the uses to be made of the tax collected; providing for assessment and collection of taxes, interest, and penalties; providing for hearings and appeals; providing for injunctions; providing for sales or discontinuances of business; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That article fourteen-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 14A. MOTOR CARRIER ROAD TAX.

§11-14A-1. Short title; arrangement of sections or portions of article.
§11-14A-3. Imposition of tax; amount; tax in addition to all other taxes.
§11-14A-5. Reports of carriers; joint reports; records; examination of records; subpoenas and witnesses.
§11-14A-6. Payment of tax.
§11-14A-7. Registration cards; identification markers; fees; emergency permits; penalty for violation of section.
§11-14A-9. Credits against tax.
§11-14A-10. False statements; penalty.
§11-14A-11. Refunds authorized; petition for refund and procedure thereon; surety bonds.
§11-14A-13. Disposition of tax collected; amounts allowed for administration and enforcement.
§11-14A-16. Interest; additions to tax; penalties; fraudulent returns; willful failure to file.


§11-14A-20. Notice from commissioner a prerequisite to issuance of certificate of dissolution or withdrawal of corporation.


§11-14A-22. Collection by action or suit; injunction.

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§11-14A-25. Tax a debt; lien of unpaid tax; recordation of lien.


§11-14A-1. Short title; arrangement of sections or portions of article.

1 This article shall be known and may be cited as the "Motor Carrier Road Tax Act." No inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or portion of this article.


1 For purposes of this article:

2 (1) "Commissioner" or "tax commissioner" means the tax commissioner of the state of West Virginia or his duly authorized agent.

3 (2) "Gallon" means two hundred thirty-one cubic inches of liquid measurement, by volume: Provided, that the commissioner may by rule and regulation prescribe other measurement or definition of gallon.

4 (3) "Gasoline" means any product commonly or commercially known as gasoline, regardless of classification, suitable for use as fuel in an internal combustion engine, except special fuel as hereinafter defined.

5 (4) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, which is maintained by this state or some taxing subdivision or unit thereof or the federal government or any of its agencies.

6 (5) "Identification marker" means the decal issued by the commissioner for display upon a particular motor carrier.
(6) "Lease" means any oral or written contract for valuable consideration granting the use of a motor carrier.

(7) "Motor carrier" means any passenger vehicle which has seats for more than nine passengers in addition to the driver, or any road tractor, or any tractor truck, or any truck having more than two axles which is operated or caused to be operated by any person on any highway in this state.

(8) "Operation" means any operation of any motor carrier, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the person who operates or causes to be operated such motor carrier.

(9) "Person" means and includes any individual, firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust, or any other group or combination acting as a unit, in the plural as well as the singular number, and means and includes the officers, directors, trustees, or members of any firm, partnership, limited partnership, joint adventure, association, company, corporation, organization, syndicate, receiver, trust, or any other group or combination acting as a unit, in the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(10) "Pool operation" means any operation whereby two or more taxpayers combine to operate or cause to be operated a motor carrier or motor carriers upon any highway in this state.

(11) "Purchase" means and includes any acquisition of ownership of property or of a security interest for a consideration.

(12) "Registration card" means the card issued by the commissioner and authorizing a person to operate or cause to be operated a motor carrier upon any highway in this state.

(13) "Road tractor" means every motor carrier designed and used for drawing other vehicles and not so constructed as to carry any load thereon either inde-
pendently or any part of the weight of a vehicle or load so drawn.

(14) "Sale" means any transfer, exchange, gift, barter, or other disposition of any property or security interest for a consideration.

(15) "Special fuel" means any gas or liquid, other than gasoline, used or suitable for use as fuel in an internal combustion engine. The term "special fuel" shall include products commonly known as natural or casinghead gasoline, but shall not include any petroleum product or chemical compound such as alcohol, industrial solvent, heavy furnace oil, lubricant, etc., not commonly used nor practically suited for use as fuel in an internal combustion engine.

(16) "Tax" includes, within its meaning, interest, additions to tax and penalties, unless the intention to give it a more limited meaning is disclosed by the context.

(17) "Taxpayer" means any person liable for any tax, interest, additions to tax or penalty under the provisions of this article.

(18) "Tractor truck" means every motor carrier 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.

(19) "Truck" means every motor carrier designed, used or maintained primarily for the transportation of property and having more than two axles.

§11-14A-3. Imposition of tax; amount; tax in addition to all other taxes.

Every person who operates or causes to be operated on any highway in this state any motor carrier shall pay a road tax on each motor carrier equivalent to the amount of tax per gallon of gasoline or special fuel imposed by article fourteen of this chapter, calculated on each gallon of gasoline or special fuel used as fuel in each motor carrier's operations in this state.

The tax imposed by this article shall be in addition to all other taxes of whatever character imposed upon such person by any other provisions of law.

1 Computation of the tax is based upon the amount of
gallons of gasoline or special fuel used in the operation of
any motor carrier within this state and shall be in such
proportion of the total amount of such gasoline or special
fuel used in any person's operations within and without
this state as the total number of gallons bears to the
total number of highway miles traveled within and with-
out this state.

§11-14A-5. Reports of carriers; joint reports; records; exami-
nation of records; subpoenas and witnesses.

1 Every taxpayer subject to the tax imposed by this
article shall on or before the last day of January, April,
July and October of every calendar year make to the
commissioner such reports of its operations during the
quarter ending the last day of the preceding month as the
commissioner may require and such other reports from
time to time as the commissioner may deem necessary.
For good cause shown, the commissioner may extend the
time for filing said reports for a period not exceeding
thirty days.

1 Two or more taxpayers regularly engaged in the trans-
portation of passengers on through buses on through
tickets in pool operation may, at their option and upon
proper notice to the commissioner, make joint reports of
their entire operations in this state. The taxes imposed
shall be calculated on the basis of such joint reports as
though such taxpayers were a single taxpayer; and the tax-
payers making such reports shall be jointly and severally
liable for the taxes. Such joint reports shall show the
total number of highway miles traveled in this state and
the total number of gallons of gasoline or special fuel
purchased in this state by the reporting taxpayers.

1 Credits to which the taxpayers making a joint return are
entitled shall not be allowed as credits to any other tax-
payer; but taxpayers filing joint reports shall permit all
taxpayers engaged in this state in pool operations with
them to join in filing joint reports.

1 A taxpayer shall keep such records necessary to verify
the highway miles traveled within and without the state
of West Virginia, the number of gallons of gasoline and
special fuel used and purchased within and without West
Virginia and any other records the commissioner by regu-
lation may prescribe.

The commissioner may inspect or examine the records,
books, papers, storage tanks, meters and any equipment
records or records of highway miles traveled within and
without West Virginia and the records of any other person
to verify the truth and accuracy of any statement or re-
port to ascertain whether the tax imposed by this article
has been properly paid.

As a further means of obtaining the records, books and
papers of a taxpayer or any other person and ascertaining
the amount of taxes and reports due under this article,
the commissioner shall have the power to examine wit-
tesses under oath; and if any witness shall fail or refuse
at the request of the commissioner to grant access to the
books, records and papers, the commissioner shall certify
the facts and names to the circuit court of the county
having jurisdiction of the party and such court shall there-
upon issue a subpoena duces tecum to such party to ap-
pear before the commissioner, at a place designated within
the jurisdiction of such court, on a day fixed.

§11-14A-6. Payment of tax.

1 The tax hereby imposed by this article shall be paid
2 by each taxpayer quarterly to the commissioner on or be-
3 fore the last day of January, April, July and October of
4 each calendar year, and calculated upon the amount of
5 gasoline or special fuel used as fuel in the operation of
6 each motor carrier operated or caused to be operated by
7 said taxpayer during the quarter ending with the last
8 day of the preceding month.

§11-14A-7. Registration cards; identification markers; fees;
emergency permits; penalty for violation of
section.

1 No person shall operate or cause to be operated in this
2 state any motor carrier subject to this article without
3 first securing from the commissioner a registration card
and an identification marker for each such motor carrier. The registration card shall be of such form, design and color as the commissioner shall prescribe. The registration card shall be carried in the motor carrier for which it was issued at all times when the motor carrier is within this state. Each identification marker for a particular motor carrier shall bear a number, which number shall be the same as that appearing on the registration card for that particular motor carrier. The identification marker shall be displayed on the motor carrier as required by the commissioner. The registration cards and identification markers herein provided for shall be valid for the period of one year, ending June thirty of each year. A fee of one dollar shall be paid to the commissioner for issuing each registration card and identification marker: Provided, That all tax or reports due under this article shall be paid or reports filed before the issuance of a new registration card and identification marker. Failure by a taxpayer to file the returns or pay the taxes imposed by this article shall give cause to the commissioner to revoke or refuse to renew the registration card and identification marker previously issued.

In an emergency, the commissioner upon request may authorize, in writing, a motor carrier to be operated without a registration card or an identification marker for not more than ten days.

Upon conviction for failure to obtain, carry and display the registration card and identification marker in or on each motor carrier, the person which operates or causes to be operated said motor carrier shall be fined not less than twenty nor more than one hundred dollars per day; and each day of such failure shall constitute a separate offense.


Nothing in this article shall apply to any motor carrier operated or caused to be operated by or on behalf of any department, board, bureau, commission or other agency of the federal government or of this or any other state or any political subdivision thereof, nor shall the
provisions of this article apply to any school bus operated
or caused to be operated by or on behalf of this state
or any political subdivision thereof or any private or
privately operated school or schools.

§11-14A-9. Credits against tax.

Every taxpayer subject to the road tax herein imposed
shall be entitled to a credit on such tax equivalent to the
amount of tax per gallon of gasoline or special fuel im-
posed by article fourteen of this chapter on all gasoline
or special fuel purchased by said taxpayer for fuel in
each motor carrier which it operates or causes to be
operated within this state, and upon which gasoline or
special fuel the tax imposed by the laws of this state has
been paid: Provided, That such credit shall not be
allowed for any gasoline or special fuel taxes for which
any taxpayer has applied or received a refund of gaso-
line or special fuel tax under article fourteen of this
chapter. Evidence of the payment of such tax in such
form as may be required by the commissioner shall be
furnished by the taxpayer claiming the credit herein
allowed. When the amount of the credit herein provided
for exceeds the amount of the tax for which the tax-
payer is liable in the same quarter, such excess shall,
upon written request by the taxpayer, be allowed as a
credit on the tax for which the taxpayer would be other-
wise liable for any of the four succeeding quarters.

§11-14A-10. False statements; penalty.

Any person who willfully and knowingly makes a
false statement orally or in writing in reference to the
purchase or sale of gasoline, special fuel or highway miles
traveled for the purpose of obtaining or attempting to
obtain or to assist any other person to obtain or attempt
to obtain a credit, refund or reduction of liability for
taxes under the provisions of this article, shall be guilty
of a misdemeanor, and, upon conviction thereof, shall
be fined not less than fifty nor more than one thousand
dollars or imprisoned for not more than six months or
both fined and imprisoned.
§11-14A-11. Refunds authorized; petition for refund and procedure thereon; surety bonds.

1. The commissioner is hereby authorized to refund from the funds collected under the provisions of this article and article fourteen of this chapter, the amount of the credit accrued for gallons of gasoline or special fuel purchased in this state but consumed outside of this state, if the taxpayer by duly filed petition requests the commissioner to issue a refund and if the commissioner is satisfied that said taxpayer is entitled to said refund and that said taxpayer has not applied for a refund of the tax imposed by article fourteen of this chapter: Provided,

That the commissioner shall not approve a petition for refund when such petition for such refund is filed after thirteen months from the close of the quarter in which the tax was paid or the credit, as provided for in section nine of this article, was allowed: Provided, however,

That such refund shall not be made until after audit of the petitioner's records by the commissioner or until after a surety bond has been furnished by the petitioner, as hereinafter provided, in an amount fixed by the commissioner, conditioned to pay all road taxes due hereunder: Provided further, That said credit or refund shall in no case be allowed to reduce the amount of tax to be paid by a taxpayer below the amount due as tax on gasoline or special fuel used as fuel in this state as provided by article fourteen of this chapter. The right to receive any refund under the provisions of this article shall not be assignable and any attempt at assignment thereof shall be void and of no effect.

2. A taxpayer may furnish a continuous surety bond in an amount fixed by the commissioner, but such amount shall not be less than the total refunds due or to be paid within one year. Upon completion of the filing of such surety bond an annual notice of renewal, only, shall be required thereafter.

3. The surety must be authorized to engage in business within this state. The bond shall be conditioned upon faithful compliance with the provisions of this article, including the filing of the returns and payment of all
tax prescribed by this article. Such bond shall be approved by the commissioner as to sufficiency and by the attorney general as to form, and shall indemnify the state against any loss arising from the failure of the taxpayer to pay for any cause whatever the motor carrier road tax imposed by this article.

So long as the bond remains in force the commissioner may order refunds to the taxpayer in the amounts appearing to be due on petitions duly filed by the taxpayer under the provisions of this article without first auditing the records of the carrier.

Any surety on a bond furnished hereunder shall be relieved, released and discharged from all liability accruing on such bond after the expiration of sixty days from the date the surety shall have lodged, by certified mail, with the commissioner a written request to be discharged. This shall not relieve, release or discharge the surety from liability already accrued, or which shall accrue before the expiration of the sixty-day period. Whenever any surety shall seek discharge as herein provided, it shall be the duty of the principal of such bond to supply the commissioner with another bond, or pledge of property equal in value to the original bond, such pledge to be in the form of a tax lien on the property pledged and said lien shall be duly perfected in the office of the clerk of the county court of the county wherein such property is situated and shall be submitted to the commissioner along with a certified appraisal statement as to the value of the property pledged prior to the expiration of the original bond. Failure to provide such bond or pledge may result in the commissioner cancelling any registration card and identification marker previously issued to said person.


1 (1) Any employee or agent of the commissioner so authorized by the commissioner shall have all the lawful powers delegated to members of the department of public safety to enforce the provisions of this article, when bonded as hereinafter provided in this section.
(2) Such employee or agent so authorized by the commissioner shall execute a bond with security in the sum of thirty-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 the same shall be filed with the secretary of state and preserved in his office.

§11-14A-13. Disposition of tax collected; amounts allowed for administration and enforcement.

All tax collected under the provisions of this article shall be paid into the state treasury and shall be used only for the purpose of construction, reconstruction, maintenance and repair of highways, payment of the interest and sinking fund obligations on state bonds issued for highway purposes and the cost of administration and enforcement of this article (and article fourteen of this chapter) by the commissioner, which costs of administration and enforcement shall not exceed one percent of the total tax collected during each fiscal year.

Unless necessary for such bond requirements, five fourteenths of the tax collected under the provisions of this article shall be used for feeder and state local service highway purposes.


If the commissioner believes that the tax imposed by this article is insufficiently returned by a taxpayer, either because the taxpayer has failed to properly remit the tax or has failed to make a return, or has made a return which is incomplete, deficient or otherwise erroneous, he may proceed to investigate and determine or estimate the tax liability of the taxpayer and make an assessment therefor.


If the commissioner believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the tax-
payer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment such an assessment becomes final. A petition for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the commissioner may deem necessary to insure compliance with this article.

§11-14A-16. Interest; additions to tax; penalties; fraudulent returns; willful failure to file.

(1) Interest.—Taxes imposed by this article, if not paid when due, shall bear interest at the rate of six percent per annum from the due date of the return. Each assessment or deficiency notice made by the commissioner shall bear interest at the rate of six percent per annum. In all cases of delinquency or extensions of time, interest shall be assessed and collected.

(2) Additions to tax; penalty.—In the case of any failure to make or file a return or whenever the full amount of the tax or any portion or deficiency thereof has not been paid, as required by this article, unless it be shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax five per centum if a failure is for not more than thirty days, with an additional five per centum for each additional thirty days or fraction thereof during which failure shall continue, not to exceed twenty-five per centum in the aggregate. If no tax is due, the penalty will be twenty-five dollars per month or fraction thereof for failure to file a tax return.

(3) Fraudulent returns; willful failure to file.—In the case of the filing of any false or fraudulent return with intent to evade the tax imposed by this article, or in the case of a willful failure to file a return with intent to evade the tax, or the filing of a false claim for credit or refund, there shall be added to the tax due a penalty in an amount equal to one hundred per centum of the tax due. The burden of proving fraud, willfulness, or intent to evade tax shall be upon the commissioner.

1 The commissioner shall give to the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom a notice of assessment is directed shall, within thirty days after service thereof (twenty days in the case of jeopardy assessments), either personally or by certified mail, file with the commissioner a petition in writing, verified under oath by said taxpayer or his duly authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for objections, said assessment shall become final and conclusive, not subject to administrative or judicial review, and the amount thereof shall be payable at the end of the thirty-day period (twenty days in the case of jeopardy assessments). A petition for reassessment shall be deemed to be timely filed if the postmark date thereon is clearly within said thirty days (twenty days in case of a jeopardy assessment) of receipt of said assessment by the taxpayer or is received within such period. If the thirtieth day (twentieth day in case of a jeopardy assessment) falls on a Saturday or Sunday, filing will be considered timely if it is done on the next succeeding day which is not a legal holiday.


1 In every case where a petition for reassessment as above described is filed, the commissioner shall assign a time and place for the hearing of same and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof, and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the commissioner for good cause. The hearing shall be informal and may be conducted by an examiner designated by the commissioner. At such hearing the assessment shall constitute prima facie evidence of the claim of the state and the burden of proof shall be upon the taxpayer assessed to show that the assessment is incorrect and contrary to law. In every case where a petition for refund
as above described is filed and the commissioner has re-
ferred to allow said refund in whole or in part, the peti-
tioner may file within thirty days after receipt of the
commissioner's decision a written request for a hearing.
In every case where a request for hearing is filed, the com-
missioner shall proceed to assign and hold such hearing in
accordance with the methods herein prescribed for a peti-
tion for reassessment. After any such hearing the com-
missioner shall, within a reasonable time, give notice in
writing of the decision. Unless an appeal is taken within
thirty days from service of this notice, the commissioner's
decision shall be final.

Every assessment made by the commissioner under
this article which becomes final and conclusive shall con-
stitute a judgment and may be collected as judgments are
collected.

An appeal may be taken by the taxpayer to the circuit
court of the county in which the activity taxed was
engaged, or in which the taxpayer resides, or in the
circuit court of Kanawha county, within thirty days after
he shall have received notice from the commissioner of
his determination as provided in this section.

The appeal shall be taken by written notice to the
commissioner and served as an original notice. When said
notice is so served it shall, with the return thereon, be
filed in the office of the clerk of the circuit court and
docketed as other cases with the taxpayer as plaintiff and
the commissioner as defendant. Before the appeal is heard,
the plaintiff shall file with such clerk a bond for the use
of the defendant, with sureties approved by said clerk,
the penalty of the bond to be not less than the total
amount of the tax, interest, additions to tax and penalties
appealed from, and conditioned that the plaintiff shall
perform the orders of the court.

The court shall hear the appeal and determine anew all
questions submitted to it on appeal from the determina-
tion of the commissioner. In such appeal a certified copy
of the commissioner's assessment shall be admissible and
shall constitute prima facie evidence of the tax due under

Whenever any person liable for the tax imposed by this article, by reason of sale or discontinuance, ceases business at any location, the taxes, interest, additions to tax and penalties imposed by this article shall become due and payable immediately and such person shall make a final return within fifteen days after the date of sale or discontinuance. The taxes, interest, additions to tax and penalties shall be a lien upon the property of such person. In the event of sale, the person purchasing said business shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, additions to tax and penalties due and unpaid until such time as the former owner shall produce a receipt from the commissioner showing that the taxes, interest, additions to tax and penalties have been paid, or a certificate indicating no taxes are due. If the purchaser of the business fails to withhold purchase money, as above provided, he shall be personally liable for the payment of the taxes, interest, additions to tax and penalties accrued and unpaid and the same shall be recoverable by the commissioner by action or suit as provided by this article.

§11-14A-20. Notice from commissioner a prerequisite to issuance of certificate of dissolution or withdrawal of corporation.

The secretary of state shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state, or organized under the laws of another state and admitted to do business in this state, until the receipt of a notice from the commissioner to the effect that the tax levied under this article against any such corporation has been
paid or provided for, if any such corporation is a taxpayer under this article, or until he shall be notified by the commissioner that the applicant is not subject to pay a tax hereunder.


The commissioner may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness, of any taxpayer delinquent under this article for the amount of all taxes, interest, additions to tax and penalties accrued and unpaid hereunder. The commissioner may require the assistance of the sheriff of any county of the state in levying such distress in the county of which such sheriff is an officer. A sheriff so collecting taxes due hereunder shall be entitled to compensation in the amount of all additions to tax collected over and above the principal amount of the tax due, but in no case shall such compensation exceed twenty-five dollars. All taxes, interest, additions to tax and penalties so collected shall be reported within ten days after collection to the commissioner, who shall prescribe by general regulation the manner of remittance of such fund and of allowing the collecting officer the compensation due him under this section.

The sheriff shall within five days after receipt of the warrant file with the clerk of the county court a copy thereof and thereupon the clerk shall enter in the judgment docket the name of the taxpayer mentioned in the warrant and the amount of the tax, interest, additions to tax and penalties for which the warrant is issued and the date when such copy is filed and thereupon the amount so docketed shall become a lien upon the title to and interest in real property or chattels real of the person against whom it is issued, in the same manner as a judgment duly docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record. If a warrant be returned not satisfied in full, the commissioner shall have the same remedies to enforce the claim for the taxes
§11-14A-22. Collection by action or suit; injunction.

1 The commissioner may collect any tax, interest, additions to tax and penalties due and unpaid under the provisions of this article by appropriate legal proceedings in the county in which (a) the activity taxed was engaged or (b) the taxpayer resides; or by a suit to enforce the lien therefor in any county in which property of the taxpayer may be found; or if the tax due and unpaid under this article is three hundred dollars or less, by suit in the court of any justice having jurisdiction of the taxpayer or his property. If the failure of any taxpayer to comply with the provisions of this article shall have continued sixty days, the commissioner may proceed to obtain an injunction restraining the taxpayer from doing business in this state until he fully complies with the provisions of this article. In any proceeding under this section upon judgment or decree for the plaintiff he shall be awarded his costs.

In the event that motor carriers of a person subject to the tax imposed by this article shall be operated in connection with a receivership or insolvency proceeding, the court under whose direction such motor carriers are operated or were caused to be operated shall, by entry of a proper order in the cause, make provisions for the regular payment of such taxes as the same become due.

§11-14A-23. Forms; rules and regulations.

1 The commissioner is hereby invested with full power and authority and it is hereby made his duty to prescribe the necessary forms and to promulgate rules and regulations necessary to ascertain, assess and collect the taxes imposed by this article and to enforce the provisions thereof.


1 (1) Except when required in an official investigation, administrative tax hearing or proceedings in court involving taxes payable under this article, and except as
provided in subsection two of this section, it shall be unlawful for any officer or employee of the state to divulge or make known in any manner the amount of income or any particulars set forth or disclose in any report, statement, or return required to be filed with the commissioner by this article or any regulation of the commissioner issued hereunder.

(2) The commissioner or his duly authorized agent may upon request permit the proper officer or representative of the United States or any state, territory or political subdivision of the United States, to inspect reports, statements, or returns filed with the commissioner or may furnish to such officer or representative a copy of any such document, provided such other jurisdiction grants substantially similar privileges to the commissioner of this state. Subsection one of this section shall not be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports, statements, and returns and the items therein.

(3) Any taxpayer under this article may, in writing, waive the secret rules provided in subsection one of this section for such purpose and such period as he shall therein state, and the commissioner, if he so determines may thereupon release to designated recipient(s) said taxpayer's tax return or other particulars filed under the provisions of this article.

§11-14A-25. Tax a debt; lien of unpaid tax; recordation of lien.

A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer: Provided, That such lien shall be subject to the restrictions and conditions embodied in article ten-c, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, and any amendment made or which may hereafter be made thereto.


If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or
invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

CHAPTER 122

(House Bill No. 575—By Mrs. Merritt)

[Passed March 3, 1972; in effect from passage. Approved by the Governor.]

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 meaning of terms.

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:

ARTICLE 21. PERSONAL INCOME TAX.


1 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 first day of January, one thousand nine hundred seventy-two, 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 seventy-two, and thereafter, but no amendment to the laws of the United States made on or after the first day of January, one thousand nine hundred seventy-two, shall be given effect.
AN ACT to amend and reenact sections three, five and six, article twenty-four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto a new section, designated section thirteen-a, all relating to meaning of terms, capital gain treatment for corporation income tax purposes, filing of information returns by corporations electing to be taxed under subchapter S of the Internal Revenue Code of one thousand nine hundred fifty-four, as amended, and penalties for nonfiling of such information returns.

Be it enacted by the Legislature of West Virginia:

That sections three, five and six, article twenty-four, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and that said article be further amended by adding thereto a new section, designated section thirteen-a, all to read as follows:

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-5. Corporations exempt from tax.
§11-24-6. Adjustments in determining West Virginia taxable income.
§11-24-13a. Information return for corporations electing to be taxed under subchapter S.


(a) General.—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 federal income taxes, unless a different meaning is clearly required by the context or by definition in this article. Any reference in this article to the laws of the United States or to the Internal Revenue Code or to the federal income
8 tax law shall mean the provisions of the laws of the
9 United States as relate to the determination of income for
10 federal income tax purposes. All amendments made to
11 the laws of the United States prior to the first day of Jan-
12 uary, one thousand nine hundred seventy-two, shall be
13 given effect in determining the taxes imposed by this
14 article for the tax period beginning the first day of July,
15 one thousand nine hundred seventy-two, and thereafter,
16 but no amendment to laws of the United States made on
17 or after the first day of January, one thousand nine hun-
18 dred seventy-two, shall be given effect.

19 (b) Certain terms defined.—For purposes of this ar-
20 ticle:
21 (1) The term “tax commissioner” means the tax
22 commissioner of the state of West Virginia or his dele-
23 gate.
24 (2) The term “corporation” means and includes
25 a joint-stock company or any association which is taxable
26 as a corporation under the federal income tax law.
27 (3) The term “domestic corporation” means any
28 corporation organized under the laws of West Virginia.
29 (4) The term “foreign corporation” means any
30 corporation other than a domestic corporation.
31 (5) The term “state” means any state of the
32 United States, the District of Columbia, the Common-
33 wealth of Puerto Rico, any territory or possession of the
34 United States and any foreign country or political sub-
35 division thereof.
36 (6) The term “taxable year” means the taxable
37 year for which the taxable income of the taxpayer is
38 computed under the federal income tax law.
39 (7) The term “taxpayer” means a corporation
40 subject to the tax imposed by this article.
41 (8) The term “tax” includes, within its meaning,
42 interest and penalties unless the intention to give it a
43 more limited meaning is disclosed by the context.
44 (9) The term “commercial domicile” means the
45 principal place from which the trade or business of the
46 taxpayer is directed or managed.
(10) The term "compensation" means wages, salaries, commissions and any form of remuneration paid to employees for personal services.

(11) The term "West Virginia taxable income" means the taxable income of a corporation as defined by the laws of the United States for federal income tax purposes, adjusted as provided in section six: Provided, That in the case of a corporation having income from business activity which is taxable without this state, its "West Virginia taxable income" shall be such portion of its taxable income as so defined and adjusted as is allocated or apportioned to this state under the provisions of section seven.

(12) The term "business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(13) "Nonbusiness income" means all income other than business income.

(14) The term "public utility" means any business activity to which the jurisdiction of the public service commission of West Virginia extends under section one, article two, chapter twenty-four of the code of West Virginia.

(15) The term "this code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(16) The term "this state" means the state of West Virginia.

§11-24-5. Corporations exempt from tax.

1 The following corporations shall be exempt from the tax imposed by this article to the extent provided in this section:

2 (a) Corporations which by reason of their purposes or activities are exempt from federal income tax: Provided, That this exemption shall not apply to the unre-
lated business income, as defined in the Internal Revenue Code, of any such corporation if such income is subject to federal income tax.

(b) Banks, banking associations, trust companies, building and loan associations, and savings and loan associations.

(c) Insurance companies which pay this state a tax upon premiums.

(d) Production credit associations organized under the provisions of the federal “Farm Credit Act of 1933”: Provided, That this exemption shall not apply to corporations or associations organized under the provisions of article four, chapter nineteen of this code.

(e) Corporations electing to be taxed under subchapter S of the Internal Revenue Code of one thousand nine hundred fifty-four, as amended: Provided, That said corporations shall file the information return required by section thirteen-a of this article.

(f) Trusts established pursuant to section one hundred eighty-six, chapter seven, title twenty-nine of the code of the laws of the United States (enacted as section three hundred two (c) of the Labor Management Relations Act, one thousand nine hundred forty-seven), as amended prior to the first day of January, one thousand nine hundred sixty-seven.

§11-24-6. Adjustments in determining West Virginia taxable income.

(a) General.—In determining the West Virginia taxable income of a corporation, its taxable income as defined for federal income tax purposes shall be adjusted by the items specified in this section.

(b) Adjustments increasing federal taxable income.—There shall be added to federal taxable income (unless already included in the computation of federal taxable income):

(1) Interests or dividends on obligations or securities of any state or of a political subdivision or authority thereof (other than this state and its political subdivisions and authorities), unless made exempt by compact or agreement to which this state is a party;
(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States which the laws of the United States exempt from federal income tax but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal taxable income and not credited against federal income tax, and the taxes imposed by this state for which credit against the taxes imposed by section four is allowed by section nine; and

(4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this article, to the extent deductible in determining federal taxable income.

(c) Adjustments decreasing federal taxable income.—There shall be subtracted from federal taxable income:

(1) Interest income on obligations of the United States and its possessions to the extent includable in gross income for federal income tax purposes;

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes, but exempt from state income taxes under the laws of the United States;

(3) Any gain from the sale or other disposition of property having a higher fair market value on the first day of July, one thousand nine hundred sixty-seven, than the adjusted basis at said date for federal income tax purposes: Provided, That the amount of this adjustment is limited to that portion of any such gain which does not exceed the difference between such fair market value and such adjusted basis;

(4) The amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes;
(5) The amount of dividends received, to the extent included in federal taxable income; and

(6) Thirty-seven and one-half percent of the excess of net long-term capital gain over net short-term capital loss as defined in the laws of the United States.

(d) Adjustment resulting from recomputation of net operating loss deduction.—In determining the West Virginia taxable income of a corporation entitled to a net operating loss deduction for the taxable year for federal income tax purposes, there shall be added to or subtracted from the federal taxable income the amount of an adjustment reflecting a recomputation of such net operating loss deduction in which the adjustments required by subsections (b) and (c) are made for each taxable year involved in the computation of such net operating loss deduction.

(e) Special adjustments for expenditures for water and air pollution control facilities.

(1) If the taxpayer so elects under subdivision (2) of this subsection, there shall be—

(A) subtracted from federal taxable income the total of the amounts paid or incurred during the taxable year for the acquisition, construction or development within this state of water pollution control facilities and air pollution control facilities as defined in section 48 (h) (12) (B) and (C) of the Internal Revenue Code, and

(B) added to federal taxable income the total of the amounts of any allowances for depreciation and amortization of such water pollution control facilities and air pollution control facilities, as so defined, to the extent deductible in determining federal taxable income.

(2) The election referred to in subdivision (1) of this subsection shall be made in the return filed within the time prescribed by law (including extensions thereof) for the taxable year in which such amounts were paid or incurred. Such election shall be made in such manner,
and the scope and application of such election shall be
defined, as the tax commissioner may by regulations
prescribe, and shall be irrevocable when made as to all
amounts paid or incurred for any particular water pol-
lution control facility or air pollution control facility.

(3) Notwithstanding any other provisions of this
subsection or of section seven to the contrary, if the tax-
payer’s federal taxable income is subject to allocation
and apportionment under section seven, the adjustments
prescribed in paragraphs (A) and (B) of subdivision
(1) of this subsection shall (instead of being made to
the taxpayer's federal taxable income before allocation
and apportionment thereof as provided in section seven)
be made to the portion of the taxpayer's net income,
computed without regard to such adjustments, allocated
and apportioned to this state in accordance with section
seven.

§11-24-13a. Information return for corporations electing to be
taxed under subchapter S.

Every corporation electing to be taxed under sub-
chapter S of the Internal Revenue Code of one thousand
nine hundred fifty-four, as amended, shall on or before
the fifteenth day of the third month following the close
of a taxable year file an information return for each tax
year, stating specifically the items of its gross income
and the deductions allowable, the names and addresses
of all persons owning stock in the corporation at any
time during the tax year, the number of shares of stock
owned by each shareholder at all times during the tax
year, the amount of money and other property distributed
by the corporation during the tax year to each share-
holder, the date of each such distribution, and such other
information as the tax commissioner may prescribe. Cor-
porations failing to file information returns by the due
date as prescribed in this section shall be subject to a
penalty of fifty dollars for each failure to file, with such
penalty being collected as other penalties are collected
by the tax commissioner. This section shall take effect
for tax years beginning on or after the first day of July,
one thousand nine hundred seventy-two.
AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, providing, as a public purpose, general relief for low income citizens who are sixty-five years of age or over to aid them in providing or maintaining a homestead, by authorizing a claim for relief to be filed with the state tax commissioner and payment thereof from state funds, the amount of relief to be measured in part by the real property taxes or that portion of rent attributable to real property taxes paid by any such citizen; providing a rule of construction; defining terms; providing for computation of the amount of such claims for relief; providing limitations with respect thereto; authorizing tables for such claims for relief; relating to forms and instructions in connection with such claims for relief; relating to maximum participation under said article twenty-five; relating to proof of claims for relief; requiring cooperation of landlord; providing there may only be one claimant for a homestead for a particular calendar year; establishing filing date for any such claim for relief; providing for waiver of claims in the event of late claims therefor; authorizing extension of filing date and amended claims for relief; providing for disbursement from state funds to pay claims for relief; providing that any such claim for relief is personal; relating to payment of any claim for relief to legal guardian, committee, executor or administrator or other persons or the escheat thereof to the state; providing for offsets against any such claim for relief; relating to the denial of any such claim for relief and the grounds therefor; providing for criminal offenses; providing criminal penalties; authorizing disallowance of portion of any such claim which is excessive; relating to recovery of improper payments and interest thereon; relating to hearings and appeals; incorporating
certain provisions of article thirteen of said chapter eleven;  
providing a severability clause; and providing effective  
date of said article twenty-five.

Be it enacted by the Legislature of West Virginia:

That chapter eleven 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 twenty-five,  
to read as follows:

ARTICLE 25. TAX RELIEF FOR ELDERLY HOMEOWNERS AND  
RENTERS.

§11-25-1. Declaration of purpose; rule of construction.


§11-25-3. Computation of relief; limits; table.

§11-25-4. Forms and instructions; maximum participation.

§11-25-5. Proof of claim; landlord's cooperation required; relief  
limited to one claimant per homestead per year.

§11-25-6. Filing date.

§11-25-7. Claim as disbursement from state funds; claim is personal;  
offset.

§11-25-8. Denial of claim; violation and penalties.


§11-25-10. Severability.

§11-25-11. Effective date.

§11-25-1. Declaration of purpose; rule of construction.

1 This article is enacted to provide general relief for low  
income citizens who are sixty-five years of age or over  
to aid them in providing or maintaining a homestead, by  
authorizing a claim for relief to be filed with the state tax  
commissioner and payment thereof from state funds, the  
amount of relief to be measured in part by the real prop-  
erty taxes or that portion of rent attributable to real  
property taxes paid by any such citizen, and the provid-  
ing of such general relief is hereby declared to be a public  
purpose. This article shall, therefore, be liberally con-  
strued.


1 When used in this article, unless the context clearly  
requires a different meaning:

3 (1) "Claimant" means a person sixty-five years of  
age or older who was domiciled in this state during any
portion of the calendar year preceding the year in which the claimant is eligible to file a claim for relief under this article and who had a gross household income of not more than five thousand dollars during the calendar year preceding the year in which he is eligible to file a claim for relief under this article. If two or more individuals, who otherwise qualify as claimants under this article, occupy a single homestead, such individuals may determine between themselves as to which individual shall be the claimant; however, if such individuals are unable to agree, the matters shall be referred to the state tax commissioner for determination and his decision shall be final.

(2) "Claimant's spouse" means the spouse of the claimant if such spouse resides in the homestead during any portion of the calendar year preceding the year in which the claimant is eligible to file a claim for relief under this article.

(3) "Gross household income" means all actual income received by a claimant and the claimant's spouse during the calendar year preceding the year in which he is eligible to file a claim for relief under this article and such actual income shall be computed by adding to the West Virginia adjusted gross income (as that term is defined in section twelve, article twenty-one of this chapter) of such claimant and the claimant's spouse all of the following actually received by the claimant and claimant's spouse during such calendar year:

(a) Amount of capital gains excluded from West Virginia adjusted gross income;
(b) Support money;
(c) Nontaxable strike benefits;
(d) Cash public assistance, welfare and relief but not any relief under this article;
(e) Gross amount of any pension or annuity, including railroad retirement benefits;
(f) Social security benefits;
(g) Unemployment compensation benefits;
(h) Veterans disability pensions;
(i) Workmen's compensation benefits; and
(j) Private disability insurance benefits.

Gross household income does not include gifts from non-
governmental sources, or surplus foods or other relief in
kind supplied by a governmental agency.

(4) "Gross rent" means the total amount of money
or its equivalent actually paid by a claimant during a
particular calendar year to his landlord in a bona fide
manner solely for the right of occupancy of a homestead,
exclusive of any charges for utilities, services, furniture,
furnishings or electrical or other appliances furnished
by such landlord to such claimant; and if the state tax
commissioner determines that the rent charged was ex-
cessive for the purposes of this article, he may adjust the
same, for the purposes of this article, to a reasonable
amount.

(5) "Homestead" means a single family residential
house and the land surrounding such structure; or a part
of a multi-dwelling, multi-purpose building or apartment
house; or a mobile home which is used as a permanent
residence and the land upon which such mobile home is
situate; and it is immaterial for the purposes of this
article whether the foregoing are being purchased, are
owned or are rented.

(6) "Household" means a claimant, a claimant and the
claimant's spouse or a claimant and any other person or
persons, who resides or reside in a homestead.

(7) "Property taxes" means the amount of the real
property taxes, exclusive of any interest or charges for
delinquency thereof, paid by a claimant on his homestead
beginning with the calendar year one thousand nine hun-
dred seventy-two, and for any particular calendar year
thereafter: Provided, That if a homestead is owned by
a claimant and a persons or persons (other than the
claimant's spouse) as joint tenants or as tenants in com-
mon, and such person or persons owning such interest
in such homestead do not reside in such homestead, then
for the purposes of this article, the property taxes paid
by the claimant shall be prorated according to such
claimant's percentage of ownership of such homestead:

Provided, however, That if the claimant's homestead is a single unit within any multi-dwelling building, multi-purpose building or apartment house, and such claimant owns the entirety of any such structure, the property taxes paid by the claimant, for the purposes of this article shall be prorated so as to reflect the percentage of value which the claimant's homestead is to the value of the entire structure which is assessed in a single assessment based upon the entire property.

(8) "Rent constituting property taxes" means twelve percent of the gross rent paid by a claimant for the right of occupancy of his homestead beginning with the calendar year one thousand nine hundred seventy-two, and for any particular calendar year thereafter.

§11-25-3. Computation of relief; limits; table.

(a) The amount of any claim for relief pursuant to this article shall be limited as follows:

(1) If the gross household income of the claimant or of the claimant and the claimant's spouse was five hundred dollars or less during the calendar year to which the claim relates, the claim shall be limited to seventy-five percent of the amount of the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead.

(2) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than five hundred dollars but not in excess of one thousand dollars during the calendar year to which the claim relates, the claim shall be limited to seventy-five percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars.

(3) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than
one thousand dollars but not in excess of two thousand dollars during the calendar year to which the claim relates, the claim shall be limited to sixty percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars and (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars.

(4) If the gross household income of the claimant or of the claimant's spouse was more than two thousand dollars but not in excess of three thousand dollars during the calendar year to which the claim relates, the claim shall be limited to forty-five percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars, (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars, (iv) two percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars and (v) two and one-half percent of that portion of gross household income in excess of two thousand five hundred dollars but not in excess of three thousand dollars.

(5) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than three thousand dollars but not in excess of four thousand dollars during the calendar year to which the claim
relates, the claim shall be limited to thirty percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars, (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars, (iv) two percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars, (v) two and one-half percent of that portion of gross household income in excess of two thousand five hundred dollars but not in excess of three thousand dollars, (vi) three percent of that portion of gross household income in excess of three thousand dollars but not in excess of three thousand five hundred dollars and (vii) three and one-half percent of that portion of gross household income in excess of three thousand five hundred dollars but not in excess of four thousand dollars.

(6) If the gross household income of the claimant or of the claimant and the claimant's spouse was more than four thousand dollars but not in excess of five thousand dollars during the calendar year to which the claim relates, the claim shall be limited to thirty percent of the amount by which the property taxes, or rent constituting property taxes, or both, in such year on or with respect to the claimant's homestead are in excess of (i) one half of one percent of that portion of gross household income in excess of five hundred dollars but not in excess of one thousand dollars, (ii) one percent of that portion of gross household income in excess of one thousand dollars but not in excess of one thousand five hundred dollars, (iii) one and one-half percent of that portion of gross household income in excess of one thousand five hundred dollars but not in excess of two thousand dollars, (iv) two percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars, (v) two and one-half percent of that portion of gross household income in excess of two thousand five hundred dollars but not in excess of three thousand dollars, (vi) three percent of that portion of gross household income in excess of three thousand dollars but not in excess of three thousand five hundred dollars and (vii) three and one-half percent of that portion of gross household income in excess of three thousand five hundred dollars but not in excess of four thousand dollars.
percent of that portion of gross household income in excess of two thousand dollars but not in excess of two thousand five hundred dollars, (v) two and one-half percent of that portion of gross household income in excess of two thousand five hundred dollars but not in excess of three thousand dollars, (vi) three percent of that portion of gross household income in excess of three thousand dollars but not in excess of three thousand five hundred dollars, (vii) three and one-half percent of that portion of gross household income in excess of three thousand five hundred dollars but not in excess of four thousand dollars, (viii) four percent of that portion of gross household income in excess of four thousand dollars but not in excess of four thousand five hundred dollars and (ix) four and one-half percent of that portion of gross household income in excess of four thousand five hundred dollars but not in excess of five thousand dollars.

(b) In any case in which the property taxes, or rent constituting property taxes, or both, during any one calendar year on or with respect to any homestead exceed one hundred twenty-five dollars, the amount thereof shall, for purposes of this article, be deemed to have been one hundred twenty-five dollars.

(c) The state tax commissioner shall prepare a table under which claims under this article shall be determined. The table shall be published in the department's official rules and regulations and shall be printed on the appropriate claim forms. The amount of relief as shown in the table for each bracket shall be computed only to the nearest ten cents.

§11-25-4. Forms and instructions; maximum participation.

The state tax commissioner shall prescribe and make available claim forms with instructions for claimants, and every assessor and sheriff shall comply with all reasonable requests and rules and regulations of the state tax commissioner in order to encourage maximum participation of claimants eligible for relief under the provisions of this article.
§11-25-5. Proof of claim; landlord's cooperation required; relief limited to one claimant per homestead per year.

Every claimant who is a homestead owner shall supply to the state tax commissioner, in support of his claim, reasonable proof of property taxes paid, information as to the size and nature of the property claimed as the homestead and a statement that the real property taxes thereon have been paid by him and that there are no delinquent real property taxes on the homestead.

Every claimant who is a homestead renter shall supply to the state tax commissioner, in support of his claim, reasonable proof, as required by the state tax commissioner, of rent paid and the name and address of the owner or managing agent of the property rented. The claimant's landlord shall at the claimant's request sign a statement setting forth the gross rent paid by the claimant for the particular calendar year. Any landlord who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the claimant in order to file a timely claim, shall for each such violation be guilty of a misdemeanor, and, upon conviction thereof, shall be fined an amount not exceeding fifty dollars.

Only one claimant for a homestead for a calendar year shall be entitled to relief under this article.

§11-25-6. Filing date.

No claim for relief shall be paid or allowed unless such claim for relief is actually filed with and in the possession of the state tax commissioner between and including the respective dates of July one and September thirty following the calendar year with respect to which the claim for relief under the provisions of this article is based. Persons not filing claims for relief as provided by this article within the appropriate ninety-day filing period are deemed to have waived all claims for relief for that particular calendar year. A claimant filing a timely claim for relief may submit an amended claim for relief within
two years following the close of the appropriate filing period.

In case of sickness, absence or other disability of the claimant or if, in the state tax commissioner's judgment good cause exists, the state tax commissioner may extend the time for filing a claim for relief for a period not to exceed six months.

§11-25-7. Claim as disbursement from state funds; claim is personal; offset.

Upon the state tax commissioner's determination that a claimant is entitled to relief under the provisions of this article, and after audit and certification of his claim for relief, such relief shall be paid upon a state warrant drawn upon the state treasury from balances retained for general purposes. The right to file a claim for relief under this article is personal to the claimant and shall not survive his death except that the spouse of such decedent shall be entitled to file such claim if decedent had not filed the same. In the event the claimant is incompetent or insane, his claim may be filed by his duly appointed and qualified legal guardian or committee. If a claimant dies after having filed a timely claim for relief under the provisions of this article, and the state tax commissioner determines that such relief or any portion thereof is proper, then such relief or portion thereof shall be paid to such claimant's executor or administrator: Provided, that if an executor or administrator has not been appointed and qualified within a reasonable time after the claimant's death, the state tax commissioner may in his discretion pay such relief to any other person residing in the claimant's homestead if there be such person and if there be no such other person residing in such homestead, the amount of such relief shall escheat to the state. The amount of any claim for relief otherwise payable under this article may be applied by the state tax commissioner against any liability outstanding on the books of the commissioner against the claimant.

§11-25-8. Denial of claim; violation and penalties.

If it is determined that a claim for relief was filed by
a claimant who was the recipient of public funds for the
payment of his real property taxes or rent during the
period for which the claim for relief was filed, or that
such claimant received title to his homestead primarily
for the purpose of receiving relief under this article, or
that a claim for relief was filed with fraudulent intent,
such claim for relief shall be disallowed in full, and, if
any such claim for relief has been paid, the amount paid
may be recovered by assessment in the same manner as
taxes are assessed under article thirteen of this chapter
and the assessment shall bear interest from the date of
payment of the claim for relief, until refunded to the state
tax commissioner, at the rate of one percent per month.
Any claimant willfully and knowingly filing a fraudulent
claim for relief, and any person who assisted in the prep-
station or filing of such fraudulent claim for relief or
supplied information upon which such fraudulent claim
for relief was prepared, with knowledge of such fraudu-
ent intent of the claimant, shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
less than fifty nor more than one hundred dollars, or im-
prisoned in the county jail not more than six months, or
both fined and imprisoned. If it is determined that a
claim for relief is excessive and was through negligence
incorrectly prepared, ten percent of the corrected claim
for relief shall be disallowed, and if the claim for relief
has been paid, the excessive portion of any amount paid
and the ten percent disallowed shall be similarly recov-
ered by assessment in the same manner as taxes are as-
nessed under article thirteen of this chapter and the assess-
ment shall bear interest from the date of payment of
the claim for relief until refunded to the state tax com-
missioner at the rate of one percent per month.


Any claimant aggrieved by the denial in whole or in
part of his claim for relief, except when the denial is
based upon the late filing of a claim for relief, may de-
mand a hearing within thirty days after such denial by
filing with the state tax commissioner a verified petition
for hearing, which petition shall set forth with definite-
ness and particularity the reasons for objecting to such
denial. In every case where a petition is filed, the state
tax commissioner shall assign a time and place for a
hearing upon the same and shall proceed in accordance
with the provisions of article thirteen of this chapter and
all of the applicable provisions of said article thirteen shall
be applicable with like effect as if the petition were a
petition for reassessment as provided in said article thirteen.
In connection with holding any such hearing, the
state tax commissioner shall have all of the relevant
powers and authority set forth in said article thirteen.
An appeal from a final decision of the state tax commis-
sioner made after any such hearing may be taken by the
claimant in accordance with the provisions of said article
thirteen of this chapter, and such appeal shall be pro-
cessed and determined with like effect as if said claimant
were a “taxpayer” as that term is used in said article
thirteen.

§11-25-10. Severability.
If any provision of this article or the application thereof
to any person or circumstance is held unconstitutional or
invalid, such unconstitutionality or invalidity shall not
affect, impair or invalidate other provisions or applica-
tions of the article, and to this end the provisions of this
article are declared to be severable.

§11-25-11. Effective date.
The provisions of this article shall take effect on the
first day of January, one thousand nine hundred seventy-
two.

CHAPTER 125
(Com. Sub. for House Bill No. 1076—By Mr. Seibert)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact sections three, four, seven, nine,
ten and eleven, article seven, chapter twenty-one-a of the
code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article seven by adding thereto a new section, designated section seven-a, all relating to unemployment compensation generally; claims procedure thereunder; the appointment of deputies to hear certain claims; the investigation and hearing procedures for such claims; the initial determination by such deputies; the establishment of appeal tribunals and the hearings and determinations of such appeal tribunals; appeal from the decisions of such tribunals; providing for review by the board of review; and payment of benefits pending such appeal.

Be it enacted by the Legislature of West Virginia:

That sections three, four, seven, nine, ten and eleven, article seven, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article seven be further amended by adding thereto a new section, designated section seven-a, all to read as follows:

ARTICLE 7. CLAIM PROCEDURE.

§21A-7-3. Deputies.

§21A-7-4. Investigation by deputy; notice and hearing before deputy; referral of labor dispute claims for hearing and determination by appeal tribunal; initial determination of other claims by deputy; notice of findings and decisions.

§21A-7-7. Appeal tribunals.

§21A-7-7a. Hearings and determinations by appeal tribunal in labor dispute cases.

§21A-7-9. Appeal from appeal tribunal's decision; finality of decision.

§21A-7-10. Review by board.


§21A-7-3. Deputies.

1 The commissioner shall appoint deputies to investigate all claims, and to hear and initially determine all claims for benefits excepting claims relating to labor disputes or disqualification under subdivision four of section three, article six of this chapter.

§21A-7-4. Investigation by deputy; notice and hearing before deputy; referral of labor dispute claims for hearing and determination by appeal tribunal; initial deter-
mination of other claims by deputy; notice of findings and decision.

(a) A deputy shall promptly investigate all claims.
(b) Upon the filing of any claim for benefits, notice thereof shall promptly be given by the commissioner or his designee to the employer concerned, in writing. The employer shall have a period of four calendar days from the receipt of such notice within which to furnish to the deputy or his local office initial information respecting the claim and the facts and circumstances pertaining to the claimant's unemployment. If, within said four-day period, any party shall request a hearing before the deputy, such hearing shall be held, upon notice to all parties by the commissioner or his designee, either by delivery in person or by registered or certified mail, return receipt requested, within five calendar days of receipt of such request. Such hearing shall be informal in nature, but shall afford the parties reasonable opportunity to present, in person, information relevant to the eligibility and disqualification of the claimant.
(c) If it appears from the deputy's investigation and from all of the information before him, that a claim relates to a labor dispute or to a disqualification under subdivision four of section three, article six of this chapter, the claim shall be transferred to the board for full hearing and initial determination by an appeal tribunal.
(d) If it appears from the deputy's investigation, and from all of the information before him, that a claim does not relate to a labor dispute or to a disqualification under subdivision four of section three, article six of this chapter, the deputy shall determine whether or not such claim is valid, and, if valid, shall determine:
   (1) The week with respect to which benefits will commence;
   (2) The amount of benefit;
   (3) The maximum duration of benefits.
(e) After any finding or determination by a deputy, the deputy shall promptly notify the claimant and the employer of his findings and decision.
§21A-7-7. Appeal tribunals.
1 The board shall determine the manner of hearing cases transferred or appealed from a decision of a deputy.
2 All cases relating to labor disputes or to disqualification under subdivision (4), section three, article six of this chapter, and transferred to an appeal tribunal for initial determination, shall be heard by an appeal tribunal composed either of three examiners assigned by the board, or the board itself, as the board may direct in particular cases or in particular areas. All other appeals from the decision of a deputy shall be heard by an appeal tribunal composed, as the board may direct in particular cases or in particular areas, of a single examiner; a tribunal of three examiners assigned by the board; a member of the board; or the board itself.

§21A-7-7a. Hearings and determinations by appeal tribunal in labor dispute cases.
1 Upon transfer to the board of a case relating to a labor dispute or to a disqualification under subdivision four, section three, article six of this chapter, for hearing and initial determination by an appeal tribunal, the parties shall be entitled to a full and complete hearing and opportunity to present evidence before an appeal tribunal as provided in section seven of this article. Within eight days after the transfer or referral of such a case to the board, the board shall fix the time and place for hearing such case, and notify the claimant, last employer, and the commissioner, ten days in advance of the date set for hearing. All such cases shall be heard and determined as expeditiously as possible and shall be given priority over all other cases. Upon consideration of all evidence the appeal tribunal shall make a decision with respect to all questions fairly raised by the record, within fourteen days after the date of the hearing, and shall notify the claimant, last employer, and the commissioner of its findings and decisions.

§21A-7-9. Appeal from appeal tribunal's decision; finality of decision.
1 A claimant, last employer, or other interested party may file an appeal to the board from the decision of an
appeal tribunal within eight calendar days after notice of the decision has been delivered or mailed to the claimant and last employer. The commissioner shall be deemed an interested party. The decision of the appeal tribunal shall be final unless an appeal is filed within such time.

§21A-7-10. Review by board.

The board may, on its own motion, after notice to the claimant, last employer, and the commissioner, eight days in advance of the date set for hearing, affirm, modify, or reverse and set aside a decision of an appeal tribunal. Any appeal from a decision of an appeal tribunal allowing benefits in a case relating to a labor dispute or to a disqualification under subdivision four, section three, article six of this chapter, shall be heard as expeditiously as possible and given priority over all other cases and shall be decided by the board within ten days after the hearing before the board.


Benefits found payable by decision of a deputy, appeal tribunal, the board or court shall be immediately paid in accordance therewith up to the week in which a subsequent appellate body renders a decision, by order, finding that benefits were not or are not payable. If, at any appeal stage, benefits are found to be payable which were found before such appeal stage to be not payable, the commissioner shall immediately reinstate the payment benefits. If the final decision in any case determines that a claimant was not lawfully entitled to benefits paid to him pursuant to a prior decision, such amount of benefits so paid shall be deemed overpaid. The commissioner shall recover such amount by civil action or in any manner provided in this code for the collection of past due payment and shall withhold, in whole or in part, as determined by the commissioner, any future benefits payable to the individual and credit such amount against the overpayment until it is repaid in full. If the final decision in any case determines that the claimant was not lawfully entitled to the benefits paid to him pursuant to a prior order, any benefits so paid pursuant
22 to such prior order, shall not be chargeable to the em-
23 ployer's account.

CHAPTER 126

(House Bill No. 735—By Mr. Edgar and Mr. Shaffer)

[Passed March 10, 1972; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section five, article one, chapter
nine-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to the payments
to the members of the veterans' council.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter nine-a 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 VETERANS’ AFFAIRS.

§9A-1-5. Compensation of director, deputies, assistants and
employees; payment to veterans’ council members;
traveling expenses; meetings of veterans’ council.

1 The director shall receive a salary of twelve thousand
dollars per annum, payable in monthly installments, and,
in addition, the necessary traveling expenses incident
to the performance of his duties. The salaries of the
deputy directors, assistants and employees shall be fixed
by the veterans’ council. The members of the veterans’
council shall receive no salary, but each member shall
receive twenty-five dollars for each day actually in at-
tendance at a meeting and his actual expenses and travel-
ing expenses incurred in the performance of his duties
under this article. The requisition for such expenses and
traveling expenses shall be accompanied by a sworn and
itemized statement, which shall be filed with the auditor
and permanently preserved as a public record. The
veterans' council shall hold its initial meeting on the call
of the governor, and thereafter shall meet on the call
of its chairman, except as otherwise provided. With the
exception of the first three meetings of the veterans'
council, none of which shall be of a duration longer than
two weeks each, for organizational purposes, the vet-
erans' council shall meet not more than once every two
months at such times as may be determined by and
upon the call of the chairman for a period of not more
than two days, unless there should be an emergency
requiring a special meeting or for a longer period and
so declared and called by the governor or by the chair-
man with the approval of the governor. A majority of
the members of the veterans' council shall constitute a
quorum for the conduct of official business.

CHAPTER 127

(House Bill No. 604—By Mr. Queen and Mr. Fantasia)

[Passed February 23, 1972; in effect July 1, 1972. Approved by the Governor.]

AN ACT to amend and reenact section two, article one; sec-
tions two and four, article four; section ten, article five,
chapter nine of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the defi-
nition of "state assistance," "medical services fund," the
abolition of the special fund known as the "General Relief
Fund of________________________County" with the assumption by
the state of total fiscal responsibility for general relief and
authorizing county courts to make voluntary contributions
to the state department of welfare.

Be it enacted by the Legislature of West Virginia:

That section two, article one; sections two and four, article
four; section ten, article five, chapter 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. Legislative Purpose and Definitions.
 4. State Advisory Board; Medical Services Fund; Advisory Council; General Relief Fund.

ARTICLE 1. LEGISLATIVE PURPOSE AND DEFINITIONS.

§9-1-2. Definitions.

1. The following words and terms when used in this chapter shall have the meaning hereafter ascribed to them unless the context clearly indicates a different meaning:

   (a) The term "department" shall mean the state department of welfare.

   (b) The term "commissioner" shall mean the commissioner of welfare.

   (c) The term "federal-state assistance" shall mean and include (1) all forms of aid, care, assistance and services to or on behalf of persons, which are authorized by, and who are authorized to receive the same under and by virtue of, subchapters one, four, five, ten, fourteen, sixteen, eighteen and nineteen, chapter seven, Title 42, United States Code, as those subchapters have heretofore been and may hereafter be amended, supplemented and revised by acts of Congress, and as those subchapters so amended, supplemented and revised have heretofore been and may hereafter be supplemented by valid rules and regulations promulgated by authorized federal agents and agencies, and as those subchapters so amended, supplemented and revised have heretofore been and may hereafter be supplemented by rules and regulations promulgated by the state department of welfare, which department rules and regulations shall be consistent with federal laws, rules and regulations, but not inconsistent with state law, and (2) all forms of aid, care, assistance and services to persons, which are authorized by, and who are authorized to receive the same under and by virtue of, any act of Congress, other than the federal Social Security Act, as amended, for distribution through the state department of welfare to recipients of any form of aid, care, assistance and services to persons designated or referred to in (1) of this definition and to recipients of state assistance, including by way of illustration, surplus food and
food stamps, which Congress has authorized the secretary of agriculture of the United States to distribute to needy persons.

(d) The term "federal assistance" shall mean and include all forms of aid, care, assistance and services to or on behalf of persons, which are authorized by, and who are authorized to receive the same under and by virtue of, any act of Congress for distribution through the state department of welfare, the cost of which is paid entirely out of federal appropriations.

(e) The term "state assistance" shall mean and include all forms of aid, care, assistance, services and general relief made possible solely out of state, county and private appropriations to or on behalf of indigent persons, which are authorized by, and who are authorized to receive the same under and by virtue of, department rules and regulations.

(f) The term "welfare assistance" shall mean the three classes of assistance administered by the department, namely: Federal-state assistance, federal assistance and state assistance.

(g) The term "indigent person" shall mean any person who is domiciled in this state and who is actually in need as defined by department rules and regulations and has not sufficient income or other resources to provide for such need as determined by the department.

(h) The term "domiciled in this state" shall mean being physically present in West Virginia accompanied by an intention to remain in West Virginia for an indefinite period of time, and to make West Virginia his or her permanent home. The department may by rules and regulations supplement the foregoing definition of the term "domiciled in this state," but not in such a manner as would be inconsistent with federal laws, rules, and regulations applicable to and governing federal-state assistance.

(i) The term "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.

(j) The term "general relief" shall mean cash or its equivalent in services or commodities expended for care and assistance to an indigent person other than for care in a county infirmary, child shelter, or similar institution.

ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND; ADVISORY COUNCIL; GENERAL RELIEF FUND.

§9-4-2. Medical services fund.

§9-4-4. State general relief fund.

§9-4-2. Medical services fund.

The special fund known as the state of West Virginia public assistance medical services fund established by chapter one hundred forty-three, acts of the Legislature, regular session, one thousand nine hundred fifty-three, as amended by chapter two, acts of the Legislature, first extraordinary session, one thousand nine hundred sixty, and chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred sixty-six, shall be continued in accordance with the provisions of this section so long as the same may be required by federal laws, rules and regulations applicable to federal-state assistance and thereafter so long as the commissioner shall deem such fund to be otherwise necessary or desirable, and henceforth such special fund shall be known as the department of welfare medical services fund, hereinafter referred to as the fund.

The fund shall consist of payments made into the fund out of state appropriations for medical services to recipients of specified classes of welfare assistance and such federal grants-in-aid as are made available for specified classes of welfare assistance. 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 commissioner by means of a warrant signed by the auditor and treasurer.
Recipients of those classes of welfare assistance as are specified by the department, consistent with applicable federal laws, rules and regulations, shall be entitled to have costs of necessary medical services paid out of the fund, in the manner and amounts, to the extent, and for the period determined from time to time to be feasible by the commissioner pursuant to rules, regulations and standards established by him. Such rules, regulations and standards shall comply with requirements of applicable federal laws, rules and regulations and 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 factor considered relevant and proper by the commissioner.

§9-4-4. State general relief fund.

The special fund known as the "General Relief Fund of County," established by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, shall be abolished as of June thirty, one thousand nine hundred seventy-two.

The state general relief fund, established by chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six, shall be continued and the fiscal responsibility for said fund shall be the responsibility of the state on and after July one, one thousand nine hundred seventy-two as provided by this section and rules and regulations promulgated by the commissioner.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-10. Continuation of present aid; contributions by counties.

Except as otherwise provided in this chapter, aid or assistance rendered under existing law shall not be deemed to be discontinued.
County courts may contribute in-kind services or money into a special fund of the state department of welfare to expand the general welfare programs for citizens of its county. No part of this fund shall revert to the general revenue of the state.

CHAPTER 128
(Senate Bill No. 399—By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the Governor.]

AN ACT to amend and reenact section five, article two, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to responsibility and powers of the department of welfare; providing that each department, agency, commission or board of state government shall make available to the department of welfare such information and data as each such department, agency, commission or board may collect about any applicant for or recipient of any type of federal or state assistance upon such terms as may be prescribed by the governor; and specifying the use to be made of such information or data.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter nine 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 WELFARE AND OFFICE OF COMMISSIONER OF WELFARE; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.

§9-2-5. Responsibility and powers of department; information and data to be supplied by other agencies.

The department is charged with the responsibility of administering for the state the welfare assistance programs, for which responsibility it shall have (1) all powers, not inconsistent with state law, as may be necessary for this state to obtain maximum federal funds made
available for federal-state assistance within whatever
limits or restrictions may be imposed by, or may exist
by reason of the amount of state funds appropriated for
such assistance under, the state's budget act and supple-
mental appropriation acts and (2) all powers, not in-
consistent with state law, as may be necessary for the
disbursement and distribution of welfare assistance to
those persons qualified therefor in as prompt, fair, orderly,
efficient and economical manner as possible.

Notwithstanding any other provision of this code to the
contrary, each department, agency, commission or board
of state government shall make available to the depart-
ment of welfare such information and data as each such
department, agency, commission or board may collect
about any applicant for or recipient of any type of federal
or state assistance upon such terms as may be prescribed
by the governor, if such information and data would be
relevant in determining whether such applicant or
recipient is qualified or eligible for any such assistance,
and after such information and data have been obtained
by the department of welfare, the same shall be used only
by such department of welfare in carrying out and dis-
charging its powers, duties and responsibilities.

CHAPTER 129

(Senate Bill No. 401—By Mr. McCourt, Mr. President,
and Mr. Hubbard)

[Passed March 11, 1972; in effect ninety days from passage. Approved by the
Governor.]

AN ACT to amend and reenact section four, article five,
chapter nine of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to criminal
offenses for obtaining or attempting to obtain or aiding
or abetting another in obtaining or attempting to obtain
welfare assistance by a willfully false statement or mis-
representation or by impersonation or any other fraudulent
device; and providing criminal penalties therefor.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-4. Penalties for false statements, etc.

1 Any person who obtains or attempts to obtain, or aids or abets an applicant or recipient in obtaining or attempting to obtain, by means of a willfully false statement or misrepresentation or by impersonation of any other fraudulent device:

2 (1) Any class of welfare assistance to which the applicant or recipient is not entitled; or

3 (2) Any class of welfare assistance in excess of that to which the applicant or recipient is justly entitled; shall upon conviction be punished as follows:

4 (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained shall be five hundred dollars or less, the person so convicted shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars or confined in jail not exceeding one year; or

5 (b) If the aggregate value of all funds or other benefits obtained or attempted to be obtained shall exceed five hundred dollars, the person so convicted shall be guilty of a felony and shall be fined not more than five thousand dollars or confined in the penitentiary not less than one year nor more than five years.

CHAPTER 130

(House Bill No. 839—By Mr. Perry and Mr. Cookman)

(Passed March 10, 1972; in effect ninety days from passage. Approved by the Governor.)

AN ACT to amend and reenact sections ten and fifteen-a, article four, chapter twenty-three of the code of West Virginia,
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-10. Classification of death benefits; “dependent” defined.
§23-4-15a. Nonresident alien beneficiaries.

§23-4-10. Classification of death benefits; “dependent” defined.

1. In case a personal injury other than occupational pneumoconiosis or other occupational disease, suffered by an employee in the course of and resulting from his employment, causes death within the period of ten years and disability is continuous from date of such injury until date of death, or if death results from occupational pneumoconiosis or from any other occupational disease within ten years from the date of the last exposure to the hazards of occupational pneumoconiosis or to the other particular occupational hazard involved, as the case may be, the benefits shall be in the amounts and to the persons as follows:

(a) If there be no dependents, the disbursements shall be limited to the expense provided for in sections three and four of this article.

(b) If the deceased employee leaves a dependent widow or invalid widower, the payment shall be one hundred sixty dollars a month until death or remarriage of such widow or widower, and in addition fifty dollars a month for each child under eighteen years of age, to be paid until such child reaches such age, or where such child after reaching eighteen years of age continues as a full-time student in an accredited high school, college, university, business or trade school, to be paid until such child reaches the age of twenty-two years, or if an invalid child, fifty dollars a month, to continue as long as such child remains an invalid to be increased to one hun-
dred sixty dollars per month upon the death of the surviving dependent parent: \textit{Provided,} That if such widow or invalid widower shall remarry within ten years from the date of the death of such employee, such widow or widower shall be paid at the time of remarriage twenty percent of the amount that would be due for the period remaining between the date of such remarriage and the end of ten years from the date of death of such employee, and such widow or widower shall be advised in writing by the commissioner of his or her rights under this proviso at the time of making the original award: \textit{Provided, however,} That if upon investigation and hearing, as provided in article five of this chapter, it shall be ascertained that such widow or widower is living with a man or woman, as the case may be, as man and wife and not married, or that the widow is living a life of prostitution, the commissioner shall stop payment of the benefits herein provided to such widow or widower.

If the deceased employee be a widow or widower and leaves a child or children under the age of eighteen years, the payments shall be one hundred dollars a month to each child until he or she reaches the age of eighteen years, or where such child after reaching eighteen years of age continues as a full-time student in an accredited high school, college, university, business or trade school to be paid until such child reaches the age of twenty-two years.

In all awards of compensation to children, unless otherwise provided herein, the award shall be until they reach the age of eighteen years or until their death prior thereto.

(c) If the deceased employee leaves no dependent widow or widower and leaves a wholly dependent father or mother, he or she shall be paid the sum of eighty dollars a month, payments to continue until death, and if there be no widow or widower and both the father and mother are wholly dependent, then a joint award shall be made to the father and mother in the sum of eighty dollars a month until death.

Upon the death of either the father or mother in any case in which a joint award has been made to them, the
full award of eighty dollars a month shall be paid to the survivor until his or her death.

(d) If the deceased employee leaves no dependent widow or widower or wholly dependent father or mother but there are other wholly dependent persons, as defined in subdivision (f) of this section, the payment shall be sixty-five dollars a month, to continue for six years after the death of the deceased, except as otherwise provided herein.

(e) If the deceased employee leaves no dependent widow, child under eighteen years of age, or wholly dependent person, but there are partially dependent persons at the time of death, the payment shall be thirty-five dollars a month, to continue for such portion of the period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b), (c), (d) and (e) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(f) Dependent, as used in this chapter, shall mean a widow, invalid widower, child under eighteen years of age, or under twenty-two years of age when a full-time student as provided herein, invalid child or posthumous child, who, at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee, stepchild under eighteen years of age, or under twenty-two years of age when a full-time student as provided herein, child under eighteen years of age legally adopted prior to the injury causing death, or under twenty-two years of age when a full-time student as provided herein, father, mother, grandfather or grandmother, who at the time of the injury causing death, is dependent in whole or in part for his or her support upon the earnings of the employee; and invalid brother or sister wholly dependent for his or her support upon the earnings of the employee at the time of the injury causing death.
§23-4-15a. Nonresident alien beneficiaries.

1. Notwithstanding any other provisions of this chapter, nonresident alien beneficiaries shall be entitled to the same benefits as citizens of the United States: *Provided, however,* That the commissioner in his discretion may make, and such beneficiary shall be required to accept, commutation of such benefits into a lump sum settlement and payment. Nonresident alien beneficiaries within the meaning hereof shall mean persons not citizens of the United States residing outside of the territorial limits of the United States at the time of the injury with respect to which benefits are awarded.

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CHAPTER 131

(House Bill No. 835—By Mr. Griffith and Mr. Wilson)

[Passed February 18, 1972; in effect from passage. Approved by the Governor.]

AN ACT to authorize the expenditure of surplus funds by the Hancock county court for prepayment to the city of New Cumberland for water and sewage services.

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

HANCOCK COUNTY.

§1. County court authorized to advance funds to the city of New Cumberland for additions to water system of said city.

1. The county court of Hancock county, is hereby authorized and empowered to advance any unexpended sums and surpluses in the general fund or in any special fund, but not to exceed eight thousand dollars, to the city of New Cumberland for the purpose of implementing and facilitating additions to the water system of the city of New Cumberland: *Provided,* That the city of New Cumberland, in consideration for such advancement, shall agree in writing to provide water and sewage services, to the Hancock county court for use by county court
operated facilities, equivalent in value to the amount of such advanced funds.

CHAPTER 132

(House Bill No. 746—By Mr. White, of Cabell)

[Passed March 11, 1972; in effect from passage. Approved by the Governor.]

AN ACT to amend and reenact section twelve, chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-five (municipal charters), relating to the board of park commissioners of the city of Huntington and the location of its meetings.

Be it enacted by the Legislature of West Virginia:

That section twelve, chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-five (municipal charters), be amended and reenacted to read as follows:

HUNTINGTON PARK COMMISSION.

§12. Title to property; meetings.

1 Upon the passage of this act, the title to all parks, parkways, playgrounds, athletic fields, cemeteries and boulevards which is vested in the city of Huntington, but under the provision of this act, pass to the jurisdiction of the board of park commissioners, shall be vested in the board of park commissioners of the said city and held as herein set out: Provided, That there may be no confusion of the streets which are parts of the park boulevard systems, and what are boulevards. The board of commissioners of the city of Huntington shall, within four weeks after the passage of this act, adopt an ordinance setting out what parks, parkways, playgrounds, athletic fields, cemeteries, boulevards and streets, which are part of the boulevard system are embraced in said system, and upon the passage of said
ordinance, the jurisdiction of all parks, parkways, play-
grounds, cemeteries, athletic fields, boulevards and streets
mentioned therein shall pass to the control of the board
of park commissioners.

The board of park commissioners shall have and main-
tain its offices in the city hall of the said city of Hunting-
ton.

The board shall have the power to designate, by ma-
ajority vote, the place of its meetings, but, unless some
other location is so designated, its meetings shall be
held at its offices and all such meetings shall be open to
the public.

CHAPTER 133

(House Bill No. 926—By Mr. Perry)

[Passed February 26, 1972; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of Jefferson county to
transfer and convey a 48.5104 acre tract of county owned
land to the Jefferson County Volunteer Fireman’s Associa-
tion, Inc., reserving certain reversionary rights.

Be it enacted by the Legislature of West Virginia:

JEFFERSON COUNTY.

§1. County court authorized to convey land to Jefferson
County Fireman’s Association, Inc.

The Legislature hereby recognizes that innovative train-
ing methods and adequate training areas are necessary
for the proper education and training of fire and police
personnel in order to provide for the protection and safety
of the public. Accordingly, the Legislature hereby finds
and declares that transfers of any property, real or per-
sonal, made by county courts to any person, organization
or corporation for the furtherance of such training pro-
motes the general safety and welfare of the public and,
therefore, is a public purpose.
The county court of Jefferson county is hereby authorized and empowered to transfer and convey into the Jefferson County Fireman's Association, Inc., all that certain parcel of land situated within the Middleway magisterial district of Jefferson county, West Virginia, east of Leetown on the north side of West Virginia State Secondary Route 15, approximately 1720 feet west of the intersection of West Virginia State Secondary Route 15 with West Virginia State Secondary Route 8.

More particularly described in accordance with the "Plat Showing Jefferson County Farm Release Parcel," dated the first day of December, one thousand nine hundred seventy-one, prepared under the direction of John Stroud Kusner, Jefferson county surveyor of lands, and of record at the office of the clerk of Jefferson county, Plat Book 2, Page 273.

All bearings refer to a meridian scaled from U. S. Geological Survey Map of Middleway Quadrangle, 7.5 minute series, N 3915-W7752.5/7.5, 1955. All distances are expressed in feet and decimal parts.

Beginning at Corner 1, a point on the center line of West Virginia State Secondary Route 15 approximately 1720 feet NW of the intersection of said Route 15 with West Virginia State Secondary Route 8, N 59° 25' 00" W 510.35 feet along the center line of said Route 15 to Corner 2, a point on the center line; thence crossing the north margin of Route 15 N 21° 00' 10" E 17.0 feet to a corner fence post found, continuing 1369.44 feet along a fenced line of division with the residue of the Jefferson county farm to a fence post found at Corner 3, a total distance of 1386.44 feet; thence N 73° 05' 39" W 41.85 feet on a fenced line of division with said county farm to an iron pin set at Corner 4; thence N 22° 35' 39" E 15.24 feet across the entrance of a lane on said county farm, continuing 1108.02 feet, a total of 1123.26 feet to a deflection fence post found at Corner 5; thence N 28° 22' 36" E 736.57 feet on a fenced line of division with said county farm to a fence post found at Corner 6; thence S 49° 51' 32" E 770.99 feet on a fenced line of division with the lands of Z. T. Fleming, Deed Book 122, Page 286, to a fence post found at Corner 7; thence S 26° 45' 17"
CHAPTER 134

(House Bill No. 1153—By Mr. Harman)

[Passed March 6, 1972; in effect from passage. Approved by the Governor.]

AN ACT to authorize the county court of Mineral county to enter into intergovernmental agreements with Allegany county, Maryland, the city of Cumberland, Maryland or the state of Maryland pertaining to the operation of the Cumberland municipal airport situated in Mineral county, West Virginia.

Be it enacted by the Legislature of West Virginia:

MINERAL COUNTY.

§1. County court authorized and empowered to enter into intergovernmental agreements with Allegany county, city of Cumberland; and state of Maryland regarding the Cumberland municipal airport.

The county court of Mineral county is hereby authorized and empowered to enter into intergovernmental agreements with Allegany county, Maryland, the city of
Cumberland, Maryland, or the state of Maryland regarding the operation and use of the Cumberland municipal airport, situated in Mineral county, West Virginia. Said agreements shall be reciprocal in nature and may include but shall not be limited to conditions governing the operation, use, maintenance of said airport facilities, taxation of aircraft owned by Maryland residents and user fees.

CHAPTER 135
(House Bill No. 699—By Mr. Steptoe and Mr. Terry)

[Passed February 15, 1972; in effect from passage. Approved by the Governor.]

AN ACT to authorize the purchase and financing of certain real estate in the town of Bath (Berkeley Springs) for public county office purposes by the county court of Morgan county.

Be it enacted by the Legislature of West Virginia:

MORGAN COUNTY.

§1. Authorized to purchase certain real property for use by the county.

The county court of Morgan county is hereby authorized to make provisions in its budget and to expend county funds to purchase that certain lot, improved by a two story building, known as the Miller property, adjoining its courthouse property on the east, situate on the north side of Fairfax street in the town of Bath (Berkeley Springs) for the sum of ten thousand dollars, said real estate to be used for public purposes and housing county government operations. The county court of Morgan county is further authorized to finance the purchase of said real estate, not to exceed the principal amount of ten thousand dollars, payable over a period not to exceed ten years.
RESOLUTIONS

COMMITTEE SUBSTITUTE

FOR

HOUSE CONCURRENT RESOLUTION NO. 56

(By Mr. Cookman)

[Adopted March 7, 1972]

Designating the apple as the official fruit of the State of West Virginia.

WHEREAS, The apple has played a significant role in the economy of the State of West Virginia since the earliest days of the State, and continues to represent an important segment of the State's agrarian production; and

WHEREAS, The State of West Virginia has been the scene of events of historical significance in the evolution and development of the apple industry, including the discoveries of the Golden Delicious variety of apple in Clay County, the Grimes Golden variety of apple in Brooke County and the establishment by the Legislature of the first Demonstration Community Packing School in the United States at Inwood in Berkeley County in 1917; and

WHEREAS, The scenic apple orchards on our highlands, and the richness and beauty of our apple crops are symbolic of the good and full life which West Virginians enjoy; and

WHEREAS, The State of West Virginia has never designated an official State fruit; therefore, be it

Resolved by the Legislature of West Virginia:

That the apple is hereby recognized and hereafter shall be recognized and designated as the official fruit of the State of West Virginia.
SENATE CONCURRENT RESOLUTION NO. 9
(By Mr. McCourt, Mr. President)

[Adopted March 11, 1972]

Creating a Corporation Law Study Committee to conduct a comprehensive interim study on West Virginia's corporation laws and to provide for overall recodification thereof.

WHEREAS, Overall recodification of West Virginia's corporation laws will serve the best interests of the public at large and those organizations and individuals who are directly affected; and

WHEREAS, The statutory procedures under which corporations must function would be improved immeasurably by an overall recodification of corporation laws; and

WHEREAS, Specific areas of corporation laws, such as dissolution, and merger, liability of a corporation for acts of its officers and agents, doing business with foreign corporations and multiplicity of fees and charges, present problems which clearly demonstrate the need for overall recodification; and

WHEREAS, The Legislature should continue its own good example, the recent recodification of municipal laws, by improving another area of major importance in the West Virginia Code, corporation laws; therefore, be it

Resolved by the Legislature of West Virginia:

That a special interim legislative committee to be known as the "Corporation Law Study Committee" is hereby created to conduct a comprehensive and detailed interim study to recodify West Virginia's corporation laws, and shall submit its report, findings and recommendations to the Legislature at its regular session, one thousand nine hundred seventy-three. It shall consist of two members of opposite political parties from each House of the Legislature, to be appointed from their respective Houses by the President of the Senate and the Speaker of the House of Delegates, and six private citizens who are attorneys from outside the Legislature, three of whom are to be appointed by the President and three by the Speaker; and, be it

Further Resolved, That citizen members of the Committee shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties; and, be it
Further Resolved, That the Committee may employ and fix the compensation of such knowledgeable consultants and technical assistants as it considers necessary, and may, with the concurrence of the Joint Committee on Government and Finance, be provided professional and clerical assistance from the staff of that committee; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft proposed legislation be approved in advance by the Joint Committee on Government and Finance, and be paid from legislative appropriations to the Joint Committee on Government and Finance.

Authorizing and Continuing Studies by the Joint Committee on Government and Finance

(Since these resolutions take the same general form, they are listed herein by subject only. They may be found in the House and Senate Journals of the session, and are indexed under tabular indices of House and Senate Concurrent Resolutions.)

House Concurrent


15. Problems Relating to the Aged.


25. Financial Support of Public Schools.

33. Modification of Mortality Tables in the Code.

34. Revision of Criminal Laws.

68. No-fault Insurance.


74. Methods of Accounting for County Funds and the Use of Such Funds.

Senate Concurrent

18. Revenue Structure for Financing Local Governmental Functions.

35. Utilization of Staff Members and Facilities at Pinecrest Hospital.

HOUSE JOINT RESOLUTION NO. 18
(By Mr. Speaker, Mr. McManus)
[Adopted March 11, 1972]

Proposing an amendment to the Constitution of the State, amending article ten thereof by adding thereto a new section, designated section six-a, authorizing the Legislature to appropriate state funds for use in matching or maximizing grants-in-aid for public purposes to any county, municipality or other political subdivision of the State and to impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the State for public purposes, all to be under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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 be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred seventy-two, which proposed amendment is that article ten thereof be amended by adding thereto a new section, designated section six-a, to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§6a. Appropriations and taxation for the benefit of counties, municipalities or other political subdivisions of the State.

Notwithstanding the provisions of section six of this article, (1) the Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from
the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the State, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law, and (2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the State for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the State under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, such proposed amendment is hereby numbered "Amendment No. 5" and designated as the "Federal Grants and County and Municipal Aid Amendment," and the purpose of the proposed amendment is summarized as follows: "To amend the State Constitution to permit the Legislature to appropriate state funds for use in matching or maximizing grants-in-aid from the Federal Government or others to any county, municipality or other political subdivision of the State and to impose or dedicate a state tax or taxes for the aid of counties, municipalities or other political subdivisions of the State."

SENATE JOINT RESOLUTION NO. 4
(By Mr. McCourt, Mr. President, and Mr. Hubbard)

[Adopted March 9, 1972]

Proposing an amendment to the Constitution of the State of West Virginia, authorizing the issuing and selling of additional state bonds in an amount not exceeding two hundred million dollars and the distribution of the pro-
ceeds thereof to county boards of education for the con-
struction, renovation or remodeling of elementary or
secondary public school buildings or facilities, the equip-
ning of the same in connection with any such construction,
renovation or remodeling and the acquisition and pre-
paration of sites for elementary or secondary public school
buildings or facilities; numbering and designating such
proposed amendment; and providing a summarized state-
ment of the purpose of such proposed amendment.

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 amend-
ment to the Constitution of the State of West Virginia shall be
submitted to the voters of the State at the general election to
be held in the year one thousand nine hundred seventy-two,
which proposed amendment is as follows:

The Legislature shall have power to authorize the issuing
and selling of state bonds, not exceeding in the aggregate two
hundred million dollars, which shall be addition to all other
state bonds heretofore authorized. The proceeds of the bonds
hereby authorized to be issued and sold shall, notwithstanding
the provisions of section six, article ten of this Constitution or
any other provision of this Constitution to the contrary, be
distributed to such county boards of education as qualify there-
for by meeting such conditions, qualifications and require-
ments as shall be prescribed by general law and used and ap-
propriated by such county boards of education solely for the
construction, renovation or remodeling of elementary or
secondary public school buildings or facilities, the equipping of
the same in connection with any such construction, renovation
or remodeling and the acquisition and preparation of sites for
elementary or secondary public school buildings or facilities.
Such bonds may be issued and sold at such time or times and
in such amount or amounts as the Legislature shall authorize.
When a bond issue as aforesaid is authorized, the Legislature
shall at the same time provide for the collection of an annual
state tax sufficient to pay as it may accrue the interest on such
bonds and the principal thereof within and not exceeding
thirty-four years, and all such taxes so levied shall be irrevoca-
bly dedicated for the payment of principal of and interest on such bonds until such principal of and interest on such bonds are finally paid and discharged, and any of the covenants, agreements or provisions in the acts of the Legislature levying such taxes shall be enforceable in any court of competent jurisdiction by any of the holders of the bonds.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, such proposed amendment is hereby numbered "Amendment No. 3" and designated as the "Better School Buildings Amendment," and the purpose of the proposed amendment is summarized as follows: "To authorize the Legislature to issue and sell state bonds in an amount not exceeding two hundred million dollars for distribution to county boards of education for use by such boards for the construction, renovation, remodeling and equipping of elementary and secondary school buildings and facilities and for acquisition and preparation of sites therefor."

SENATE JOINT RESOLUTION NO. 11
(By Mr. McCourt, Mr. President)

[Adopted March 9, 1972]

Proposing an amendment to the Constitution of the State, amending section one-a, article ten thereof, extending the ad valorem property taxation exemption from bank deposits and money so as to include household goods and personal effects if such household goods and personal effects are not held or used for profit; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

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 be
submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred seventy-two, which proposed amendment is that section one-a, article ten thereof be amended to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§1a. Bank deposits, money, and household goods and personal effects exempt from ad valorem property taxation.

Notwithstanding the provisions of the preceding section, bank deposits, money, and household goods and personal effects if such household goods and personal effects are not held or used for profit, shall be exempt from ad valorem property taxation.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, such proposed amendment is hereby numbered “Amendment No. 2” and designated as the “Removing Tax on Household Goods and Personal Effects Amendment,” and the purpose of the proposed amendment is summarized as follows: “To remove the personal property tax on household goods and personal effects.”
ACTS OF 1971

SECOND EXTRAORDINARY SESSION
(October 26-November 4, 1971)

CHAPTER 1
(Com. Sub. for House Bill No. 2—Originating in the House Committee on the Judiciary)

[Passed November 3, 1971; in effect from passage. Approved by the Governor, November 16, 1971.]

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 twenty-nine-a, authorizing the county court of a county to create an airport authority and relating to the membership and purposes of the authority; the appointment and removal of members of the authority; the acquisition by the authority of real estate and personal property; the acquisition, construction, improvement, maintenance and operation of a public airport, including the development of an industrial park and a waterworks or sewer system, or a combined waterworks and sewer system; corporate existence of the authority; the issuance of revenue bonds, debentures, notes and securities, and the giving of security for the payment thereof; the authority to exercise the power of eminent domain; tax exemption for the property, funds and obligations of the authority; acquisition by the authority of any
present county airport and the improvement and operation thereof; authorization to lease the airport; contributions to the funds of the authority by the county court and others; keeping of the funds and accounts of the authority; disposition of any surplus funds; making full-time employees of the authority public employees; dissolution of the authority; and a rule of construction.

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 twenty-nine-a, to read as follows:

ARTICLE 29A. COUNTY AIRPORT AUTHORITIES.

§8-29A-1. County airport authorities authorized as public agencies.
§8-29A-2. Authorities authorized and empowered to acquire, operate, etc., airports; facilities may include industrial parks, water and sewerage systems.
§8-29A-3. Management of authority vested in members; appointment and terms of members.
§8-29A-4. Removal of members; hearing.
§8-29A-5. Substitution of members.
§8-29A-6. Qualifications of members.
§8-29A-7. Members to be paid expenses; members not to be personally interested in contracts or property controlled by board.
§8-29A-8. Authority to be a public corporation.
§8-29A-10. Authorities may incur indebtedness; county not liable for indebtedness.
§8-29A-12. Acquisition of lands, buildings, etc.; right of eminent domain.
§8-29A-13. Property, bonds and obligations of authority exempt from taxation.
§8-29A-14. County court authorized to convey present airport properties and facilities to the authority.
§8-29A-15. Authority may lease airport and facilities.
§8-29A-17. Duty of county assessor; appraisal of industrial park property; contribution in lieu of taxes.
§8-29A-18. Contributions to authority by county court and others; funds and accounts of authority; reports; publication of annual report; audit.
§8-29A-19. Full-time employees of authority to be public employees.
§8-29A-20. Procedure for dissolution of authority; publication of notice; recordation of certificate of dissolution.
§8-29A-21. Purpose of article; liberal construction; article cumulative.
§8-29A-1. County airport authorities authorized as public agencies.

1 The county court of a county is hereby authorized to create and establish as a public agency a county airport authority to be known as the "__________ County Airport Authority" for the purposes and in the manner hereinafter set forth.

§8-29A-2. Authorities authorized and empowered to acquire, operate, etc., airports; facilities may include industrial parks, water and sewerage systems.

1 The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport within the county, with all usual and convenient appurtenances and facilities pertaining thereto, including, but not limited to, an industrial park and a waterworks or sewerage system or a combined waterworks and sewerage system, and said airport shall be for the convenience and accommodation of the inhabitants of the county and the public generally.

§8-29A-3. Management of authority vested in members; appointment and terms of members.

1 The management and control of the 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 provided, shall not serve for a term as member of the authority which is longer than his term of office as a member of the county court.

18 All members shall be appointed by the county court: Provided, however, That one member of the authority shall
be a member of the county court: Provided further, That of the remaining four members of the authority no more than two shall be members of the same political party.

§8-29A-4. Removal of members; hearing.

1 The county court shall have the power to remove any member of the authority for consistent violations of any provisions of this article, for reasonable cause which shall include but not be limited to a continued failure to attend meetings of the authority, failure to diligently pursue the objectives for which the authority was created or failure to perform any other duty prescribed by law, or for any misconduct in office: Provided, That if the county court desires to remove a member of the authority it shall notify said member in writing, stating the reasons for the county court 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 desires, may request a hearing before the county court, and any such hearing shall be held within ten days of the member's request for said hearing.

§8-29A-5. Substitution of members.

1 If any member of the authority shall die, resign or be removed, or for any other reason cease to be a member of the authority, the county court shall within thirty days appoint another person to fill the unexpired portion of the term of such member.

§8-29A-6. Qualifications of members.

1 All members of the board of the authority shall be citizens of West Virginia and residents of the county.

§8-29A-7. Members to be paid expenses; members not to be personally interested in contracts or property controlled by board.

1 The members of said board shall receive no compensation for their services but they shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties as members of said board. They shall not be personally interested, directly or indirectly, in any contract entered
into by said board, or hold any remunerative position in connection with the establishment, construction, improvement, extension, development, maintenance or operation of any of the property under their control as members of said board.

§8-29A-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 "____________________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.


A county airport authority is hereby given power and authority as follows:

(1) To make and adopt all necessary bylaws, 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, 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, including the development of an industrial park in the same general area;

(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, revenue 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 airport properties and facilities in connection with the issuance of bonds;

(9) To raise funds by the issuance and sale of revenue bonds or refunding bonds in the manner provided by the applicable provisions of article sixteen of this chapter, it being hereby expressly provided that, for that purpose, a county airport authority shall be treated as a municipality or board as those terms are used in said article sixteen;

(10) To acquire, construct, establish, equip, maintain and operate, within a reasonable distance of the airport, a waterworks, a sewerage system or a combined waterworks and sewerage system for its own use and for the use of any person, and to finance the same by the issuance of revenue bonds as provided in this article: Provided, however, That no existing waterworks or sewage system, or any part thereof, may be acquired without the prior consent and approval of the public service commission;

(11) To establish, charge and collect reasonable fees and charges for services or for the use of any part of its property or facilities, or for both services and such use;

(12) To expend its funds in the execution of the powers and authority herein given.

§8-29A-10. Authorities may incur indebtedness; county not liable for indebtedness.

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 bodies shall apply to indebtedness of the authority. No indebtedness of any nature of the authority
shall constitute an indebtedness of the county court, nor of the county, or a charge against any property of the county. No obligation incurred by the authority shall give any right against any member of the county court 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.


The authority may, in connection with obtaining funds for its purposes, enter into any agreement with any person, including the federal or state government, or any agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the authority may deem advisable.

§8-29A-12. Acquisition of lands, buildings, etc.; 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 the authority may exercise the power of eminent domain in the manner provided for condemnation proceedings in chapter fifty-four of this code, and such purposes are hereby declared to be public uses for which private property may be taken or damaged: Provided, That such right of eminent domain shall not apply to the development of an industrial park.

§8-29A-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 any municipalities or to any officer or employee of the state or of any subdivision thereof or of any municipalities. 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 de-
§8-29A-14. County court authorized to convey present airport properties and facilities to the authority.

Notwithstanding any other provision of law to the contrary, the county court of a county is hereby authorized to convey to the authority, the present airport property owned by the county, if any, situate in the county, together with all the appurtenances and facilities therewith, such conveyance to be without consideration or for such price and upon such terms and conditions as the county court shall deem proper.

§8-29A-15. Authority may lease airport and facilities.

Each authority may lease its airport and all or any part of the appurtenances and facilities therewith to any available lessee, subject to all constitutional and statutory limitations with respect thereto, at such rental and upon such terms and conditions as the authority shall deem proper. Such leases shall be for some purpose associated with airport activities, and shall be subordinate to any mortgage or deed of trust executed by the 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, to be used by the county court for general county purposes.
§8-29A-17. Duty of county assessor; appraisal of industrial park property; contribution in lieu of taxes.

It shall be the duty of the county assessor on the first day of July of each year to ascertain what portion of the real and personal property of the authority, if any, is devoted to use as an industrial park and to appraise such property as if taxable. The assessor shall likewise determine the tax which would be levied upon such property if it were taxable. On the first day of August of the year following such determination and the first day of February thereafter, the authority shall pay unto the sheriff of the county a sum of money equal to that which would have been due if the property were taxable, which sums shall be distributed by the sheriff as if such sums were tax receipts.

§8-29A-18. Contributions to authority by county court and others; funds and accounts of authority; reports; publication of annual report; audit.

Contributions may be made to the authority from time to time by the county court and by any persons 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 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 as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. 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.

§8-29A-19. Full-time employees of authority to be public employees.

Any person who serves regularly as an employee, full time, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable in whole or in part by the authority, shall be deemed to be a public employee and shall be subject to any and all applicable provisions of law relating thereto, including but not limited to the workmen's compensation act and the West Virginia public employees insurance act.

§8-29A-20. Procedure for dissolution of authority; publication of notice; recordation of certificate of dissolution.

The authority may at any time pay off and discharge in full all of its indebtedness, obligations and liabilities, convey the airport properties, appurtenances and facilities to the county court and be dissolved. Before making such conveyance of its properties, the authority shall give notice of its intention to do so and of its intention to be dissolved, and said notice shall be published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Affidavits from the publishers of the newspapers showing such publication shall be filed with the county court before the deed conveying said properties is delivered. Any funds remaining in the hands of the authority at the time of the conveyance of said properties shall be by the authority paid over to the county court 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 conveyance of its properties, and the paying over to the county court 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 and thereupon its dissolution shall be complete.
§8-29A-21. Purpose of article; liberal construction; article cumulative.

1 It is the purpose of this article to provide for the acquisition, construction, improvement, extension, maintenance and operation of a public airport and related facilities in a prudent and economical manner, and this article shall be liberally construed as giving to the authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this article are in addition to and not in derogation of any power existing in the county court of a county under any constitutional or statutory provisions which it may now have, or may hereafter acquire.

CHAPTER 2

(House Bill No. 4—By Mr. Speaker, Mr. McManus and Mr. Seibert)

[Passed October 28, 1971; in effect from passage. Approved by the Governor, November 5, 1971.]

AN ACT making a supplementary appropriation of public money out of the treasury for replacement of boilers and other equipment at Huntington State Hospital.

WHEREAS, By Executive Message No. 16, dated March fifteen, one thousand nine hundred seventy-one, the governor transmitted to the Legislature a revised statement of the state fund, general revenue, for fiscal year 1970-71, revised as of March fifteen, one thousand nine hundred seventy-one, in which it is stated that the estimated revenue in the state fund, general revenue, for fiscal year 1970-71, will be $302,458,234.00; and

WHEREAS, As of the 30th day of July, 1971, there exists in the treasury the sum of $10,608,854.23 which is unappropriated, unencumbered and is surplus revenue in excess of the governor's stated amount of estimated revenue set forth above, a part of which surplus revenue is hereby appropriated for expenditure in the fiscal year 1971-72, pursuant to the terms of this supplementary appropriation bill.
Be it enacted by the Legislature of West Virginia:

That Account No. 422, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the Budget Bill, be supplemented by adding thereto the following sum and a new line item as follows:

55—Huntington State Hospital

Acct. No. 422

6 Boiler Plant—Replacement of existing boilers and other equipment $420,000.00

8 Total supplementary appropriation $420,000.00

9 Any unexpended balance remaining in this appropriation at the close of the fiscal year 1971-72 is here reappropriated for expenditure during the fiscal year 1972-73.

CHAPTER 3

(House Bill No. 5—By Mr. Speaker, Mr. McManus and Mr. Seibert)

[Passed October 28, 1971; in effect from passage. Approved by the Governor, November 5, 1971.]

AN ACT to authorize the West Virginia labor-management relations board to expend the amount of thirty-eight thousand dollars during the fiscal year 1971-72, said amount having heretofore been appropriated to the bureau of labor and department of weights and measures, Account No. 450, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the “Budget Bill.”

WHEREAS, By the enactment of chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-one, the Legislature created the West Virginia labor-management relations board and set forth the various duties and responsibilities of said board; and

WHEREAS, The Legislature appropriated by line item “W. Va. Labor-Management Relations Board $38,000.00” to the bureau of labor and department of weights and measures, Account No. 450, chapter six, acts of the Legislature, regular ses-
sion, one thousand nine hundred seventy-one, known as the "Budget Bill."; and

WHEREAS, To implement and effectuate the mandate of the Legislature, it is necessary to give the said board the sole authority to expend said sum of thirty-eight thousand dollars pursuant to the provisions of said chapter eighty-two; therefore

Be it enacted by the Legislature of West Virginia:

§1. Expenditure of funds by the West Virginia labor-management relations board.

Pursuant to the provisions of chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred seventy-one, the West Virginia labor-management relations board shall have the sole authority to expend the sum of thirty-eight thousand dollars during the fiscal year 1971-72, which sum of money was heretofore appropriated by line item to the bureau of labor and department of weights and measures, Account No. 450, chapter six, acts of the Legislature, regular session, one thousand nine hundred seventy-one, known as the "Budget Bill."

CHAPTER 4

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

[Passed November 4, 1971; in effect from passage. Approved by the Governor, November 22, 1971.]

AN ACT to amend and reenact section two, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section two-a, all relating to the composition of the House of Delegates and legislative findings.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter one 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 2. APPORTIONMENT OF REPRESENTATION.


§1-2-2a. Legislative findings.


1 The House of Delegates shall consist of one hundred members, who shall be apportioned as follows:

2 The counties of Berkeley and Morgan shall form the first delegate district and elect three delegates.

3 The counties of Grant and Tucker shall form the second delegate district and elect one delegate.

4 The counties of Hardy and Pendleton shall form the third delegate district and elect one delegate.

5 The counties of Pocahontas and Greenbrier shall form the fourth delegate district and elect two delegates.

6 The counties of Pleasants and Tyler shall form the fifth delegate district and elect one delegate.

7 The counties of Doddridge and Ritchie shall form the sixth delegate district and elect one delegate.

8 The counties of Calhoun, Gilmer and Wirt shall form the seventh delegate district and elect one delegate.

9 The counties of Clay and Nicholas shall form the eighth delegate district and elect two delegates.

10 The counties of Randolph and Webster shall form the ninth delegate district and elect two delegates.

11 The counties of Barbour, Boone, Braxton, Hampshire, Jackson, Jefferson, Lewis, Lincoln, Mason, Mineral, Monroe, Preston, Roane, Summers, Taylor, Upshur and Wetzel shall have one delegate each.

12 The counties of Brooke, Hancock, Marshall, Mingo, Putnam, Wayne and Wyoming shall have two delegates each.

13 The counties of Fayette, Logan, Marion, McDowell and Monongalia shall have three delegates each.

14 The counties of Harrison, Mercer, Ohio and Raleigh shall have four delegates each.
§1-2-2a. Legislative findings.

1 The Legislature of West Virginia hereby finds and declares that:
2
3 (1) The words "population, to be ascertained by the census of the United States," as used and referred to in the constitution of West Virginia in regard to apportionment of the House of Delegates, include only bona fide residents of the state of West Virginia, counted at their places of residence; the term does not include mere inhabitants of the state, temporarily located therein.

4 (2) The population census taken by the United States bureau of the census for the year one thousand nine hundred seventy counted mere inhabitants of the state as if they were bona fide residents, and thus did not conform to the provisions of the constitution of the state of West Virginia in regard to apportionment of the House of Delegates. Therefore, the one thousand nine hundred seventy census of population was taken, in part, in a form not contemplated by the pertinent provisions of the constitution of West Virginia.

5 (3) For purposes of apportionment of the House of Delegates, accurate population counts for the year one thousand nine hundred seventy for the state and counties of West Virginia, based on official United States census statistics, but excluding persons counted in this state who were not bona fide residents of this state and who were merely physically present in this state on the first day of April, one thousand nine hundred seventy, and including those bona fide residents of West Virginia who were temporarily absent from this state on the first day of April, one thousand nine hundred seventy, and reallocating to their resident counties those bona fide residents of West Virginia who were present in the state of West Virginia on the first day of April, one thousand nine hundred seventy, but were not counted by the United States bureau of census as residents of their resident counties, are as follows:
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37  The county of Barbour, 13,339; the county of Berkeley, 38 37,042; the county of Boone, 25,428; the county of Braxton, 39 12,874; the county of Brooke, 29,394; the county of Cabell, 40 103,520; the county of Calhoun, 7,155; the county of Clay, 41 9,421; the county of Doddridge, 6,477; the county of Fayette, 42 48,127; the county of Gilmer, 6,405; the county of Grant, 43 8,766; the county of Greenbrier, 32,697; the county of Hampshire, 11,895; the county of Hancock, 40,319; the county of Hardy, 8,996; the county of Harrison, 73,334; the county of Jackson, 21,310; the county of Jefferson, 20,207; the county of Kanawha, 232,091; the county of Lewis, 47 18,147; the county of Lincoln, 19,094; the county of Logan, 48 46,885; the county of McDowell, 51,462; the county of Marion, 59,943; the county of Marshall, 38,276; the county of Mason, 24,587; the county of Mercer, 62,069; the county of Mineral, 22,926; the county of Mingo, 33,171; the county of Monongalia, 51,888; the county of Monroe, 11,448; the county of Morgan, 8,693; the county of Nicholas, 22,931; the county of Ohio, 62,493; the county of Pendleton, 7,159; the county of Pleasants, 7,426; the county of Pocahontas, 57 9,031; the county of Preston, 25,864; the county of Putnam, 58 28,104; the county of Raleigh, 70,435; the county of Randolph, 24,310; the county of Ritchie, 10,277; the county of Roane, 14,301; the county of Summers, 13,428; the county of Taylor, 14,080; the county of Tucker, 7,552; the county of Tyler, 10,085; the county of Upshur, 17,749; the county of Wayne, 38,199; the county of Webster, 9,954; the county of Wetzel, 20,732; the county of Wirt, 4,206; the county of Wood, 88,063; and the county of Wyoming, 30,617; the total population of the state of West Virginia, 1,734,382.

CHAPTER 5

(Com. Sub. for House Bill No. 3—Originating in the House Committee on the Judiciary)

[Passed November 3, 1971; in effect from passage. Approved by the Governor, November 17, 1971.]

AN ACT to amend and reenact article twenty-five, chapter eight of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to planning and development; the powers and duties of the governor with respect thereto; the delineation of regions and publication, hearing and certification requirements with respect thereto; the establishment of regional councils for planning and development purposes; the meetings, membership, organization, powers and duties of such regional councils; the receipt, expenditure and appropriation of funds by such regional councils; review functions; the establishment of executive committees of, advisory committees for, and citizens' participation in, such regional councils; preparation, submission and approval of the annual budget of such regional councils; effect on existing organizations and pending applications for funds or grants; and a rule of construction.

Be it enacted by the Legislature of West Virginia:

That article twenty-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 25. INTERGOVERNMENTAL RELATIONS—REGIONAL PLANNING AND DEVELOPMENT.

§8-25-1. Legislative findings and purposes.
§8-25-4. Delineation of regions and recommendations of governor thereon; publication of statement fixing regional boundaries; public hearings; certification of regional boundaries; change in boundaries.
§8-25-5. Formation of regional councils; purpose; receipt of funds and assistance; effect on interstate planning commissions and other existing organizations.
§8-25-6. Membership, organization, etc., of regional council; executive committee; officers and personnel.
§8-25-7. Contracts for services, materials, etc.; publication of notice for bids.
§8-25-9. Review of applications for loans or grants.
§8-25-10. Cooperation of regional council and other planning or development agencies, governmental units and officials.
§8-25-12. Annual budget of regional council; contributions by governmental units; deposits and disbursements.
§8-25-14. Effect of article upon pending projects and applications.
§8-25-1. Legislative findings and purposes.

1 The Legislature hereby finds and declares that as a result of changes in the economy, population shifts, new transportation demands and increasing demands for public services, and as a result of increasing complexity in government programs and added demands on public revenues, there is a need to plan comprehensively for the future development of West Virginia and to provide for the efficient management of limited public revenues for the purpose of promoting the orderly development of the state and harmonizing the development of the state's governmental, social, economic, environmental and physical resources, while maintaining acceptable levels of public services and facilities toward the end of promoting the general health, safety and welfare of all its citizens. The Legislature further finds that the responsibility for planning and development rests with the governor of the state, as the state's chief planning officer. The Legislature hereby further finds and declares that problems of growth and development so transcend the boundary lines of governmental units that no single unit can plan for the solution of these problems without affecting other units of government; that intergovernmental cooperation on a regional basis is an effective method to approach common planning and development problems and to seek more efficient and economical solutions to common problems of local government; and that assistance of the state is needed to make the most effective use of local, state, federal and private resources and funding in serving the citizens of all the state and of such regions; and the Legislature further finds that any assistance provided by the state for the purpose of this article is for the benefit of all its citizens and for a public purpose.

It is, therefore, the purpose of this article to delegate to the governor, the responsibility for planning and development in order to (1) achieve the objectives and policies necessary for the orderly growth and development of the state; (2) facilitate intergovernmental cooperation; and (3) designate regions and provide for the creation of regional planning and development councils; all being hereby declared to be public purposes.

1 The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Comprehensive planning" shall mean the process of (1) assessing, within a geographic area, the needs and resources of the area; (2) formulating goals, objectives, policies and standards to guide its long-range governmental, social, economic, environmental and physical development; and (3) preparing plans and programs therefor which (a) identify alternative courses of action and the spatial and functional relationships among the activities to be carried out thereunder; (b) specify the appropriate ordering in time of such activities; (c) take into account other relevant factors affecting the achievement of the desired development of the area; and (d) provide an overall framework and guide for the preparation of functional and project development plans.

(b) "Development" shall mean the process of implementing, carrying out, effectuating, administering or otherwise performing the activities, processes, steps or operations as necessary to meet the comprehensive planning goals, objectives, programs and plans formulated, accepted, adopted or approved as a result of comprehensive planning.

(c) "Region" shall mean a specific geographic area consisting of at least one county or two or more contiguous counties in which a regional council may exercise authority and powers in accordance with the provisions of this article.

(d) "Regional council" shall mean a regional planning and development council established pursuant to the provisions of this article.


1 The governor, as chief executive officer of the state, shall be responsible for planning and development of the state's governmental, social, health, economic, en-
vimental and physical resources. In executing this responsibility, the governor shall:

(1) Prepare, revise and update state development plans which he shall, at least annually, submit to the Legislature. Such plans shall identify and stress statewide goals, objectives and opportunities, giving appropriate consideration to regional council and local governmental plans; and shall include, but not be limited to, population and economic analysis; appraisals of the state's natural resources; general land use policies; policies for housing and urban development; transportation policies; policies for health services; manpower programs; employment opportunities; education; law enforcement; environmental protection and other programs; projection of needs for public facilities, recreation and open space; and policies for intergovernmental relations and governmental organization: Provided, That once a regional plan is submitted to the governor by a regional council for his consideration in preparing, revising or updating a state plan, the governor shall have a period of sixty days from the date such regional plan is received by him within which to specify in writing to the regional council his objection or objections to such regional plan, and if no such objection or objections are so specified, then such regional plan shall become a part of the state plan being prepared, revised or updated; and if any such objection or objections are so specified, the regional council shall have a period of sixty days from the date of receipt of such specification within which to modify its regional plan or otherwise respond to such objection or objections, and, thereafter, the governor shall, in preparing, revising or updating a state plan, give such consideration to such original regional plan, modified regional plan or other response of the regional council, as the case may be, as he deems appropriate;

(2) Advise and consult with regional councils and regional and local planning agencies in developing state development plans and studies;

(3) Facilitate the coordination of planning and development activities of all state departments, agencies and institutions; local governments; regional councils;
and other public and private agencies within the state;
(4) Review local, areawide and state applications for planning and development assistance;
(5) Review and appraise the progress of state government in achieving the goals and objectives set forth in the state development plans;
(6) Monitor and coordinate the state's participation in federal and state aid programs and be responsible for liaison with the appropriate federal and state agencies; and be responsible for all federal programs which require the designation of responsible state agencies, if no other state agency has heretofore been legally designated;
(7) Assist local governments, regional councils and other public bodies in obtaining federal, state or other available funds and services;
(8) Facilitate state and local capital improvement projects to meet the requirements of industrial and socio-economic development in various governmental units within the state;
(9) Provide professional and technical assistance and make information available to regional councils and local governments within the state; and be responsible for receiving and disseminating information regarding federal grant assistance within the state; and
(10) Apply for and accept advances, grants, contributions and other forms of assistance from the state or federal government or from any private or public agencies or foundations, to carry out the provisions of this article.

§8-25-4. Delineation of regions and recommendations of governor thereon; publication of statement fixing regional boundaries; public hearings; certification of regional boundaries; change in boundaries.

(a) Within sixty days after the effective date of this article, the governor shall define and recommend for the purposes of this article regional boundaries embracing each municipality and county within the state.
(b) In delineating boundaries of the regions, the governor shall consider such factors as the units of local government shall express by proper resolution, including community interest and homogeneity; geographic features and natural boundaries; patterns of communication and transportation; patterns of urban development; uniformity of social and economic problems; special problems, boundaries of existing metropolitan and other sub-state planning and administrative areas; and utility of the proposed boundaries for efficient provision of governmental services. Municipalities shall not be divided when forming a region, except insofar as it is necessary to keep multi-county municipalities within a region.

(c) The governor shall, within six months after the effective date of this article, certify to the secretary of state the boundaries of each region.

(d) Not less than sixty days prior to the certification of the boundaries of any region, the governor shall cause a statement setting forth the counties to be included within the boundary of the proposed region to be published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the proposed region. The governor shall forward a copy of the statement to the principal executive officer or officers of each municipality and county located within the proposed region.

(e) Prior to the time that the governor shall certify the boundaries of a region, he or his designee shall conduct at least one public hearing at a convenient place within the proposed region. The governor shall advertise the meeting by means of a Class I-0 legal advertisement in compliance with the provisions of said article three, and the publication area for such advertisement shall be the proposed region. All public and private organizations located in, and all individuals residing in, municipalities or counties within or adjacent to the proposed region shall be permitted to appear and testify on matters pertaining to its boundaries.

(f) At any time following the certification of the boundaries of any region, the governor may change such
boundaries, pursuant to the criteria and procedures set forth in subsections (b), (c), (d) and (e) of this section.

§8-25-5. Formation of regional councils; purpose; receipt of funds and assistance; effect on interstate planning commissions and other existing organizations.

(a) The governor shall provide for an organizational meeting of each of the regional councils within sixty days after his certification pursuant to section four of this article. He shall notify the president of each county court and the mayor of each municipality of the region of the time and place of such meeting. The official so notified shall attend this meeting or shall designate a representative. In the case of the county court, another member of the court shall be the designee or, in the case of a municipality, a member of the governing body of such municipality shall be the designee. Those present shall constitute a quorum and shall select a temporary chairman and secretary and shall provide for a subsequent meeting or meetings at which time the members provided for in section six of this article shall be nominated and elected and the permanent organization and bylaws established.

(b) Each regional council formed pursuant to this article shall fulfill the purposes of development regions and shall be eligible to receive state funds and technical assistance in accordance with the provisions of this article.

(c) (1) Nothing herein contained shall in any way limit or restrict the powers, duties and responsibilities of planning bodies organized under article twenty-six of this chapter relating to interstate planning commissions.

(2) Interstate planning commissions in existence on the effective date of this article are hereby designated as the planning and development councils for the region, insofar as the West Virginia member counties of such interstate planning commissions are concerned, and such commissions shall be empowered to act as the planning and development councils for such regions insofar as the West Virginia member counties are concerned.
(3) When additional West Virginia counties are added, under the provisions of this article, to such interstate planning commissions, their membership in such commissions shall comply, insofar as the West Virginia counties are concerned, with the council membership requirements of this article.

(4) Regional councils or commissions established under this article and article twenty-six of this chapter may, at the option of the county courts of the participating West Virginia counties, continue to have all the powers, duties and responsibilities permitted and required under said article twenty-six, in addition to the powers, duties and responsibilities provided herein for regional councils.

(5) State regional councils or commissions and their corresponding boundaries in existence on the effective date of this article, which were established under the former provisions of this article, and any nonprofit corporation in existence on the effective date of this article, which was established under chapter thirty-one of this code and pursuant to section eighteen, article five, chapter seven of this code and which has had in its employ a full-time paid executive staff for a period of no less than six months immediately prior to the effective date of this article, may be designated by the governor as planning and development regions and regional councils. Such designation shall be made within sixty days after the effective date of this article. Regional councils so designated shall have a period of six months from the date of designation to comply with the membership structure required by this article. Nothing herein contained shall be construed to deprive such existing state regional councils of their legal authority prior to the expiration of the aforementioned six-month period.

§8-25-6. Membership, organization, etc., of regional council; executive committee; officers and personnel.

(a) All municipalities and all counties within the region shall be represented on the regional council. The county representative shall be the president of the county court or a member of the county court designated by him. The municipal representative shall be the mayor
or a member of the governing body designated by him. The number of members of the regional council by virtue of this subsection shall comprise not less than fifty-one percent of the total number of members.

(b) Regional council members serving by virtue of subsection (a) of this section shall select additional members to serve on the council to represent principal community or regional interests, including, but not limited to, commerce, industry, labor, agriculture, education, health and any such interests as may be required by federal law or regulations. The selection of such members shall also provide for reasonable representation of geographic, economic and ethnic groups without exclusion of significant minority groups. Subsequent changes in the designation of representatives shall be determined by the regional council. The number of members serving by virtue of this subsection shall not exceed forty-nine percent of the total number of members.

(c) Each regional council shall select from its membership a chairman, who shall preside at each council meeting, and an executive committee, which shall be comprised of one representative from each county court and one representative from the largest municipality within each county in the region and such other members as the aforesaid representatives may select, but such other members so selected shall not constitute more than forty-nine percent of the total membership of the executive committee. The executive committee shall perform such administrative duties as are prescribed by the regional council in its bylaws and shall exercise the review function provided for in section nine of this article. Each regional council may further provide for such other officers as it shall deem necessary and may establish other committees which may include citizens who are not regional council members.

(d) Each regional council shall establish personnel rules and shall appoint a director who shall be qualified by reason of training and experience. The director shall be empowered to appoint and remove other employees in accordance with the regional council’s personnel rules.
He may, with the approval of the executive committee, enter into agreements with governmental agencies within the region for the use of personnel, equipment and facilities.

§8-25-7. Contracts for services, materials, etc.; publication of notice for bids.

Each regional council is empowered and authorized to contract for services of consultants to perform planning, development, engineering, legal or other services of a professional, specialized or technical nature; and such consultants shall be persons appropriately qualified under state statutes dealing with the applicable profession or occupation. Each such contract must have the express approval of the regional council or the executive committee. Such contracts shall not be subject to any law relating to public bidding: Provided, That every contract of the council for the purchase of merchandise, materials or supplies in the amount of one thousand dollars or more shall be let to the lowest responsible bidder after notice requesting such bids has been published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for this publication shall be the region in question.


Each regional council may:
(a) Continuously engage in comprehensive planning and development processes and prepare, and from time to time revise, amend, extend or add to, a plan or plans for the development of the region consistent with any state comprehensive planning and development objectives and reflecting plans and programs of the participating governmental units. Any such plan or plans shall be based on studies of governmental, social, economic, environmental and physical 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. Such plan or plans, or parts thereof, shall be prepared by persons appropriately qualified under state statutes dealing with the
applicable profession or occupation. Such plan or plans shall be submitted for review to the appropriate agencies in accordance with the provisions of this article. The plan or plans shall embody the policy recommendations of the regional council, and may include, but shall not be limited to: (1) A statement of goals, objectives, standards and principles sought to be expressed in the plan or plans to guide economic, social, environmental and human resource development; (2) recommendations for transportation networks in the region, including land, water and air transportation, and for communication facilities; (3) 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 a purely local concern; and (4) recommendations for the long-range programming and financing of capital projects and facilities.

(b) Prepare and from time to time revise, amend, extend or add to a regional development program to implement the policies contained in the comprehensive development plan for the region. The program shall contain a listing of development projects and programs, priorities for the financing of these projects and programs and recommended methods for project and program financing.

(c) Prepare and recommend ordinances, rules and regulations which would implement regional and local plans.

(d) Prepare and publish studies of the region's resources, both natural and human, with respect to existing and emerging problems of industry, commerce, transportation, population, housing, agriculture, environment, health, education, welfare, public service, local governments and any other matters which are relevant to regional planning.

(e) Collect, process and analyze 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.

(f) Participate with other governmental agencies,
educational institutions and private organizations in the
coordination of the regional research and educational
activities described in subdivisions (d), (e) and (h) of
this section.

(g) Cooperate with, and provide, upon request, plan-
ning and technical assistance to municipalities, counties
and planning and development agencies within the re-
gion, and coordinate regional planning with the plan-
ning activities and plans of the state and of the mu-
unicipalities and counties within the region, as well as
neighboring areas, including those in adjoining states,
and the programs of federal departments and agencies.

(h) Provide information to officials, departments,
agencies and instrumentalities of the federal, state and
local governments and to the public at large, in order to
foster public awareness and understanding of the ob-
jectives of the regional plans and the functions of the
regional and local planning and development councils,
and to stimulate public interest and participation in the
orderly, integrated development of the region.

(i) Apply for, accept and expend funds and grants
provided for the purposes hereof by the government of
the United States or its departments or agencies; by
departments and agencies of the state or any other state;
by one or more municipalities, counties or other political
subdivisions of this state or of any other state; or by
any other agency, public or private; or from any indi-
vidual whose interests are in harmony with the purposes
hereof, including planning councils and commissions, all in
accordance with any federal requirements and subject
to any conditions or limitations of the constitution or
laws of this state.

(j) Perform development on a regional basis as neces-
sary to undertake, complete or accomplish the goals and
purposes of comprehensive planning in the region by
intergovernmental contract or joint enterprises, or both,
with local governmental units or combinations of such
units pursuant to article twenty-three of this chapter.

(k) Exercise powers jointly or in cooperation with
agencies or political subdivisions of the state of West
Virginia or any other state, or with agencies of the
United States, subject to constitutional and statutory provisions applicable to interjurisdictional agreements.

(l) Adopt bylaws and such other rules and regulations as may be necessary to effectuate the purposes of this article.

(m) Exercise all other powers and authority necessary and proper for the discharge of its duties.

§8-25-9. Review of applications for loans or grants.

Each regional council shall review all applications of governmental units or independent agencies within the region for loans or grants from the federal government or any of its agencies or the state of West Virginia or any of its agencies. All recommendations and comments on applications for the aforementioned funding programs shall be forwarded to the governor. Each council shall establish and maintain a clearinghouse for the purpose of establishing required review procedures in compliance with the “Intergovernmental Cooperation Act of 1968 (Public Law 90-557),” and the “Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 87-754),” and the rules and regulations pertaining thereto, as promulgated by the United States office of management and budget. The state review agency designated by the governor shall inform regional councils of state review findings relating to applications submitted from within the jurisdiction of each council.

§8-25-10. Cooperation of regional council and other planning or development agencies, governmental units and officials.

To effectuate the purposes of this article, regional councils shall cooperate with planning agencies or development agencies within the region or within other regions, with the governing bodies and administrative officials of any municipality, county or any other political subdivision, including those in other states, or with any other entity, private or public, whose interests are in harmony with the purposes of this article, in order to coordinate and harmonize planning and development for the cooperating units. All state departments and agencies shall cooperate with regional councils established under
this article and shall make available for the studies con-
ducted by such councils, reports, data and other infor-
mational and technical assistance within financial and
personnel limitations. Each regional council may appoint
such committees and may adopt such rules and regula-
tions as may be proper to effect such coordination and
integration. The governing bodies and administrative
officials of municipalities, counties and other political
subdivisions within this state are hereby empowered and
authorized to cooperate with such planning and develop-
ment agencies and with the governing bodies and ad-
ministrative officials of political subdivisions and plan-
ing and development agencies in other states for the
purpose of such coordination and integration in accordance
with the provisions of this article.

1 Each regional council may appoint advisory committees
2 of interested and affected citizens to assist in the review
3 of plans, programs and other purposes of this article re-
ferred for review by the regional council. Whenever a
5 special advisory committee is required by any federal or
6 state regional program, the regional council chairman
7 shall, with approval of the executive committee, appoint
8 such committees as advisory groups to the regional
council.

§8-25-12. Annual budget of regional council; contributions by
governmental units; deposits and disbursements.
1 Each regional council shall adopt an annual budget, to
2 be submitted to the participating governmental units
3 which shall each contribute to the financing of the council
4 according to a formula adopted by the council and ap-
5 proved by a majority of the counties and a majority of
6 the municipalities participating in the regional council.
7 All such contributions shall be fair and equitable and shall
8 be based on the population of each participating govern-
9 mental unit as determined on the basis of the latest
decennial census, or such other criteria as may be deter-
11 mined by each respective regional council. Each partici-
12 pating county and municipality is hereby directed and
13 empowered to pay over and contribute to the operation
of said councils in accordance with the formula adopted as hereinbefore provided. Such sums, as are appropriated hereunder, may be transferred to the regional councils for deposit and disbursement as the regional councils may designate and direct. By such transfer, the governing body designates the regional council as its disbursing agent.


On or before July thirty-first of each year, each regional council shall prepare an annual report. The regional council shall submit copies of the report to the participating governmental units and to the governor. The report shall include the following:

(a) A consolidated statement of the regional council's receipts and expenditures by category since the preceding report.

(b) A consolidated, detailed regional council budget for the year in which the report is filed and the following year including an outline of its program for such period.

(c) A description of any comprehensive plan adopted in whole or in part for the region.

(d) Summaries of any studies and development progress and the recommendations resulting therefrom made for the region.

(e) A listing of all applications for federal grants or loans submitted by the governmental units within the region together with the action taken by the regional council in relation thereto.

(f) A listing of plans of local governmental units submitted to the region and actions taken in relation thereto.

(g) Recommendations of the regional council regarding federal and state programs, cooperation, funding and legislative needs.

§8-25-14. Effect of article upon pending projects and applications.

Any of the provisions of this article to the contrary notwithstanding, no pending application for federal or state grants, loans, mortgages or other types of funding nor any application for grants, loans, mortgages or other types of

1. The provisions of this article shall be liberally construed to accomplish its objectives and purposes.
DISPOSITION OF BILLS ENACTED

The first column gives the number of the bill and the second column the chapter assigned to it.

Regular Session, 1972

HOUSE BILLS

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